

**Policy Committee Meeting
August 10, 2021**

Committee Chair John McCurry, Jr. called the meeting to order at 4:00 p.m.

Roll Call: Councilors John McCurry, Jr., Doris Ortiz and Norman Belanger;
Committee Members Renee O'Neil and Nathan Bean

Staff Members Present: City Clerk Carmen Morris, Police Chief Roger Beaupre,
Code Enforcement Officer Roby Fecteau and Planning & Development Director Mathew Eddy

The Committee and all who were present recited the Pledge of Allegiance.

There were no adjustments to the agenda.

Acceptance of Minutes: June 24, 2021

Motion by Councilor Belanger, seconded by Councilor Ortiz to accept the minutes as printed.
Vote: Unanimous.

Discussion/Approval: Ch. 42, Motor Vehicles & Traffic/Sec. 42-90-No Parking/Add and Delete on Hills Beach Road

BE IT ORDAINED, by the City Council of the City of Biddeford that the Code of Ordinances, Chapter 42, Motor Vehicles and Traffic, Article IV, Specific Street Regulations, **Section 42-90 No Parking**, be amended by adding and/or ~~deleting~~ to read as follows:

Hill's Beach Road, both sides, beginning at the intersection with Pool Street (Route 9), thence easterly to end of Fort Hill, No Parking on Pavement, or any part thereof.

~~Hill's Beach Road, both sides, from Route 9 to 100 feet beyond Seabreeze Avenue~~

~~Hill's Beach Road, odd numbered side, no parking on any part of the paved roadway from a point 100 feet southerly of the Edgewater Place to Sky Harbor Drive~~

~~Hill's Beach Road, odd numbered side, from the first intersection with Sky Harbor Drive to Fort Hill~~

~~Hill's Beach Road, northeasterly, odd numbered side, from the westerly intersection of Hill's Beach Road and Sky Harbor Drive to Fort Hill~~

~~Hill's Beach Road, southwesterly, even numbered side, from a point 100 feet southerly of Seabreeze Avenue to Fort Hill~~

Motion by Councilor Belanger, seconded by Councilor Ortiz to recommend passage of the ordinance amendment.

Vote: Unanimous.

Discussion/Approval: City of Biddeford Flag Display Policy

1. PURPOSE

It is the intent of the City of Biddeford to establish a citywide policy, which follows the United States and State of Maine provisions governing the display of flags, including the United States flag, the State flag, the City flag, and the POW/MIA flag. Any additions must be approved by the Biddeford City Council as per Section 4.

2. REFERENCE

United States and State of Maine provisions governing the display of flags. These can be found in the United States Code, Title 4, Chapter 1 and the Maine Statutes Annotated, Title 1, Chapter 9 (hereinafter “Flag Code and Protocol”).

3. APPLICATION

This Policy applies to all buildings owned or controlled by the City of Biddeford and all individuals employed by or who volunteer with the City of Biddeford, unless a provision of the policy conflicts with a contract or statute (e.g., Collective Bargaining Agreement, Civil Service Rule, or Memorandum of Understanding, etc.).

4. GUIDANCE

a. Display and Care of Flags:

The City of Biddeford follows the Federal and State of Maine Flag Code and Protocol governing the display and care of flags.

b. Display of Additional Flags Indoors or Outdoors:

i. In addition to the above flags, other “Special Flags or Banners” may be displayed on either the flagpole located on the left side of City Hall directly outside of the Mayor’s office or other available flagpoles. Such Special Flags or Banners may only be displayed upon approval from the Biddeford City Council.

1. Examples of Special Flags or Banners include, but are not limited to, sister city flags, Heritage Month flags (e.g., Black History Month, Pride Month, Asian/Pacific American History, National Hispanic Heritage, and Indigenous peoples’ heritage), flags received in recognition of awards, flags received from visiting groups, or flags designating an event or accomplishment.

2. When selecting or approving a request for flying a Special Flag, the City Council shall consider and make a determination that the Special Flag meets at least one or more of the following criteria:

a. Whether the United States or State of Maine has recognized the flag through statute or proclamation;

b. Whether the flag represents an organization dedicated to the public good for the Citizens of Biddeford;

- c. Whether the flag represents a National, State, or City interest;
 - d. Whether the flag is an historic American flag that has or continues to have a primary positive message of American history and unity;
 - e. Whether the flag promotes unity and community with another city, state, country, or other jurisdiction; or
 - f. Whether the flag represents a positive interest or value worthy of public recognition.
- 3. Unless otherwise stated or determined by the City Council, all Special Flags or Banners shall be flown or displayed for a limit of thirty (30) calendar days after their approval or for 30-days after a defined start date.
- 4. The Mayor has the discretion to fly an appropriate flag, as per the criteria listed in 4.b.i.2., above, for a single day if he or she determines that a public purpose is served by flying the flag.
- ii. Any Special Flag or Banner flown from a flagpole at City Hall must not be larger than the flag of the United States of America and must be located beneath the flag of the United States of America when flown on the same staff.
- c. Display of the Flags at Half-Staff
 - i. All flags shall be flown at half-staff as prescribed or consistent with this policy or as directed by the proper federal or state officials.
 - ii. In addition to any federal or state protocols or directions, the Mayor (or designee) or council president in the absence of the mayor, may order the City of Biddeford flag to be flown at half-staff for one week under the following circumstances:
 - 1. On the death of any of the following individuals:
 - a. Biddeford Mayor, ex-Mayor, or Mayor-elect;
 - b. Current member of Biddeford City Council;
 - c. Current head of any City Department or current employee;
 - d. Any other local official, citizen, or other individual deemed by the Mayor to have made significant contributions to the benefit and welfare of the City and citizens of Biddeford.
 - 2. Any instance where a City of Biddeford employee has been killed in the line of duty or has died as a direct result of injuries incurred while in the performance of official duties.
 - iii. The Mayor shall state the reason or name of the individual in whose honor

the flag or flags have been or are to be lowered to half-staff at the first available public meeting of the Biddeford City Council.

Motion by Councilor Belanger, seconded by Councilor Ortiz to approve the City of Biddeford **Flag Display Policy**.

It was clarified that this policy does not need Council approval, and therefore, upon approval of the Policy Committee, the policy will go into effect immediately.

Vote: Unanimous.

Discussion/Approval: **Land Development Regulations/Art. VI-Performance Standards, Section 77-Marijuana establishments/Odor Management**

Part III (Land Development Regulations), Article VI (Performance Standards), Section 77 (Marijuana establishments).

A. All marijuana establishments shall be located indoors. Any common areas, including, but not limited to storage areas and building facilities, shared with another marijuana establishments shall be clearly identified as such on the site plan or conditional use application.

B.A. Odor Management. For all Marijuana establishments, the management of odor shall be consistent with the standards outlined in Chapter 34 Environment, Article V; Odor Control; ~~the odor of marijuana shall not be detectable off premises, meaning not detectable on any property that is not under the control of the establishment. To prevent and control marijuana odors, an odor control plan shall be submitted as part of the site plan application describing the odor(s) originating or anticipated to originate at the premises and the control technologies to be used to prevent such odor(s) from leaving the premises. The odor control plan shall, at a minimum, include the following:~~

- ~~1. A facility floor plan that identifies the locations of all odor emitting activities and sources. The plan shall identify the location of doors, windows, vents, HVAC systems, odor control systems and other relevant information.~~
- ~~2. A list of specific odor emitting activities and sources, and a description of the processes that will take place at the facility, including, but not limited to vegetative flowering, processing and storage.~~
- ~~3. For each odor emitting activity or source, a description of the administrative procedure as well as the engineering processes, technologies, and equipment that facility will use.~~
 - ~~a. Administrative controls shall include, at a minimum: management practices to isolate odor activities and sources, use of standard operating procedures, employee training, regular equipment inspections and maintenance of inspection logs.~~
 - ~~b. Engineering controls shall include, at a minimum, building design features; use of equipment and technology to address each specific odor emitting activity or source; a systems and equipment maintenance and~~

replacement schedule; and evidence that proposed equipment and technology are sufficiently capable and appropriately sized consistent with marijuana best practices for control technologies designed to effectively mitigate odors.

- e. Marijuana establishments shall implement appropriate ventilation and filtration systems to satisfy the odor standard contained herein. While the City does not mandate any particular equipment specifications with regard to filtration, all marijuana establishments are strongly encouraged to adopt best management practices with regard to implementing state-of-the-art technologies in mitigating marijuana odor, such as air scrubbers and charcoal filtration systems.
- d. Noxious gases and fumes. Marijuana establishments shall have appropriate ventilation systems to mitigate noxious gases and other fumes used or created as part of the establishment. Gases and fumes shall not extend beyond the premises of any establishment, meaning not detectable on any property that is not under the control of the establishment.
- e. Sufficient measures and means of preventing smoke, debris, dust, fluids and other substances from exiting a marijuana establishment shall be provided at all times.
- f. All marijuana and marijuana byproducts intended for disposal shall be stored indoors in a self-contained room that is intended solely for this purpose and in accordance with all applicable federal, state and local laws and regulations. When moving material from the self-contained storage room for disposal, marijuana and marijuana byproducts shall be moved only in receptacles with a cover or lid. Security cameras shall be installed to record activities in the area of the storage room as well as the areas between the storage room and where said material is loaded onto vehicle(s) for disposal.

- B. Separation of Marijuana Establishments. No new marijuana establishment may be located within any building that is located within five hundred (500) feet of any other building containing a marijuana establishment.

ARTICLE V ODOR MANAGEMENT

34-64. Odor Defined.

34.65. Management of Odor. The odor of marijuana shall not be detectable off-premises, meaning not detectable on any property that is not under the control of the establishment. To prevent and control marijuana odors, an odor control plan shall be submitted as part of the site plan application describing the odor(s) originating or anticipated to originate at the premises and the control technologies to be used to prevent such odor(s) from leaving the premises. The odor control plan shall, at a minimum, include the following:

1. A facility floor plan that identifies the locations of all odor-emitting activities and sources. The plan shall also identify the location of doors, windows, vents, HVAC systems, odor control systems and other relevant information.

2. A list of specific odor-emitting activities and sources, and a description of the processes that will take place at the facility, including, but not limited to, vegetative flowering, processing and storage.
3. For each odor-emitting activity or source, a description of the administrative procedures, as well as the engineering processes, technologies and equipment the facility will use.
 - a. Administrative controls shall include, at a minimum: management practices to isolate odor activities and sources, use of standard operating procedures, employee training, regular equipment inspections and maintenance of inspection logs.
 - b. Engineering controls shall include, at a minimum, building design features; use of equipment and technology to address each specific odor emitting activity or source; a systems and equipment maintenance and replacement schedule; and evidence that proposed equipment and technology are sufficiently capable and appropriately sized consistent with specific ~~marijuana~~ best practices for control technologies designed to effectively mitigate odors.
 - c. ~~Marijuana~~ Odor producing establishments shall implement appropriate ventilation and filtration systems to satisfy the odor standard contained herein. While the City does not mandate any particular equipment specifications with regard to filtration, all ~~marijuana~~ establishments are strongly encouraged to adopt best management practices with regard to implementing state of the art technologies in mitigating marijuana odor, such as air scrubbers and charcoal filtration systems, consistent with their industry.
 - d. Noxious gases and fumes. ~~Marijuana~~ All establishments shall have appropriate ventilation systems to mitigate noxious gases and other fumes used or created as part of the establishment. Gases and fumes shall not extend beyond the premises of any establishment, meaning not detectable on any property that is not under the control of the establishment.
 - e. Sufficient measures and means of preventing smoke, debris, dust, fluids and other substances from exiting an ~~marijuana~~ establishment shall be provided at all times.
 - f. All ~~marijuana and marijuana~~ byproducts of production intended for disposal shall be stored indoors in a self-contained room that is intended solely for this purpose and in accordance with all applicable federal, state and local laws and regulations. When moving material from the self-contained storage room for disposal, ~~marijuana and marijuana~~ the byproducts shall be moved only in receptacles with a cover or lid. Security cameras shall be installed to record activities in the area of the storage room as well as the areas between the storage room and where said material is loaded onto vehicle(s) for disposal.

Separation of Marijuana Establishments. No new marijuana establishment may be located within any building that is located within five hundred (500) feet of any other building containing a marijuana establishment.

Motion by Councilor Belanger, seconded by Councilor Ortiz to consider the proposed ordinance language.

The Committee Members had a general discussion, including how determining whether an odor is offensive or not is subjective to each person, which makes establishing an Odor Management ordinance challenging. It was suggested to come up with an ambient quality definition as a source of measurement. Ambient quality would take into account what are those normal and acceptable odors in particular areas of the City throughout the course of a day or week, versus what are those odors that go beyond that standard ambient quality. It was agreed that there needs to be a way to address odors that cause some sort of displeasure or is affecting one's quality of life. There should also be consideration whether an odor is transient or permanent.

The ordinance will also need to define steps of violations, and set out clear consequences that could include suspension of a business license, suspension of a conditional use permit and/or the revoking of an occupancy permit.

Motion by Councilor Belanger, seconded by Councilor Ortiz to table this item until Staff can draft final ordinance language based on the comments from the Committee.

Vote: Unanimous.

Discussion/Approval: Ch. 22, Businesses and Land Development Regulations/Mobile Food Vendors Food Court language added

Sec. 22-20 Permit regulations.

- (a) The application fee for a mobile food vendor permit shall be \$200. Each mobile food vendor unit shall be permitted separately.
- (b) Mobile food vendor permits shall expire on December 31 of each year.
- (c) Mobile food vendors shall provide, at their expense, and keep in force during the term of their contract, with a responsible insurance company or companies authorized to do business in the state, commercial general liability insurance in the amount of at least \$1,000,000. The mobile food vendor shall deliver certificates of such insurance to the City at the time of application.
- (d) Mobile food vendors shall provide proof of a State of Maine health certificate at the time of application.
- (e) Upon renewal the applicant shall pay the renewal fee of \$200 and update any changes in the permitting documentation upon permit renewal. The applicant must submit the application and the renewal fee within 30 days before expiration of the permit or must reapply as a new applicant.
- (f) The City Manager is authorized to make reasonable rules and regulations, not inconsistent with this section, governing the design, construction and location of pushcarts or food

trucks.

- (g) Display of permit. Every permit, including those from the City, shall be displayed at all times in a conspicuous place where they can be read by the general public on the mobile food vendor's truck or concession trailer.

Sec. 22-21.1 Prohibited conduct.

(a) Distance regulations:

- (1) No mobile food vendor shall conduct business within any single-family residential or agricultural zoning district unless otherwise approved in writing by the Code Enforcement Officer.
- (2) A mobile food vendor may not be located within 100 feet of the primary entrance of an open and operating fixed-location food service or eating establishment; or within 40 feet from another mobile food vendor except in the following:
 - o During City sponsored or other community events; or,
 - o Within in a mobile food vendor court consistent with City Land Development Regulations and Section 56 Restaurants.

Commented [EM1]: Using the most streamlined approach, the approach here is leave the mobile food vendor rules in tact, except where it applies to community events or within a mobile food vendor court.

~~(3) A mobile food vendor shall not be located within 40 feet from another mobile food vendor except during City sponsored or other community events.~~

(b) A mobile food vendor, except when located in a mobile food vendor court, shall not conduct sales at a stationary location:

- (1) For a duration exceeding 60 minutes on any public street or public streets adjacent to public parks and recreational facilities, next to fire lanes and no-parking designated areas. Mobile vendors parking on public streets may not move to a new location without prior approval from the City.
- (2) In congested areas where the operation impedes vehicular or pedestrian traffic.
- (3) Between the hours of 1:00 a.m. and 6:00 a.m.

(c) Offenses and regulations.

- (1) It shall be unlawful for any individual as the agent or employee of another regulated under this section to sell edible goods in the City unless its principal or employer has received a permit under this section.
- (2) A permit issued under this section is not transferable.

- (3) It shall be unlawful for an individual to sell edible goods while displaying a valid permit issued by the City in the name of another individual, organization, or entity.
- (4) It shall be unlawful for any individual, directly or through an agent or employee, to sell goods within the corporate limits of the City after the expiration of the permit issued by the City under this section.
- (5) It shall be unlawful for an individual, directly or through an agent or employee, to misrepresent on the permit affidavit any acts that are regulated under this section.
- (6) It shall be unlawful for any individual, directly or through his agents or employees, to represent that the issuance of a permit by the City constitutes the City's endorsement or approval of the product for sale.

Sec. 22-21.2 Mobile food vendor requirements.

The following regulations shall apply to mobile food vendors:

- (1) Each unit shall be equipped with a portable trash receptacle and shall be responsible for proper disposal of solid waste and wastewater in the sanitation facility legally accessed by the food service establishment. All disturbed areas must be cleaned following each stop to a minimum 20 feet of the sales location.
- (2) Mobile food vendors may not have a drive-through.
- (3) Continuous music or repetitive sounds shall not project from the mobile unit.
- (4) A five-foot clear space shall be maintained around the mobile food vending unit.
- (5) All mobile units shall have a gray water holding tank.
- (6) The mobile unit will be subject to inspection upon permit application through the Code Enforcement Department, the Health Department and the Fire Department, and may be subject to random inspection and upon reissuance of the permit.
- (7) No sales are allowed within public park facilities while park concession units are operating. Mobile units operating in public parks and on streets adjacent to public parks or recreational facilities require approval by the City's Recreation Director.

Section 56 Restaurants.

[Ord. of 8-3-1993(1); Ord. No. 2006.13, 3-7-2006]

- 1.
 - a. The following provisions address restaurants, whether year-round or seasonal, seat down or takeout, building or mobile. Subsections A through E refer to nonmobile food service operations. Subsection F addresses mobile food

service operations.

- b. For the purpose of this section, the term "restaurants" shall be divided into four categories:

- (1) Establishments in permanent buildings;
- (2) Establishments in mobile units, either towed or self-propelled, preparing and serving food products on a particular site; and
- (3) *Establishments in mobile units, either towed or self-propelled, serving prepared food products, and traveling to selected locations on a daily basis, and remaining on-site for limited time periods, i.e. during lunch breaks, etc. Such units are often referred to as catering services or food services.*

(4) Establishments in mobile units located in mobile food vendor courts and permitted in the MSRD1 and MSRD3 districts. Mobile food vendor courts, defined as a collection of mobile food vendors in a common outdoor plaza or site providing a common area for self-serve dinner, subject to Subsection F below and Planning Board Site Plan Review.

- A. The application for a permit shall state the maximum seating capacity of the restaurant. Any expansion or enlargement over the stated capacity shall require a new permit, and shall comply with setbacks, square footage, and all other requirements of this ordinance.
- B. Any restaurant located within 500 feet of an existing public sewer line shall connect with the sewer system at the expense of the owners. When subsurface sewage disposal is proposed, completed soil evaluation forms (HHE-200) shall be submitted. All proposed subsurface disposal systems shall meet the requirements of the Maine State Plumbing Code.
- C. All parking and loading facilities shall be located to side or rear of the building, and shall be screened from abutting residential lots. Screening shall be comprised of a continuous landscaped area not less than eight feet in width, containing evergreen shrubs, trees, fences, walls, berms, or any combination, forming a visual barrier not less than six feet in height. In the Rural Farm Zone, the parking and loading facilities shall also be screened from all public roadways.
- D. (Reserved)
- E. Storage and disposal of refuse, fuel, and other potentially hazardous materials shall be so conducted as to create no health hazard, rodent harborage, insect breeding areas, accident or fire hazards, or air pollution. Areas where such activities occur shall be effectively enclosed and screened by safety fences, walls, or any combination thereof.

- F. Mobile food service operations shall comply with the State of Maine rules relating to eating and lodging places, as periodically amended, and shall require a victualer's permit from the municipal officers consistent with Section 22.20-21.2.
- a. Further, mobile food service operations, preparing food on-site, unless permanently connected to public utilities and approved by the Planning Board, shall not be left on-site or displayed, or left in public view, in the location of business during nonbusiness hours, unless otherwise conditioned by the City Council in their specific permit/licensing process.
 - b. The Building Inspector shall review mobile food service operations, preparing food on-site, to ensure, as a minimum, the following:
 - 1. The placement of the vehicle:
 - a. Shall not hinder vehicular traffic or cause traffic congestion; and
 - b. Shall not hinder, or interfere with, pedestrian traffic; and
 - c. Shall not block or otherwise hinder access to or from private property; and
 - d. Shall not adversely impact on abutting properties in regards to:
 - (1) Noise.
 - (2) Odor, fumes or smoke.
 - (3) Light and glare.
 - 2. The operator shall have written permission from the property owner to locate the vehicle on said property.
 - 3. The operator shall have available, and under written agreement, at least three off-street parking spaces. In cases where on-street parking is available immediately in front, the operator must have one off-street parking space for any vehicle belonging to an employee working on a given shift.
 - 4.
 - a. The operator shall provide at least one fifty-five-gallon covered trash receptacle, or similar sized container, to hold wastes and debris. No paper, food or other wastes shall be allowed to accumulate on-site.
 - b. The waste container shall be emptied at least daily into an approved commercial

dumpster (it being emptied by a licensed hauler on a regular basis) or other suitable and approved means of transport away from the site. It shall be the responsibility of the operator to ensure that all wastes are handled and disposed of properly.

5. The operator shall ensure that there is an adequate supply of potable water for cleaning equipment and the preparation of foods.
6. The operator shall ensure that there is an adequate and safe source of electrical power.
7. The operator shall ensure that all storage of food supplies and other business material is within the vehicle or other container secured to the vehicle. No loose material shall be permitted outside of the vehicle.
8. There shall be no signs placed on sidewalks or other rights-of-way. No temporary or mobile signs shall be allowed.
9. The trailer, or vehicle, being used shall be registered, in good upkeep, and provide a neat appearance.

Motion by Councilor Belanger, seconded by Councilor Ortiz to consider the proposed ordinance language.

Motion by Councilor Belanger, seconded by Councilor Ortiz to amend the ordinance language to say, "to permit in the appropriate zones" and remove "~~in the MSRD1 and MSRD3 Districts.~~" Motion was withdrawn.

Motion by Councilor Belanger, seconded by Councilor Ortiz to amend the ordinance language to say, "to permit in zones where restaurants and takeout are permitted," and remove "~~in the MSRD1 and MSRD3 Districts.~~"

Vote: Unanimous.

In a discussion not directly related to the proposed ordinance language, the Committee discussed the process of determining the placement of food trucks in public parks and how it is deemed what food truck can set up where and for how long. The Committee agreed that there should be ordinance language that establishes a fair and equitable way to assign food trucks in public parks and beaches.

Vote on proposed ordinance language, as amended: Unanimous.

Discussion: Policy: Legal Services for Private Credit Enhancements

With barely any discussion, the Committee's general consensus is complete support of coming up with a policy.

Motion by Councilor Belanger, seconded by Councilor Ortiz to adjourn.
Vote: Unanimous.
Time: 4:55 p.m.