

City of Biddeford, Maine
Policy Committee Meeting
Monday February 12, 2018

Minutes

- 1. Roll Call** – Meeting called to order at 6:30 p.m. by Policy Committee Chair councilor Marc Lessard. Other Policy Committee members present were: Councilors Laura Seaver and Norman Belanger; member Renee O’Neil. Committee member Nathan Bean was excused.
- 2. Pledge of Allegiance** – The American flag was honored through the Pledge of Allegiance.
- 3. Adjustments to the Agenda** – No adjustments. Councilor SEAVER informed the Committee that City Attorney Keith Jacques would have a draft of the Solicitation Ordinance ready for Committee review at the March 12, 2018. Further, Councilor BELANGER would be reviewing this ordinance language with the City Attorney.
- 4. Acceptance of Minutes:** *Motion by SEAVER seconded by BELANGER to accept the minutes of the August 14, 2017 meeting as printed. Vote unanimous.*

5. Discussion/Review

5.1 Ch.22, Businesses/Sec. 22-35 Ice cream truck/Add language pertaining to location.

The Committee considered the following language:

2018. IN BOARD OF CITY COUNCIL...

BE IT ORDAINED, by the City Council of the City of Biddeford that the Code of Ordinances, Chapter 22, Businesses, **Section 22-35 Ice cream truck**, is amended by adding or ~~deleting~~ to read as follows:

Sec. 22-35 Ice cream truck

Added 2-1-2011 by Ord. No. 2011.3]

(a) Purpose. The purpose of this section is to regulate the number of ice cream trucks licensed within the City of Biddeford, and to limit the areas within the City where these trucks may operate, and in consideration for the public's safety.

(b) License required. A person, business or corporation may not operate an ice cream truck subject to these provisions without first having obtained a license from the City of Biddeford.

(c) Application. A person, business or corporation applying for a license under this provision shall complete forms provided by the City Clerk's office and provide the following information:

(1) The name, address and telephone number of the company, as well as the name, address and phone number of the ice cream truck operator(s).

(2) A photocopy of the valid ice cream truck registration(s) that will be operating with the City.

(3) A certificate or other evidence of liability insurance covering all ice cream trucks and drivers.

(d) Prohibitions.

(1) Each licensee may not operate more than one truck engaged in the sale of ice cream products within the City at any one time; or park within 500 feet of any other licensed ice cream truck engaged in the selling of ice cream products.

(2) No ice cream truck may engage in the sale of products on any of the City's streets that have been identified as a major route of travel for vehicular traffic. These streets include, but are not limited to:

- a. Elm Street.
- b. Alfred Street.
- c. Pool Street.

(3) When an ice cream truck is stopped and left standing or parked, a person may not operate a sound system in or on the ice cream truck on a public way at a volume that is audible at a distance of greater than 25 feet.

(4) The operator of an ice cream truck may not occupy any parking space within a No Parking Zone, Permit Parking Only Zone, Fire Lane, or park in any other place that impedes or interferes with the normal movement of vehicular or pedestrian traffic.

(5) Vending must be from the right side of the vehicle only. No vending is permitted from the side of the vehicle that is exposed to oncoming traffic.

(e) Penalty. A person or company who violates any provision of this section will be subject to the penalties set forth under Chapter 1, Section 1-12 of this Code;

and in addition thereto, such violation may be cause for the suspension or revocation of the vendor's license to operate within the City of Biddeford.

Motion by BELANGER and seconded by SEAYER to accept the Order as printed.

DISCUSSION:

Mr. Lowe, who does business for Northeast Ice Cream, addressed the Committee expressing his opposition to the proposed Ordinance changes. Mr. Lowe's opposition centered on his belief that these changes would negatively impact his business. Under Committee discussion, debate centered on the changes to item (d)1 and its imposition of parking within 500 feet of any other licensed ice cream truck engaged in the selling of ice cream products. Committee Chair LESSARD, suggested that the Committee consider items 4 & 5 of the proposal be treated and voted on separately.

BELANGER withdrew his original Motion, and SEAYER withdrew her second.

*Motion by BELANGER and seconded by SEAYER to accept items of this Order identified as numbers 4 and 5, above, and to forward the Order to the City Council with a recommendation for Adoption. Vote: unanimous.
The Committee agreed to not consider the proposed language change under (d) 1 above.*

5.2 Ch.22, Business/Article III - Criteria.

The Committee reviewed the following language:

BE IT ORDAINED, by the City Council of the City of Biddeford that the Code of Ordinances, Chapter 22, Businesses, **Article III-Criteria, Section 22-17 et al. Mobile Food Vendor**, is amended by adding or ~~deleting~~ to read as follows:

ARTICLE V

Sec. 22-17. Purpose.

The purpose of this Ordinance is to regulate mobile food vending on property owned or under the control of the City of Biddeford and mobile food vending on private property in order to create a desirable situation where mobile food apparatuses may conduct business.

Sec. 22-18. Definitions.

Edible goods may include, but are not limited to:

- a. Prepackaged food including, but not limited to candy, beverages, chips, popsicles and ice cream.

- b. Prepared food including, but not limited to hot dogs, desserts, sandwiches and pizza.
- c. On-site prepared food including, but not limited to shaved ice, sandwiches and tacos.

Mobile food vendors shall mean any business which sells edible goods from a non-stationary location within the city. The terms shall include, but not be limited to:

- a. Mobile food trucks: a self-contained motorized unit selling items defined as edible goods.
- b. Concession trailers: a vending unit which is pulled by a motorized unit and has no power to move on its own.

Non-refrigerated shall mean edible goods that are not required to be kept at a temperature below 41 degrees Fahrenheit.

Sec. 22-19. Application and Permit.

Permit. Every mobile food vendor shall have a permit issued by the city to conduct business in the city.

Application. Every mobile food vendor shall apply for a permit on a form promulgated by the city. Each vending unit requires a separate permit. Applications for permits meeting the requirements for mobile vendors shall be processed within ten (10) business days.

Mobile Food Vendor Application Form. A complete application shall require the following information from the applicant to be considered:

- a. Name of applicant; as well as physical street address; mailing address; telephone number(s); and email address
- b. Legal name of business or entity.
- c. Signed permission form or provide notarized affidavit from the private property owner granting permission for unit placement.
- d. Name, phone number and driver's license number of business owner and all employees operating within the mobile food vendor unit.
- e. Proposed itinerary with route, vending locations and times.
- f. Contact name and phone number for mobile food vending unit while in route.
- g. Description of product being sold.

- h. Site plan where the Mobile food vending unit will be located on the property.
- i. Valid and current vehicle/trailer registration of mobile food unit.

Sec. 22-20. Permit Regulations.

The application fee for a mobile food vendor permit shall be \$200.00. Each mobile food vendor unit shall be permitted separately.

Mobile food vendor permits shall expire on December 31st of each year.

Upon renewal the applicant shall pay the renewal \$200.00 fee, 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.

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.

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

Sec. 22-21. Permit Denial.

A permit may be denied where:

- (1) The required information is incomplete or incorrect or shows that a person is not otherwise entitled to conduct business as a mobile food vendor.
- (2) The opportunity to issue a permit has been denied due to previous violations as described in this section.

Sec. 22-21.a. Prohibited Conduct.

1. Distance Regulations:

- a. 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.
 - b. 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 except during city sponsored or other community events.
 - c. A mobile food vendor shall not be located within 40 feet from another mobile food vendor except during city sponsored or other community events.
- 2. A mobile food vendor shall not conduct sales at a stationary location:*

- a. For a duration exceeding sixty (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.
- b. In congested areas where the operation impedes vehicular or pedestrian traffic.
- c. Between the hours of 1:00 a.m. and 6:00 a.m.
- 3. *Offenses and regulations*
 - a. 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 it's principal or employer has received a permit under this section.
 - b. A permit issued under this section is not transferable.
 - c. 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.
 - d. 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.
 - e. 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.
 - f. 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.b. Mobile Food Vendor Requirements.

The following regulations shall apply to mobile food vendors:

- a. Each unit shall be equipped with a portable trash receptacle, and shall be responsible for proper disposal of solid waste and waste water 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.
- b. Mobile food vendor may not have a drive through.
- c. Continuous music or repetitive sounds shall not project from the mobile unit.
- d. A five-foot clear space shall be maintained around the mobile food vending unit.

- e. All mobile units shall have a gray water holding tank.
- f. The mobile unit will be subject to inspection upon permit application through the code enforcement, health department and the fire department, and may be subject to random inspection and upon reissuance of the permit.
- g. 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 requires approval by the City's Recreation Director.

Motion by BELANGER and seconded by SEAYER to accept the Order as presented, and to forward the Order to the City Council with a recommendation for Adoption. Vote: unanimous.

5.3 Discussion: Ch. 42, Motor Vehicles & Traffic/Sec. 42-99 – No through trucks/Add on Main Street.

The Committee reviewed the following language:

2018. IN BOARD OF CITY COUNCIL...

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**, is amended by adding or ~~deleting~~ to read as follows:

[Code 1975, § 14-88; Ord. of 10-17-1989; Ord. of 7-15-1997(3); Ord. No. 2000.42, 4-18-2000; Ord. No. 2000.57, 6-20-2000; Ord. No. 2001.87, 10-16-2001; Ord. No. 2002.110, 11-6-2002]

(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:

[Amended 6-20-2017 by Ord. No. 2017.61]

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
[Amended 6-20-2017 by Ord. No. 2017.61]

Janelle Street

Maple Avenue, any part

May Street, any part

Main Street, from Alfred to Elm Street; local deliveries only.

Motion by BELANGER and seconded by SEAVER to accept the Order as presented, and to forward the Order to the City Council with a recommendation for Adoption. Vote: None in FAVOR, 4 in OPPOSITION. Motion fails

6. Adjourn – *Motion by BELANGER and seconded by SEAVER to adjourn at 7:09 p.m. Vote unanimous.*