

✓ 5-B

R/B ACCEPTED AND FILED
SUSPENSION

Chelsea, Massachusetts January 8, 2018

A Regular meeting of the Chelsea City Council was held. The meeting was held at the Chelsea City Hall located at 500 Broadway Chelsea Massachusetts 02150. The following Councilors were present: Councilors Vidot, Lopez, Rodriguez, Brown, Bishop, Tejada, Avellaneda, Robinson, Perlatonda, Garcia, and Recupero. Councilor Vidot presided over the meeting. The meeting opened at 7:00 p.m.

Public Speaking:

The public speaking portion of the meeting opened at 7:05 p.m. No one came forward and that portion of the meeting was closed by President Vidot.

The minutes of the City Council meeting dated December 18, 2017 were approved at the request of Councilor Bishop under suspension.

Communications from City Manager:

The following communication was read from City Manager Thomas G. Ambrosino. A motion from Councilor Robinson to refer it to the sub-committee on conference was adopted under suspension.

The Honorable Chelsea City Council
Chelsea City Hall
500 Broadway
Chelsea, Massachusetts 02150

Re: *Recreational Marijuana*

Dear Councilors:

As you know, the residents of Massachusetts approved a ballot question last Fall which authorizes the cultivation and sale of recreational marijuana in the Commonwealth. This industry will receive licenses to operate from the Cannabis Control Commission starting on July 1, 2018. Because Chelsea residents voted in favor of the ballot question, the City cannot prohibit these cannabis businesses from operating here in the absence of another local ballot initiative.

In order to be properly prepared for this burgeoning industry, the City needs to both adopt an Ordinance regulating the operations of these businesses and consider implementation of a local sales tax. I have recommendations for both.

First, I have attached for your review a draft Zoning Ordinance. The proposed Ordinance provides for the cultivation and manufacture of marijuana solely in the Industrial District by Special Permit. The retail sale of marijuana is limited to the Industrial, Shopping Center and Highway Business District, also by Special Permit only.

In addition, I have proposed a new local tax for marijuana retail sales. The proposed tax of 3% is the maximum allowed by law.

I respectfully ask that the City Council vote to approve the local 3% sales tax (Order attached) and set up a public hearing for the new Ordinance.

Sincerely,
Thomas G. Ambrosino
City Manager

The following communication was read from City Manager Thomas G. Ambrosino. A motion from Councilor Robinson referred the communication to the sub-committee on conference under suspension.

The Honorable Chelsea City Council
Chelsea City Hall
500 Broadway
Chelsea, Massachusetts 02150

Re: *Mobile Food Truck Ordinance*

Dear Councilors:

For the third time, I am submitting to the City Council a request for adoption of a Mobile Food Truck Ordinance. The Ordinance has been the subject of previous subcommittee sessions. I believe most of the concerns expressed at such hearings have been addressed in this latest iteration.

As you will see, this proposal takes food truck regulation out of the zoning context. Instead, it grants jurisdiction for regulation to the Licensing Commission, with input from other departments, including the Traffic and Parking Commission.

I ask that this new City Council put the matter to a formal vote.

Sincerely,
Thomas G. Ambrosino
City Manager

New Business:

The following order was introduced by Councilor Recuperero. Councilor Recuperero moved to amend the order by adding "to report back to the Council by June 30, 218". The amendment was adopted under suspension along with the order.

Request, that the City Manager and Traffic and Parking Commission look into posting signs restricting the flow of traffic through neighborhoods during rush hour by posting signs and only allowing residents to be able to go through it freely.

The following Ordinance amend was introduced by Councilor Vidot. A motion from Councilor Rodriguez referred it the Sub-committee on conference under suspension.

WHEREAS, the Chelsea City Council has authority to adopt ordinances to protect the health, safety and welfare of all residents of the City of Chelsea;

WHEREAS, the City of Chelsea wishes to adopt new zoning rules to properly regulate the new recreational marijuana industry in order to ensure that this industry works to the benefit of the City's residents without adverse impacts.

NOW, therefore be it Ordained, that the Revised Code of Ordinances of the City of Chelsea as amended, be further amended and adopted as follows:

AN ORDINANCE REVISING PART II CHAPTER 34 OF THE CHELSEA CODE OF ORDINANCES TO ADD ZONING PROVISIONS ON MARIJUANA ESTABLISHMENTS

Amendment 1

That Chapter 34, Article VII Special Residential Regulations be amended by adding a new Section 34-158 Marijuana Establishments, which shall read as follows:

Section 34-158. Marijuana Establishments

(a) Purpose and Intent

The purpose of this Section is as follows:

- (1) To promote health and safety in regards to marijuana establishment regulations in the City of Chelsea;
- (2) To promote socio-economically sound and just marijuana establishment regulations in the City of Chelsea.

(b) Definitions

Independent Marijuana Testing Laboratory a laboratory that is licensed by the Cannabis Control Commission.

Marijuana Cultivator shall mean an entity licensed by the Cannabis Control Commission to cultivate, process and package marijuana, to deliver marijuana to marijuana establishments and to transfer marijuana to other marijuana establishments, but not to consumers.

Marijuana Establishment shall mean a marijuana cultivator, independent testing laboratory, marijuana product manufacturer, marijuana retailer or any other type of marijuana-related business licensed by the Cannabis Control Commission.

Marijuana Product Manufacturer, an entity licensed by the Cannabis Control Commission to obtain, manufacture, process and package marijuana and marijuana products, to deliver marijuana and marijuana products to marijuana establishments and to transfer marijuana and marijuana products to other marijuana establishments, but not to consumers.

Marijuana Retailer, an entity licensed by the Cannabis Control Commission to purchase and deliver marijuana and marijuana products from marijuana establishments and to deliver, sell or otherwise transfer marijuana and marijuana products to marijuana establishments and to consumers.

(c) Permitting

- (1) Prior to applying for any permits with the city, a petitioner of a Marijuana Establishment must have documentation showing they are licensed or in the process of being licensed by the Cannabis Control Commission.

- a. Prior to the issuance of any permits by the City to a Marijuana Establishment, said Marijuana Establishment must show proof of licensure by the Cannabis Control Commission.
- (2) Marijuana Retailers are prohibited from operating between the hours of 9 PM to 9 AM.

Amendment 2

That Chapter 34, Article XIII The Table of Principal Use Regulations, Section 34-300 be amended as follows:

Principal Use	Districts													
	R1	R2	R3	BR	BR2	BH	B	SC	W	I	LI	LI2	NHR	NHC
Independent Marijuana Testing Laboratory	N	N	N	N	N	N	N	N	N	SP	N	N	N	N
Marijuana Cultivator	N	N	N	N	N	N	N	N	N	SP	N	N	N	N
Marijuana Product Manufacturer	N	N	N	N	N	N	N	N	N	SP	N	N	N	N
Marijuana Retailer	N	N	N	N	N	SP	N	SP	N	SP	N	N	N	N
Medical Marijuana Treatment Center	N	N	N	N	N	SP	N	SP	N	SP	N	N	N	N

Amendment 3

That Chapter 34, Article IX, Section 34-215(a)(3) be amended to read as follows:

- (3) Construction or expansion of a medical marijuana treatment center or dispensary, and/or Marijuana Establishment, will require a major site plan review.

Amendment 4

That Chapter 34, Article IX, Section 34-215(e)(1) be amended by creating a new subsection (g) which shall read as follows:

(g) Marijuana Establishments are required to submit a Security and Access Plan, showing location of security cameras, all exits and entrances, card and keypad readers, any locking mechanisms, sensors and monitors.

The following order was introduced by Councilor Vidot. A motion from Councilor Rodriguez referred it to the sub-committee on conference under suspension.

WHEREAS, The Commonwealth of Massachusetts has enacted several new laws around the regulation of Recreational and Medicinal Marijuana;

WHEREAS, The Acts provide for the local taxation of the proceeds from the sale of marijuana in any municipality accepting this provision; and

WHEREAS, The City of Chelsea in November of 2016 voted favorably on the ballot question legalizing recreational marijuana

WHEREAS, The City of Chelsea City Council desires to capitalize and realize the benefits of these Acts;

NOW THEREFORE BE IT ORDERED,

That the City of Chelsea accepts the provisions of Section 3 of Chapter 64N of the Massachusetts General Laws and imposes a local sales tax upon the sale or transfer of marijuana or marijuana products by marijuana retailers operating within the City of Chelsea to anyone other than a marijuana establishment at a rate of three percent of the of the total sales price received by the marijuana retailer in consideration for the sale of marijuana or marijuana products. As used here, "marijuana products" are intended to include products that have been manufactured and contain marijuana or an extract from marijuana, including concentrated forms of marijuana and products composed of marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils, and tinctures.

The following Ordinance was introduced by Councilor Vidot. A motion from Councilor Robinson referred it to the Sub-committee n conference under suspension.

An Ordinance Promoting Economic Development and the Mobile Food Industry in the City of Chelsea

WHEREAS The food service industry, including restaurants, establishments such as fast-food eateries, formal dining and mobile trucks, may be the world's most widespread industry; and

WHEREAS According to the U.S. Bureau of Labor Statistics, the food services and drinking places industry ranks among the Nation's leading employers with nearly 10 million wage and salary jobs; and

WHEREAS Recently, mobile food operations have become extremely popular and profitable in urban settings such as Boston, Los Angeles, New York, Houston, Philadelphia, San Francisco, Atlanta, Seattle, Miami, Austin, Portland, and Washington D.C., to name a few; and

WHEREAS The mobile food industry has the unique potential to create new employment opportunities, small business growth and favorable conditions for culinary entrepreneurs in Chelsea and its neighborhoods; and

WHEREAS According to the National Restaurant Association, there is an increasing demand, particularly among people 18 to 44, for freshly prepared, restaurant-quality food that can be had quickly and cheaply; and

WHEREAS Research has revealed that cities around the country have, at best, made incremental strides in regulating the complexities of the mobile food vendor industry, such as issues related to parking, traffic, and waste disposal; and

WHEREAS Vendors in the mobile industry have faced complex rules and regulations in other communities, the following language is set forth to streamline administrative processes, effectively work with the industry and secure the highest quality of life for al Chelsea residents; NOW,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHELSEA, as follows, that the City of Chelsea's Code of Ordinances be amended by adding the following ordinance:

SECTION 1. The Chelsea Code of Ordinances Chapter 14, Article 3 is hereby amended by striking out Sec. 14-90 reserved in its entirety and inserting in its place the following:

14-90 PERMITTING AND REGULATION OF MOBILE FOOD OPERATIONS.

14-90.1 Definitions.

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

Administrator shall mean the Licensing Administrator of the City of Chelsea or his or her designee.

The Commission shall mean the Licensing Commission established at Section 6-2 of the Charter of the City of Chelsea.

Mobile food operations shall mean any food establishment as defined in 105 CMR 590.002 that is conducted in a mobile or temporary location.

Food cart shall mean any mobile food operation that serves food from a non-motorized vehicle.

Canteen shall mean any mobile food operation that serves food prepared elsewhere from a motorized vehicle or which is towed by a motorized vehicle.

Mobile food truck shall mean a mobile food operation that prepares and serves food and beverages (non-alcoholic) from a motorized vehicle or is pulled by a motorized vehicle.

Temporary food operation shall mean any food operation that serves food which has been prepared at a central preparation facility from a satellite feeding location.

14-90.2 Scope.

a. The provisions of this section shall apply to mobile food operations engaged in the business of cooking, preparing, and distributing food or beverage with or without charge on or in public, private or restricted spaces. This section shall not apply to ice cream trucks that move from place to place and are stationary in the same location for no more than thirty (30) minutes at a time.

b. The provisions of this section shall not apply to mobile food operations that receives a temporary permit from the Licensing Administrator for a one day event or an event sponsored by the City of Chelsea.

14-90.3 Mobile Food Operation Permit Required.

a. No person or business entity, including a religious or charitable organization, shall operate a mobile food operation in any public, private or restricted space without a permit issued by the Commission.

b. A mobile food operation permit is required for each and every mobile food operation.

c. Each mobile food operation must display its permit on the vehicle, cart, or satellite feeding location while food is being served.

14-90.4 Application for a Mobile Food Operation Permit.

a. Single Application. There shall be made available by the Commissioner a single application form to apply for each mobile food operation permit. The application shall provide the following:

1. A description of necessary inspections and fees;

2. A description of areas of the City where the operation of mobile food operations are limited or prohibited;

b. Submission of Materials. Each application shall indicate on its face, in addition to other requirements as may be determined by the Commission, that the following materials must be submitted by the applicant:

1. The name of the business and its owner or owners and the mailing address of the business,

2. A description of the proposed business plan for the mobile food operation,

3. A proposed service route and hours of operation with a detailed schedule of times and locations where the mobile food operation will be stationary and serving food,

4. A food operation permit shall be issued only for the explicit time period covered by the effective dates of the general liability insurance policy.

c. Approval Process. An application must be submitted to the Licensing Administrator, who shall then forward the application to the Inspectional Services Department, Fire Department, Department of Public Works and Police Department for review. The application must receive the approval of each of the

Departments and the Traffic and Parking Commission, prior to its final approval and the issuance of a permit by the Commission.

1. The Commission 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.

2. In no case shall an initial permit required under this section be granted until after a public hearing is given by the Licensing Commission to all persons interested therein. Notice shall be provided in the same manner as it is for other public hearings of the Licensing Commission. The costs of any advertising shall be paid by the applicant at the time of application. These costs are in addition to the filing fee described in Section 14-90.8

3. Criteria for issuance of permit. In considering an application for a mobile food operation permit, the Licensing Commission shall consider the public good and general welfare and convenience to the community, and shall take into account factors such as the sort of operation proposed (including the proposed menu, days and hours of operation, and location), any impact on the community with respect to such matters as noise, traffic, congestion, odors, sanitary and waste disposal facilities, parking, dust and fumes, the impact on the character of the neighborhood and city, and whether any articulable harm would follow from granting the permit. Also the Commission shall consider whether a public benefit would flow from the proposed location and use and the competitive or other impact on existing restaurants.

4. No permit will be issued by the Licensing Commission unless and until the vehicle and any of its food handling components have passed inspection by the Inspectional Services Department.

5. If the application is denied in whole or in part, the Commission shall state the specific reasons for the denial. This decision shall be final.

14-90.5 Limitation on the Number of Permits.

The Commission 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 five (5) permits, whichever is lesser, 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.

14-90.6 Permit Renewal.

a. Every mobile food operation permit, unless suspended or revoked by the Commission for a violation of any provision of this section, any other rule or regulation promulgated for the implementation of this section, or any law of the Commonwealth or the United States shall be renewed annually given that the annual fee is paid within thirty (30) days after its one (1) 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 Commission reserves the right to add, remove, and reapportion available locations among mobile food truck operations at renewal.

14-90.7 Rules and Regulations.

a. General. The Commission is hereby authorized to promulgate 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 mobile food operations; provided, however, that such rules and regulations are not inconsistent with the following limitations and restrictions:

1. No operator of a mobile food operation shall park, stand, or move a vehicle and conduct business within areas of the City where the permit holder has not been authorized to operate;

2. No permit holder shall possess a permit for a mobile food operation that is not in operation for a period of more than fourteen (14) days without duly notifying and obtaining approval from the Commission.

3. The issuance of a permit does not grant or entitle the exclusive use of the service route, in whole or in part, to the mobile food operation permit holder, other than the time and place as approved for the term of the permit;

4. No mobile food operation 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.

5. Consumers shall be provided with single service articles, such as plastic forks and paper plates, and a waste container for their disposal. All mobile food operations shall offer a waste container for public use that the operator shall empty and properly dispose of at his own expense.

6. No mobile food operation shall make or cause to be made any unreasonable or excessive noise in violation of Chelsea Code of Ordinances Sec. 16-99.

7. A mobile food operation may not operate on public property unless the Commission and the Departments have otherwise granted approval on the permit application for its operation at the particular location during specific times.

8. All mobile food trucks must be equipped with a permanently mounted global positioning system (GPS) device that meets rules and regulations established by the Commission.

9. For mobile food operations on public property, the City reserves the right to temporarily move a mobile food operations to a nearby location if the approved location needs to be used for emergency purposes, snow removal, construction, or other public benefit.

b. Fire Department. The Chelsea Fire Department shall promulgate rules and regulations for the inspection of mobile food operations and to ensure compliance with all applicable federal, state, and local fire safety statutes, regulations, ordinances, and codes.

14-90.8 Permit Fees.

a. Application Fee. The application fee for a permit granted by the Commission for the operation of a mobile food operation shall be fifty (\$50.00) dollars for applicants.

b. Annual Fee for Mobile Food Trucks. After approval of the application, an annual fee shall be required for each mobile food truck. The annual fee for Chelsea residents (proof of residency is that the mobile food truck is registered as garaged in Chelsea) shall be Five Hundred Dollars (\$500.00) and the annual fee for non-resident applications shall be One Thousand Five Hundred Dollars (\$1,500.00).

c. Annual Fee for Canteens. After approval of the application, an annual fee shall be required for each canteen. The annual fee for Chelsea residents (proof of residency is that the canteen is registered as garaged in Chelsea) shall be Three Hundred Dollars (\$300.00) and the annual fee for non-resident applications shall be Nine Hundred Dollars (\$900.00).

d. Annual Fee for Food Carts. After approval of the application, an annual fee shall be required for each food cart. The annual fee for Chelsea residents shall be One Hundred Dollars (\$200.00) and the annual fee for non-resident applications shall be Three Hundred Dollars (\$350.00).

14-90.9 Prohibition Against the Transfer of a Permit.

a. Transfers for Value Prohibited. No person holding a permit for a mobile food operation shall sell, lend, lease or in any manner transfer a mobile food operation permit for value.

b. Nonvalue Transfers as Part of the Sale of a Business. Notwithstanding subsection 14-90.10(a), a permit holder may transfer a permit as part of the sale of a majority of the stock in a corporation holding such permit, as part of the sale of a majority of the membership interests of a limited liability company holding such permit, or as part of the sale of a business or substantially all of its assets; provided that there shall be no allocated or actual value for the transfer of the permit.

1. Prior to any such transfer, the transferor shall notify the Commission in writing and the transferee shall submit a food truck operation application for approval to the Commission pursuant to the process set forth in subsection 14-90.5 and any additional rules and regulations promulgated by the Commission.

2. Any such transfer shall be subject to the terms and conditions of the original permit.

c. Unauthorized Transfer Voids Permit. Any unauthorized transfer or attempt to transfer a permit shall automatically void such permit. Whoever violates this provision, including both the transferor and transferee, shall be subject to a fine of three hundred (\$300.00) dollars, pursuant to section 14-90.12(a). The unauthorized transfer or attempt to transfer of each permit shall constitute a separate violation.

14-90.10 Operation of Mobile Food Operations.

a. Operation Without Permit. Any mobile food operation being operated without a valid mobile food operation permit issued by the Commission shall be deemed a public safety hazard and may be ticketed and impounded. All mobile food operations should be parked or garaged pursuant to the City of Chelsea's Zoning Ordinances and Traffic & Parking Commission rules.

b. Unattended Vehicles Prohibited. No mobile food operation shall be parked on the street overnight, or left unattended and unsecured at any time food is kept in the mobile food operation. Any mobile food operation which is found to be unattended shall be considered a public safety hazard and may be ticketed and impounded.

c. A mobile food operation operating outside of an approved route, 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 14-90.11.

d. **Areas of Operation.** No person shall operate a Food Operation:

i. Within 300 feet of a restaurant;

ii. Within 300 feet of any elementary or secondary school;

iii. On private property without the written consent of the property owner.

iv. In a municipal park without the written consent of the Director of Public Works.

e. A Mobile Food Operation may be allowed signage on the cart or vehicle provided that no sign shall project from the cart or vehicle and there shall be no free standing signs adjacent to the cart or vehicle.

f. A Mobile Food Operation shall not emit exterior lighting in a manner so as to shine on adjacent properties or toward any street.

g. Notwithstanding Section 14-90.7(a)(4), no seating shall be placed on a public way or on a sidewalk.

h. Mobile Food Operations shall not park overnight on public property or private lands after operating hours except on land owned, leased or rented by the operator for the storage of the vehicle in compliance with the City's Zoning By-Law.

i. A Mobile Food Operation shall not operate between 8:00 p.m. to 8:00 a.m.

j. Food Trucks shall be exempt from hourly parking restrictions on public property provided they are parked in legal parking spaces; actually engaged in the operation of the Food Truck business, and otherwise in compliance with this Section.

k. Mobile Food Operations shall pull over to the side of the public right-of-way as far as practicable when stopping for the purpose of selling. In no event shall any Mobile Food Operation stop for the purpose of selling if such a stop prevents the passage of other motor vehicles on the public right-of-way.

14-90.11 Enforcement.

a. Fine for Violation. Any permit holder operating a mobile food operation or service in violation of any provision of this section or any rules and regulations promulgated by the Commission may be subject to a fine of three hundred (\$300.00) 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. Any permit holder found in violation of this section or any rules and regulations promulgated by the Commission may be issued a ticket for violation and the mobile food vehicle may be impounded.

b. Revocation, Suspension, Modification. Once a permit has been issued it may be revoked, suspended, modified, or not renewed by the Commission for failure to comply with the provisions of this section, any rules and regulations promulgated by the Commission, or any laws of the Commonwealth or the United States.

1. No permit shall be revoked, suspended, modified, or not renewed without a hearing before the Commission, prior to which hearing the Commission 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.

2. The Commissioner or his or her designee may suspend a permit for no more than three (3) days without a notice or hearing, if the Commissioner or his or her 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 his or her 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. Enforcement. The provisions of this section or any rules and regulations promulgated by the Committee may be enforced jointly by the Chelsea Police Department and the Chelsea Inspectional Services Department.

14-90.12 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.

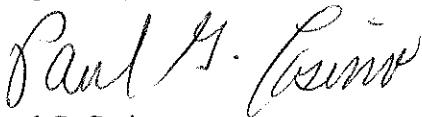
The following late amendment to the Food Truck Ordinance was submitted by Councilor Avellaneda. A motion from Councilor Avellaneda referred it to the sub-committee on conference under suspension.

Amendment to the Food truck ordinance:

Motion to strike the word restaurant in Sec 14-90.10 part d and be replaced by “a stationary business selling the same or similar products”

The meeting adjourned at 7:25 p.m.

Respectfully submitted,



Paul G. Casino
Clerk of the Chelsea City Council