

OFFERED BY COUNCILORS GABRIELA COLETTA AND JULIA MEJIA



CITY OF BOSTON IN CITY COUNCIL

AN ORDINANCE ESTABLISHING STREET FOOD ENTERPRISES IN THE CITY OF BOSTON MUNICIPAL CODE BY INSERTING CHAPTER 17, SECTION 22, PERMITTING AND REGULATION OF NON-MOTORIZED STREET FOOD CARTS

WHEREAS, Boston is rich with cultures that bring various cuisines and customs from regions around the world. It is also a city that prides itself on empowering various communities with business opportunities to all who seek them regardless of income, immigrant status, or ability; and

WHEREAS, Street vending is the oldest informal version of commerce. Vendors can be found across our city outside of TD Garden or Fenway Park on game days and all over Faneuil Hall, but many struggle to navigate municipal bureaucracy, access the permits and understand the process to legally vend their food and beverages; and

WHEREAS, Large cities across the country like Washington D.C, Los Angeles, and New York, have a framework Boston can mirror to create street entrepreneurship opportunities for those seeking to start a small business enterprise, but do not have the means to invest in a food truck let alone a brick and mortar; and

WHEREAS, Residents resort to establishing street food carts largely out of survival or because they are unable to navigate the local bureaucracy without the help of an attorney or because they speak a language other than English; and

WHEREAS, We have the opportunity to close this gap by simplifying and expediting the permitting process, lowering the costs of licenses and fines, and ensure Boston residents are not further criminalized for attempting to make a living from their culinary talents; and

WHEREAS, Earlier this year, Washington D.C.'s Council unanimously passed legislation overhauling the District's street vendor regulations in predetermined zones while providing opportunities for street vendors themselves to self-govern the sidewalks where they conduct business; and

WHEREAS, Currently, there is no section in the Boston Municipal Code that outlines permitting and regulations for non-motorized street food carts. Codifying this section in the code, is the first step to ensuring our city can provide adequate

resources, simplified processes, and an understanding of the laws and regulations vendors must abide by to protect street food cart entrepreneurs and their clients; and

WHEREAS Inserting Chapter 17, Section 17-22, Permitting and Regulation of Non-Motorized Street Food Carts will allow Bostonians who cannot afford a brick and mortar or food truck to establish a food cart business anywhere across our city, and create greater accessibility in understanding of the permitting process. Thus, the City of Boston will develop more opportunities for entrepreneurs, expand access to cultural foods and beverages, and provide a branch towards upper economic mobility; ***NOW, THEREFORE BE IT***

Be it ordained by the City Council of Boston as follows:

Section 1.

The City of Boston Municipal Code, Chapter 17, Section 17-22, Permitting and Regulation of Non-Motorized Street Food Carts, is hereby amended by inserting the following provisions:

17-22 PERMITTING AND REGULATION OF NON-MOTORIZED STREET FOOD CARTS.

17-22.1 Definitions.

When used in this section, unless the context otherwise requires, the following terms shall have the following meanings:

Commissioner shall mean the Commissioner of Public Works of the City of Boston or their designee.

The Committee shall mean the Commissioner, the Director of Small Business, and the Departments, as defined.

Departments shall mean the Inspectional Services Department, the Public Works Department, the Police Department, and the Fire Department, all of the City of Boston.

Food establishment shall mean a business operation that stores, prepares, packages, serves, vends or otherwise provides food for human consumption as set forth in the State Sanitary Code 105 CMR 590.002.

Non-motorized street food cart shall mean a food establishment that is located upon a mobile kitchen operated by people rather than electric or gas power where food or beverage is cooked, prepared and served for individual portion service; provided however that non-motorized street food cart shall not be considered a food service establishment for the purposes of CBC 18-1.6(39).

(Ord. 2011 c. 5)

17-22.2 Scope.

- a. The provisions of this section shall apply to non-motorized, street food cart operations engaged in the business of preparing and distributing food or beverage with or without charge from non-motorized, street food cart on or in public, private or restricted spaces. This section shall not apply to canteen, coffee, or ice cream non-motorized carts that move from place to place and are stationary in the same location for no more than thirty (30) minutes at a time or food vending push carts and stands.
- b. The provisions of this section shall not apply to non-motorized carts that receive a temporary event permit issued by the Public Works Department.

(Ord. 2011 c. 5)

17-22.3 Non-motorized Street Food Cart Committee.

- a. There shall be within the City of Boston a Non-motorized Street Food Carts Committee consisting of the Public Works Department, Boston Transportation Department, the Inspectional Services Department, the Office of Economic Opportunities and Inclusion, the Boston Fire Department, and the Director of Small Business for the purpose of reviewing applications for non-motorized street food cart permits and establishing rules and regulations as appropriate.
- b. The Committee may establish sidewalk vending zones with at least 3 designated vending spaces within each zone. A sidewalk vending zone shall:
 - i. Limit the number of sidewalk vendors allowed in each vending space to a number determined by the Committee;
 - ii. Permit sidewalk vendors to move from one vending space to another within the same sidewalk vending zone;
 - iii. Deny entry to additional sidewalk vendors if the sidewalk vending zone has reached maximum capacity;
 - iv. Require all sidewalk vendors to conspicuously display their sidewalk vending zone individual license, sidewalk vending zone manager license, or proof of registration with a sidewalk vending zone manager; and
 - v. Require all sidewalk vendors to vend from a temporary table or a cart that contains no motor or open fires, is able to be moved by hand, and is no more than 3 ft. in width and 6 ft. in length.
- c. The Committee may work with applicants for non-motorized street food cart permits and renewals to encourage the following:
 - i. Charitable components to the business of operation,
 - ii. School nutrition programs or healthy food choices,
 - iii. Programs for children or the homeless,
 - iv. Other socially responsible practices and programs,
 - v. Routes that provide access to underserved neighborhoods of the city, and
 - vi. The use of food commissaries within the City.

(Ord. 2011 c. 5)

17-22.4 Non-motorized Street Food Cart Permit Required.

- a. No person or business entity, including a religious or charitable organization, shall operate a non-motorized street food cart in any public, private or restricted space without a permit issued by the Committee.

- b. A non-motorized street food cart permit is required for each and every non-motorized street food cart.

(Ord. 2011 c.5)

17-22.5 Application for a Non-motorized Street Food Cart Permit.

- a. Single Application. There shall be made available by a representative of the Office of Economic Opportunity and Inclusion a single application form to apply for each non-motorized street food cart permit. The application shall provide a description of necessary inspections and fees.
- b. Submission of Materials. Each application shall indicate on its face, in addition to other requirements as may be determined by the Committee, that the following materials must be submitted by the applicant:
 - i. The name of the business and its owner or owners and the mailing address of the business,
 - ii. A description of the proposed business plan for the non-motorized street food cart operation,
 - iii. A proposed service route within a sidewalk vending zone and hours of operation with a detailed schedule of times and locations where the cart will be stationary and serving food,
 - iv. Certification that the vehicle has passed all necessary inspections required by the Boston Fire Department, if operating an open flame or gas establishment, and Department of Inspectional Services,
 - v. If a kitchen commissary is needed, a documented agreement between the non-motorized street food cart and commissary may be required.
 - vi. A certificate of insurance providing general liability insurance listing the City as additionally insured.
- c. Approval Process. An application must be submitted to the Office of Economic Opportunity and Inclusion, who shall then forward to the Departments for review. The application must receive the approval of each of the Departments, based on duly published criteria established by the Committee, prior to its final approval and the issuance of a permit by the Commissioner.
 - i. The Committee may work with the applicant or permit holder to modify a service route at any time (i) before the issue of a permit or (ii) after the issue of a permit, if the grant of a permit or approval of a service route has led to the creation of a nuisance or otherwise endanger the public health, safety, or order or by request of the permit holder.
 - ii. Within sixty (30) days of the submission of a completed application, the Commissioner shall either issue or deny the application for a permit.
 - iii. If the application is denied in whole or in part, the Commissioner shall state the specific reasons for the denial. Any applicant who has been denied a permit may appeal such denial by submitting a written request for a hearing to the Commissioner within ten (10) days of denial. Such hearing shall be conducted by the Commissioner or his or her designee within thirty (30) days of receipt of said appeal. The decision resulting therefrom shall be final and subject only to judicial review under M.G.L. c. 30A, § 14.

(Ord. 2011 c. 5)

17-22.6 Limitation on the Number of Permits.

The Committee may from time to time set a limit on the number of total permits that may be issued or renewed per year; provided, however, that no more than ten percent (10%) of total permits or three (3) permits, whichever is greater, may be issued to a single person or business entity or both. Upon receipt of application, the Commissioner or his or her designee shall advise the applicant whether or not the limitation has been met.

(Ord. 2011 c. 5)

17-22.7 Permit Renewal.

- a. Every non-motorized street food cart permit, unless suspended or revoked by the Committee for a violation of any provision of this section or other rule or regulation promulgated for the implementation of this section, shall be renewed bi-annually given that a renewal fee is paid within thirty (30) days after its one (2) year expiration, at which time the permit holder shall forfeit the right to renew and the permit may be made available to another applicant for new permit if the limitation on the number of permits has not been reached.
- b. The renewal of a permit does not also guarantee renewal of the previously approved route. The Committee reserves the right to add, remove, and reapportion available locations among non-motorized street food cart operations at renewal.

(Ord. 2011 c. 5)

17-22.8 Rules and Regulations.

- a. General. The Committee members are hereby authorized to promulgate, both jointly and within their respective departments, additional rules and regulations appropriate for the implementation of this section, and, if necessary, work with other agencies and departments of the City and State to establish a streamlined process for the permitting of non-motorized street food carts; provided, however, that such rules and regulations are not inconsistent with the following limitations and restrictions:
 - i. No operator of a non-motorized street food cart shall stand and conduct business within areas of the City where the permit holder has not been authorized to operate;
 - ii. No permit holder shall possess a permit for a non-motorized street food cart that is not in operation for a period of more than fourteen (14) days without duly notifying and obtaining approval from the Commissioner.
 - iii. The issuance of a permit does not grant or entitle the exclusive use of the service route, in whole or in part, to the non-motorized street food cart permit holder, other than the time and place as approved for the term of the permit;
 - iv. No non-motorized street food cart shall provide or allow any dining area, including but not limited to tables, chairs, booths, bar stools, benches, and standup counters, unless a proposal for such seating arrangements is submitted with the permit application and approved by Committee.
 - v. Consumers shall be provided with single service articles, such as forks and paper plates, and a waste container for their disposal. All non-motorized street food carts shall offer a waste container for public use that the operator shall empty at his own expense.
 - vi. No non-motorized street food cart shall make or cause to be made any unreasonable or excessive noise in violation of CBC 16-26.1.

- vii. A non-motorized street food cart may not operate on public property unless the Commissioner and the Departments have otherwise granted approval on the permit application for its operation at the particular location during specific times.
 - viii. For non-motorized street food carts on public property, the City reserves the right to temporarily move a non-motorized street food cart to a nearby location if the approved location needs to be used for emergency purposes, snow removal, construction, or other public benefit.
 - b. Inspectional Services. The Inspectional Services Department shall ensure compliance with the State Sanitary Code 105 CMR 590.
 - c. Fire Department. The Boston Fire Department shall promulgate rules and regulations for the inspection of non-motorized street food cart and to ensure compliance with all applicable federal, state, and local fire safety statutes, regulations, ordinances, and codes.
- (Ord. 2011 c. 5)

17-22.9 Permit Fees.

- a. Application Fee. The application fee for a permit or a renewal of a permit granted by the Committee for the operation of a non-motorized street food cart shall be seventy(\$70.00) dollars.
 - b. Annual Fee. An annual fee shall be required for the issuance or renewal of a non-motorized street food cart permit based on a taxable market valuation of City property by the Assessing Department, including sidewalks, from which non-motorized street food cart will stand according to a route of operation submitted with an application for a non-motorized street food cart permit. Nothing in this section shall prohibit the Committee from designating zones throughout the City for the purposes of establishing fees and rates.
- (Ord. 2011 c. 5)

17-22.10 Prohibition Against the Transfer of a Permit.

- a. Transfers for Value Prohibited. No person holding a permit for a non-motorized street food cart shall sell, lend, lease or in any manner transfer a non-motorized street food cart permit for value.

17-22.11 Operation of Non-motorized Street Food Cart.

- a. Operation Without Permit. Any non-motorized street food cart being operated without a valid non-motorized street food cart permit issued by the Commissioner shall be deemed a public safety hazard and may be ticketed.
 - b. Unattended Vehicles Prohibited. No non-motorized street food cart shall be parked on the street overnight, or left unattended and unsecured at any time food is kept on the non-motorized street food cart. Any non-motorized street food cart which is found to be unattended shall be considered a public safety hazard and may be ticketed and impounded.
 - c. A non-motorized street food cart operating outside of an approved sidewalk zone, at an unauthorized location, or beyond the hours for which the operation has been permitted shall be deemed operating without a permit in violation of this section and may be subject to enforcement under section 17-10.12.
- (Ord. 2011 c. 5)

17-22.12 Enforcement.

- a. Fine for Violation. Any permit holder operating a non-motorized street food cart or service in violation of any provision of this section or any rules and regulations promulgated by the Committee may be subject to a fine of one hundred (\$100.00) dollars per day. Each day of violation shall constitute a separate and distinct offense. The provisions of G.L. c. 40, s. 21D may be used to enforce this section.
 - b. Revocation, Suspension, Modification. Once a permit has been issued it may be revoked, suspended, modified, or not renewed by the Commissioner for failure to comply with the provisions of this section or any rules and regulations promulgated by the Committee.
 - i. No permit shall be revoked, suspended, modified, or not renewed without a hearing before the Commissioner or his or her designee, prior to which hearing the Commissioner or his or her designee shall give reasonable notice of the time and place of the hearing and the specific grounds of the proposed action. The decision resulting therefrom shall be final and subject only to judicial review under M.G.L. c. 30A, § 14.
 - ii. The Commissioner or their designee may suspend a permit for no more than three (3) days without a notice or hearing, pursuant to subsection 17-10.12(b)(1), if the Commissioner or their designee specifically notifies the permit holder in writing that there is a probability of violation of public safety, health or order. In such a case, a hearing shall be held before the Commissioner or their designee within forty-eight (48) hours of the suspension in order to determine whether the public safety, health or order concern justified the suspension.
 - c. Removal. Any permit holder found in violation of this section or any rules and regulations promulgated by the Committee may be issued a ticket for violation and the non-motorized street food cart may be impounded.
 - d. Enforcement. The provisions of this section or any rules and regulations promulgated by the Committee may be enforced by the Inspection Services Department.
- (Ord. 2011 c. 5)

17-22.13 Severability.

If any provision of this section is held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.
(Ord. 2011 c. 5)

Section 2.

The provisions of this ordinance shall be effective immediately upon passage.

Filed on: August 30, 2023