

City of Biddeford

Policy Committee

March 14, 2022 5:30 PM Council Chambers and via Zoom

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1. Roll Call

2. Pledge of Allegiance

3. Adjustments to the Agenda

4. Acceptance of Minutes

4.1. January 24, 2022 Policy Committee Meeting Minutes

[1-24-2022 Policy Committee Meeting.docx](#)

5. Discussion/Review

5.1. Permitting Mobile Food Courts in B2 Zone (Outer Elm Street)

[3-14-2022 Mobile Food Courts-Outer Elm Street-B2 Zone.docx](#)

5.2. Amendment/Ch. 22, Businesses, Sec. 22-38-Marijuana Establishments/Exceptions for Caregiver Retail and Testing Facilities

6. Adjourn

**Policy Committee Meeting
January 24, 2022**

Committee Chair Norman Belanger called the meeting to order at 5:31 p.m.

Roll Call: Councilors Norman Belanger, Amy Clearwater and Liam LaFountain;
Committee Members Renee O’Neil and Jake Pierson

Staff Members Present: City Clerk Carmen Morris, Police Chief Roger Beaupre,
Chief Operating Officer Brian Phinney

There were no adjustments to the agenda.

Acceptance of Minutes: **October 12, 2021**

Motion by Member O’Neil, seconded by Councilor Clearwater to accept the minutes as printed.
Vote: Unanimous.

Discussion/Approval: Ch. 42, Motor Vehicles & Traffic/Sec. 42-66 – Beach permit parking regulations enumerated, Subsections (2) and (3)/Proposed Beach Permit Fee Increases

This ordinance amendment was sent back to the Policy Committee from the December 21, 2021 Council Meeting for further review and recommendation.

Councilor Belanger opened up discussion prior to taking a motion.

Chief Operating Officer Brian Phinney presented this item, explaining that Recreation Director Carl Walsh, along with the Recreation Commission, put together a number of options for proposed beach permit increases. The goal is to price the beach permits in such a way that the expenses for maintaining the beaches, staffing and supplies in completely covered.

Overall, the Committee members agreed that the Beach Permit Fund should be self-sufficient; and only those who use the beaches would, in essence, be paying for the upkeep of the beaches. They also agreed that expenses to deal with beach erosion and invasive species should not be charged to this Fund.

Councilor Belanger proposed that the option titled, “Mostly Non-Resident Burden” be recommended to send to Council; but with the Resident permit going to **\$35**.

Motion by Councilor Clearwater, seconded by Councilor LaFountain to recommend the following to the City Council:

- a. Person who can provide a vehicle registered both in the City and the State of Maine. All residents of the City may obtain parking permits for compliance with this Section for a fee of ~~\$28~~ **\$30** **\$35** for the first vehicle, \$15 **\$20** per additional vehicle registered at the same address, \$15 **\$20** for residents 65 and older, payable to the City Clerk. Proof of eligibility will be the burden of the applicant.

(3) Persons ineligible under Subsection (2) may obtain a parking permit to be in compliance with this section for a fee of ~~\$153~~ ~~\$155~~ **\$245** for a season permit; ~~\$79~~ ~~\$82~~ **\$140** for a seven-day permit; ~~\$46~~ ~~\$49~~ **\$75** for a three-day permit; and ~~\$22~~ ~~\$25~~ **\$35** for a one-day permit. The seven-day and three-day permits are valid in consecutive days only, and are not transferable from vehicle to another.

Vote: Unanimous.

Discussion/Approval: **Ch. 40, Miscellaneous Provisions and Offenses/Art. III-Discharge of Firearms, Sec. 40-43-Discharge of firearm in “no firearms discharge zone”/Add ‘on Sunday...prohibited’**

BE IT ORDAINED, by the City Council of the City of Biddeford that the Code of Ordinances, Chapter 40, Miscellaneous Provisions and Offenses, **Article III DISCHARGE OF FIREARMS, Section 40-43** Discharge of firearm in “no firearms discharge zone” amended by adding or deleting to read as follows:

Sec. 40-43 **Discharge of firearm on Sunday or in "no firearms discharge zone" prohibited.**

It is unlawful for a person to discharge a firearm as defined in Section 40-45 on Sunday or within ~~in~~ or into the "No discharge of firearms zone" ~~in~~ as outlined ~~described~~ in Section 40-45.

Motion by Councilor Clearwater, seconded by Councilor LaFountain to recommend passage to the City Council.

Police Chief Roger Beaupre presented this item, explaining that the issue came up from an email he received from Mayor Casavant, who had heard from a constituent. He explained that the proposed ordinance language is compliant with the State Law of no hunting on Sundays.

The Committee was reluctant to establish and/or change an ordinance in reaction to one constituent. They realize the potential implications of this ordinance change and felt it would be best handled by the full Council.

Councilors Clearwater and LaFountain amended their motion to send to the City Council with no recommendation.

Vote: Unanimous.

Discussion/Approval: **Ch. 42, Motor Vehicles & Traffic/Sec. 42-99-No through trucks/Add Round Hill Street**

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 42-99** No through trucks, be amended by adding or deleting to read as follows:

Sec. 42-99 **No through trucks.**

(a) One-and-one-half-ton and over. There shall be no through trucks over 1 1/2 ton in size on

the following streets:

Diamond Street, no trucks greater than 1 1/2 ton; local deliveries only

Stone Street, no trucks greater than 1 1/2 ton; local deliveries only

Summer Street, signs to be placed at Summer Street and Harrison Street and Summer Street and Birch Street

(b) Five tons and over. There shall be no through trucks over five tons gross vehicle weight on the following streets:

Edwards Avenue

Graham Street, any part between Crescent Street and Alfred Streets

Grayson Street, any part between Elm Street and Hill Street

Janelle Street

Maple Avenue, any part

May Street, any part

Round Hill Street

Motion by Councilor Clearwater, seconded by Member O'Neil to recommend passage to the City Council.

Vote: Unanimous.

Discussion/Approval: Ch. 42, Motor Vehicles & Traffic/Sec. 42-90-No Parking/Add Lemieux Street

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 or deleting to read as follows:

Lemieux Street, even numbered side, beginning at the intersection with Rathier Street, thence southwesterly to the intersection with Forest Street.

Motion by Councilor Clearwater, seconded by Member O'Neil to recommend passage to the City Council.

Vote: 3/2; Councilor Clearwater and Member O'Neil opposed.

Councilors Belanger and LaFountain; and Member Pierson in favor.

Motion carries.

Motion by Councilor Clearwater, seconded by Councilor LaFountain to adjourn.

Vote: Unanimous.

Time: 6:20 p.m.



Policy Committee

Meeting Date: March 15, 2022

Meeting Time: 6:00

Agenda Item No:

Item Description: Permitting Mobile Food courts in Other Zoning Districts

Submitted by: Mathew Eddy

Supporting Information/Documentation:

Easement drafted by the City Attorney

Key Terms:

Mobile food service operations are defined as a subset of restaurants, with further clarifications under the Performance Standards of Article VI, Section 56 of the Land Use Regulations. Changes in the ordinance were made in and can be found through the following documents in October 5, 2021 documents : [10-05-2021 Mobile Food Vendor Courts - ORDER-PDF.pdf \(legistarweb-production.s3.amazonaws.com\)](#)

Executive Summary:

This request is to consider expanding the permissibility of food courts in the B2 and other possible districts. We have a specific request for 585 Elm Street (Biddeford Industrial Hardware, closed), which is in the B2 zone, next to the I1 district.

The food court industry is growing in Maine. The opportunity to change over food cart operators daily will provide a mixture of food options for the community. The food court may provide a unique attraction to the downtown food industry and fuel the City's further redevelopment. During previous policy discussions, the Food court was supported by downtown businesses.

Funding Source: N/A

Staff Recommendation: Recommend consideration



Policy Committee

Meeting Date: March 14, 2022
Meeting Time: 5:30
Agenda Item No:
Item Description: **Marijuana Licensing**
Submitted by: Mathew Eddy; Keith Jacques

Supporting Information/Documentation:

- February 11 Meeting with City Council
https://docs.google.com/gview?url=https%3A%2F%2Fgranicus_production_attachments.s3.amazonaws.com%2Fbiddeford%2F42ba50743da7b037969ef4ffdaae44310.pdf&embedded=true
- April 18, 2019 Email from Roby Fecteau
https://legistarweb-production.s3.amazonaws.com/uploads/attachment/pdf/375160/6-11-2019_Workshop-Marijuana-Fecteau_Email-April_2019.pdf
- June 11, 2019 – Council Workshop – 1.2 Adult Use Marijuana: State Rule Changes (timestamp 1:16:00) https://biddeford.granicus.com/MediaPlayer.php?view_id=1&clip_id=551
- Zoning Amendment Recommendations and Referral to Planning Board/Adult Use Marijuana White Paper - https://legistarweb-production.s3.amazonaws.com/uploads/attachment/pdf/594989/Marijuana_White_Paper_-_May_2020.pdf
- Council order: [Converted from C:\Windows\Temp\ufc\conversion-2688884\input.docx to C:\Windows\Temp\ufc\conversion-2688884\output.pdf by EasyPDFConvert.exe version 17.12.8.0 at 2021-01-08 18:55:03Z \(legistarweb-production.s3.amazonaws.com\)](#)

2021.16) Amendment/Ch. 22, Businesses, Various Sections/Add Marijuana Facilities Licensing Requirements:

Motion by Councilor McCurry, seconded by Councilor Lessard to grant the first reading of the ordinance amendment.

Motion by Councilor Lessard, seconded by Councilor Ortiz to table the ordinance amendment and send to the Policy Committee for further review and recommendation.

Vote: Unanimous.

See Attachment-Initial Draft of changes to Section 77-Licensing

Attachment 2: Previous Fee Proposals

Key Terms:

- o Marijuana Legalization Act (or Adult Use Marijuana Law) 28-B M.R.S. Ch. 1
 - 18-691 C.M.R. Ch. 1 – Adult Use Marijuana Program Rule
<https://legislature.maine.gov/statutes/28-B/title28-Bch1sec0.html>
- o Maine Medical Use of Marijuana Act 22 M.R.S. Ch. 558-C
 - 18-691 C.M.R. Ch. 2 - Maine Medical Use of Marijuana Program Rule
<https://www.mainelegislature.org/legis/statutes/22/title22ch558-Csec0.html>
- o Industrial hemp 7 M.R.S. Section 2231
<https://legislature.maine.gov/statutes/7/title7sec2231.html>
- o Marijuana Manufacturing: 18-691 C.M.R. Ch. 4 - Marijuana Manufacturing Facilities
<https://www.maine.gov/dafs/omp/medical-use/rules-statutes/18-691-C.M.R.-ch.-4>
- o Adult use statute: <https://www.maine.gov/dafs/omp/adult-use/rules-statutes/18-691-C.M.R.-ch.-1>

Executive Summary:

The City Attorney has completed changes to the marijuana licensing process to make it consistent with the zoning ordinance and permit us to establish new fees.

Funding Source:

N/A

Staff Recommendation:

Recommend moving forward with full licensing process.

Section 22-38. Marijuana Establishments.

a. Purpose. The purpose of this Section is to provide for and regulate the issuance of Local Licenses for Marijuana Establishments as identified in Section 22-10 and by the State of Maine under the Marijuana Legalization Act, 28-B M.R.S. Section 101 et seq., as may be amended, and the Maine Medical Use of Marijuana Act, 22 M.R.S. Section 2421 et seq., as may be amended.

b. No Marijuana Establishment May Operate Without a Local License. Existing Marijuana Establishments shall have 90 days from the date license applications become available to apply for a Marijuana Establishment Local License ("Local License") under this Section.

c. General License Requirements.

1. Operating Without a Local License Prohibited. No individual or entity may operate a Marijuana Establishment within the City without first obtaining a Local License from the City and paying the required fee set forth in Section 22-11.
2. Operating Without a State License or Registration Prohibited. No individual or entity may operate a Marijuana Establishment within the City without first obtaining a License or Registration from the State of Maine pursuant to 22 M.R.S. Section 2421 et seq. or 28-B M.R.S. Section 101 et seq.
3. Operating Without Conditional Use Approval Prohibited. No individual or entity may operate a Marijuana Establishment within the City without Conditional Use Approval by the Planning Board pursuant to the Biddeford Land Use Code Development Regulations.
4. Burden of Proof. The applicant for any Local License under this Section bears the burden of proving that all qualifications for licensure have been satisfied.
5. Current Information. Any applicant or licensee must keep all information disclosed in their application current and must notify the City of any change in information within ten business days of any such change.
6. No Vested Rights. No person shall have any entitlement or vested right to a Local License under this Section. Operating a Marijuana Establishment is a privilege and not a right in the City.
7. Local Licenses Issued Under This Article Are Not Transferable to a New Owner. Any change in ownership where at least 25% of the ownership interest of Licensee is sold or

otherwise transferred other than to a related entity shall require a new Local License. Licenses are limited to the location for which they are issued and shall not be transferable to a different location. A Licensee who seeks to operate in a new location must acquire a new Local License for that location.

d. License Suspension. In addition to the provisions of Section 22-15, the following criteria also shall serve as the basis for a Local License suspension:

1. Any event or condition that would have disqualified an applicant from obtaining an original Local License, until that disqualification is resolved to the satisfaction of the City; or
2. The Licensee has failed to timely supplement and/or update its license information, as required; or
3. The Licensee has failed to file any required reports or furnish any required information; or
4. Failure to remedy any violation of Section 34-65; or
5. A suspension of the Conditional Use Approval by the Planning Board or the State of Maine's suspension of the State License or Registration shall automatically result in the immediate suspension of the associated Local License until the Conditional Use Approval is reinstated by the Planning Board or the State License or Registration is reinstated by the State.

e. License Revocation. In addition to the provisions of Section 22-15, the following criteria also shall serve as the basis for a Local License revocation:

1. Failure to remedy any violation of this Section or Section 22-15; or
2. Failure to remedy any violation of Section 34-65; or
3. Any event that would have disqualified the licensee from initially obtaining a Local License; or
4. A revocation of the Conditional Use Approval by the Planning Board or the State of Maine's revocation of the State License or Registration shall automatically result in the immediate revocation of the associated Local License.

f. Hearings.

1. Suspension or revocation of a Local License pursuant to Paragraphs d(1), d(2), d(3), e(1), e(3) above or Section 22-15 shall be in accordance with the procedures set forth in Section 22-16;
2. Suspension or revocation of a Local License pursuant to Paragraphs d(4), e(2) above or Section 34-65 shall be in accordance with the procedures set forth in Section 34-65.

Attachment 1: Previous License Draft

Sec. 22-36. Marijuana Establishments.

- (a) Purpose. The purpose of this article is to provide for and regulate the issuance of Local Licenses for Marijuana Establishments as defined in this article and by the State of Maine under the Marijuana Legalization Act, 28-B M.R.S.A, Chapter 1, as may be amended, and to provide for and regulate the issuance of Local Licenses for Medical Marijuana Establishments as defined in this article and by the State of Maine under the Maine Medical Use of Marijuana Act, 22 M.R.S.A, Chapter 558-C, as may be amended
- (b) No Marijuana Establishment may operate without a local license. Existing marijuana establishments shall have 90 days from the date license applications become available to file for a Marijuana Establishment License under this Section.
- (c) General Licenses Requirements
 - (1) All provisions of the Biddeford Land Use Code Performance Standards Sec. 77 shall apply. Except as otherwise provided in this article, the provisions of Chapter 22 shall apply to all Local Licenses applied for and issued under this article.
 - (2) Operating without a Local License prohibited. No individual or entity may operate a marijuana establishment within the City without first obtaining a Local License from the City.
 - (3) Operating without a State License or Registration prohibited. No individual or entity may operate a marijuana establishment within the City without first obtaining a License or Registration from the State issued pursuant to 22 M.R.S. 2421 et seq. or 28-B M.R.S. 101 et seq..
 - (4) Operating without Conditional Use Approval prohibited. No individual or entity may operate a marijuana establishment within the City without Conditional Use Approval issued pursuant to Biddeford Land Use Code Development Regulations.
 - (5) Burden of proof. The applicant for any license under this Article bears the burden of proving that all qualifications for licensure have been satisfied.
 - (6) Current information. Any applicant or licensee must keep all Information disclosed in their application current and must notify the City of any change in information within ten business days of any such change.

(7) No vested rights. No person shall have any entitlement or vested right to a Local License under this Article and Operating a marijuana establishment is a privilege and not a right in the City.

(8) Local Licenses issued under this article are not transferable to a new owner. Any change in ownership whereby at least 25% of the ownership interest of Licensee is sold or otherwise transferred shall require a new license. Licenses are limited to the location for which they are issued and shall not be transferable to a different location. A Licensee who seeks to operate in a new location shall acquire a new Local License for that location

(c) License Suspension. In addition to the provisions Article Sec. 22-15, the following criteria also may serve as the basis for licensure suspension:

(1) Any event or condition that would have disqualified an applicant from obtaining an original -license, including but not limited to suspension of the Conditional Use Approval by the Planning Board or suspension of the state License or Registration, until that disqualification is resolved to the satisfaction of the City; or

(2) The licensee has failed to timely supplement its license information, as required; or

(3) The licensee has failed to file any required reports or furnish any information, as required; or

(4) The licensee has knowingly permitted, encouraged, failed to prevent, or failed to remedy a violation of this Article7.

(d) License Revocation. In addition to the provisions of Article Sec. 22-15, the following criteria also may serve as the basis for licensure revocation:

(1) Failing to remedy any condition in (a), (b) and (c) above or any in Sec. 22-15; or

(2) Repeated violations of Biddeford Code of Ordinances as determined by the Planning Board specifically Performance Standards Sec. 77; or

(3) Any event that would have disqualified the licensee from initially obtaining a license including but not limited to revocation of Conditional Use Approval by the Planning Board or revocation of the state License or Registration.

(e) Procedures for Suspension or Revocation

- (1) Suspension or revocation proceedings shall be conducted by the City Council.
- (2) Any appeal of a decision of the City Council shall be to the Superior Court, in accordance with the requirements of Rule 80B of the Maine Rules of Civil Procedure.

Attachment 2: Previous Fee Proposals

Marijuana Establishments Marijuana caregiver retail store \$ 500.00 per year

Marijuana cultivation facility less than 20,000 square feet floor area \$1,500.00 per year

Marijuana cultivation facility equal to or more than 20,000 square feet floor area \$3,000.00 per year

Marijuana products manufacturing Facility \$250 per year