



Article 34: Zoning Bylaw Amendment Mobile Food Establishment

Concord Town Meeting
April 30, 2023



Ms. Miller moves that Town Meeting take affirmative action on Article 34 as printed in the Planning Board's Report to Town Meeting dated April 25, 2023.

What does the Proposed Amendment Accomplish?

- It allows food trucks to operate in and from Concord
- Food trucks will be licensed by the Heath Division and Police Department to comply with Concord's health and safety requirements. License fees will offset added costs
- Food trucks are restricted in frequency, number and location (excluding where the Town Manager or Select Board grant a special permit, intended for Town events)

Proposed Bylaw Amendment – Part 1



Add a new Section 1.3.16 as follows:
Section 1.3.16 Mobile food establishment: A food establishment permitted under the State’s Retail Food Code, 105 CMR 590, that is operated from a movable or portable structure that can change location.

Proposed Bylaw Amendment – Part 2a

Add a new Section 5.4.6 as follows:

5.4.6 Mobile Food Establishment: In all districts, mobile food establishments are permitted on a temporary basis subject to the following requirements:

- a) A mobile food establishment may conduct business on private property *for a private event for the property owner or tenant and their invitees*, on municipal property when previously authorized by the Town Manager, or on public roadways when previously authorized by the Select Board *or their designee*.



Proposed Bylaw Amendment – Part 2b

- b) A mobile food establishment shall have all required permits and licenses from the Health Division and the Police Department, and any other permit or license required by law.



Proposed Bylaw Amendment – Part 2c

Add a new Section 5.4.6 as follows:

- c) A property may have mobile food establishments in operation thereon for a maximum of 52 days per calendar year.



Proposed Bylaw Amendment – Part 2d

d) No more than two mobile food establishments shall be located on a property at the same time. The Board may permit additional mobile food establishments on a private property provided the Board finds that the desired relief may be granted without substantial detriment to the neighborhood and without jeopardizing public safety. The Select Board **or their designee** may permit additional mobile food establishments on municipal property.



Proposed Bylaw Amendment – Part 2e

Add a new Section 5.4.6 as follows:

- e) A mobile food establishment that is an accessory use to a restaurant and has a valid Base of Operation License from the Health Division shall be exempt from Section 5.4.6(c) and permitted to park on the property on which the restaurant is located.



Proposed Bylaw Amendment – Part 2f

f) An ice cream mobile food establishment that only sells, displays, or offers ice cream or other pre-packaged frozen dessert products shall be exempt from Sections 5.4.6(a) and (c) and shall be permitted to travel public roads vending said products but shall not park for extended periods of time on a public road except to the extent otherwise permitted by law.



Proposed Bylaw Amendment – Part 3

Add the following sentence to Section 4.5.4 Restaurant:

A mobile food establishment permitted pursuant to Section 5.4.6 shall be considered an accessory use to a restaurant.



What will Section 5.4.6 establish?



Maximum of 52 days per year operation



Permitting

Must be permitted with Health and Police and any additional necessary permits



Authorization

Must be authorized by the Town Manager, Select Board or be on Private Property



Restaurant Accessory Use

Mobile Food Establishments are permitted to park on property on which the restaurant is located



Maximum of 2

A maximum of 2 mobile food establishments maybe on a property at the same time without Board approval for special circumstances



Ice Cream Trucks

Prepackaged ice-cream/frozen dessert trucks may vend on public roads

Why change the bylaw?

- Opportunity for more variety in food service options
- Provide additional options for large events and functions
- Help formalize mobile food establishment use
- Create permitting process and establish use criteria



Ms. Miller moves that Town Meeting take affirmative action on Article 34 as printed in the Planning Board's Report to Town Meeting dated April 25, 2023.

What is a Mobile Food Establishment (MFE)?

- A food establishment permitted under the State's Retail Food Code
- Is operated from a movable or portable structure that can change location

What is NOT a MFE?

- A caterer, Door Dash or Instacart

Tax Payments by Food Trucks

Sales by transient vendors without a fixed location, such as canteen trucks, are sourced to the business location of the vendor, unless that location is out-of-state, in which case the sales are sourced to the city or town where the vendor makes the highest total sales. Such a vendor must register with DOR using the address of that city or town's licensing authority.

From TIR 09-13, IIc Local Option Sales Tax on Meals and Local Option Room Occupancy Excise Rate Increase, <https://www.mass.gov/technical-information-release/tir-09-13-local-option-sales-tax-on-meals-and-local-option-room-occupancy-excise-rate-increase>

Food Truck Map

