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Barney Heath
Director

MEMORANDUM

DATE: October 6, 2017

TO: Councilor Ted Hess-Mahan, Chairman
Members of the Zoning and Planning Committee

FROM: Barney Heath, Director, Department of Planning and Development
James Freas, Deputy Director

RE: #276-17 – THE ECONOMIC DEVELOPMENT COMMISSION, COUNCILORS FULLER, HESS-MAHAN, KALIS, LENNON, LIPOF, NORTON, AND SANGIOLO requesting amendments to Sections 17-46 through 17-50 in order to allow Food Trucks to locate and operate on public streets in Newton subject to licensing by the Health Department and to location permitting requirements, initially restricted to Wells Avenue; and introducing new rules applicable to all Food Trucks operating in the City; and requesting amendments to Chapter 30 to allow Food Trucks in the Public Use District subject to the same restrictions and requirements.

MEETING DATE: October 11, 2017

CC: City Council
Planning and Development Board
Economic Development Commission
Donnalyn Kahn, City Solicitor
Deborah Youngblood, Commissioner of Health & Human Services
Kathryn Ellis, Economic Development Director

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The attached draft proposes two significant changes to the proposed Food Truck Ordinance; restricting food trucks to Wells Avenue without a built-in time for city-wide expansion and removing the public hearing process at the Planning Board. Bringing food trucks to the Wells Ave office park remains a key priority for the property owners there and the City's economic development program. Further, through our research and discussions around preparing this ordinance, it has been emphasized that successful food truck programs depend on simple and efficient processes, particularly in limited market environments like Wells Ave.

Proposed Ordinance

The proposed Food Truck Ordinance creates a food truck location permitting program, establishes new rules for food trucks, and for the first time identifies food trucks as a use in the Zoning Ordinance. The following provides greater detail on the proposed ordinance by section and a draft of the proposed ordinance is attached.

Sec 17-46 – Defines food trucks. This definition is based on that used in several communities in the region. In using the term “food establishment”, the definition connects directly to the health code.

Sec. 17-47 – This section confirms that a license from Newton’s Health Department is required in order to operate a food truck in Newton under this program.

Sec 17-48 – This section limits food trucks to Wells Avenue and gives the Planning Department responsibility to determine the specific locations on Wells Ave where the trucks may locate as well as their operating time periods.

Sec 17-49 – This section establishes a one year food truck location permit program in the Planning Department. The Department would be responsible for approving the food trucks that apply to operate in the locations approved by the Planning Board according to Section 17-48. The application requirements are listed.

Sec 17-50 – This section provides a list of rules for all food trucks meant to address potential nuisance concerns and ensure safe and environmentally sound operation. To those ends, food truck operators are required to manage litter, control noise, limit encroachment into the sidewalk, and use environmentally friendly products and operations where possible.

Chapter 30 – Zoning Ordinance – The purpose of the zoning amendments is to establish food trucks as an allowed accessory use in the Public Use District. Newton’s streets are zoned Public Use. In defining this use and allowing it under these requirements in the Public Use District, the City is clarifying by extension that food trucks are not allowed on private property in other districts outside of special events or catering type situations. All of the requirements outlined above still apply and food trucks would still only be allowed on Wells Avenue.

Next Steps

The food trucks ordinance will be taken up a second time by the Programs and Services Committee on November 8th. ZAP will need to conduct a public hearing on the Zoning Amendments.

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Food Truck Ordinance

Chapter 17 – Licensing and Permits Generally

Article III. Hawkers, Peddlers, Food Trucks and Canvassers

Division 3. Food Trucks

Sec. 17-46. Food Trucks Defined

A readily movable trailer or motorized wheeled vehicle, currently registered with the Massachusetts Division of Motor Vehicles, designed and equipped to cook, prepare, and/or serve food for human consumption as a mobile food establishment.

Sec. 17-47. License Required

No food truck may operate without a license issued by the Commissioner of Health and Human Services. The license shall specify the location and duration of operation the mobile food vendor is permitted to operate, as permitted below.

Sec. 17-48. Food Truck Locations

On-street food truck locations shall only be permitted on Wells Avenue. The Planning Department shall determine the specific location(s) and time periods during which permitted Food Trucks will be allowed to operate on Wells Avenue, taking into account public safety for vehicles and pedestrians. This restriction, and the following permit requirement, does not apply to Food Trucks catering a special event or similar occurrence.

Sec. 17-49. Permit to Operate on Public Property

In addition to the license required in Sec. 17-47, a food truck operator wishing to operate on-street must obtain a permit from the Department of Planning and Development and shall submit a permit application on a form provided by said Department, which at a minimum shall include:

1. A description of the business;
2. Proposed location and schedule during which time the vendor will be stationary and serving food;
3. Description of the Food Truck's presence on the street including any signs or objects that will be proposed to be placed on the sidewalk.
4. Proof that the vehicle has passed all necessary inspections required by the Newton Fire Department
5. Proof of a general liability policy in effect during all days and times for which a permit is sought that names the City as an additional insured and is in a form and for an amount approved by the City;

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Such a permit exempts the permitted food truck from other City requirements for Hawkers and Peddlers in sections 17-22 through 17-45. The permit shall have a duration of up to one year and is revocable based on non-compliance with the requirements of this ordinance. Should the number of permit applicants exceed available locations, the Director of Planning and Development shall create an equitable distribution of available locations among qualified applicants. The Director has the authority to not issue a permit based on legitimate public objectives to diversify food truck offerings in an area or due to issues related to past operations of the Food Truck vendor. No permitted Food Truck shall cease operations during the period covered by the permit without notifying the Department of Planning and Development.

Sec. 17-50. Food Truck Rules

The following requirements shall apply to all food trucks operating in the City.

1. All food truck operators must comply with all applicable federal, state, and local laws, regulations, and by-laws, any conditions on a City license or permit, and any applicable City policies, procedures, standards and guidelines. All licenses are issued subject to the licensee's compliance with this Section and these regulations. Licensees shall supply such information as the City or its agent may require for purposes of the proper enforcement of these regulations. The City or its agent, including the Police and other inspectional departments, may at any time inspect the premises to which the license applies to determine whether the licensee is in compliance with this Section.
2. No food truck shall provide or allow any dining area, including but not limited to tables, chairs, booths, bar stools, benches, and standup counters.
3. All food truck operators shall offer a waste container(s) for public use that operators shall empty at their own expense. The food truck operator shall inspect all adjacent streets and sidewalks within 100 feet regularly for purposes of removing any litter found.
4. Food trucks are encouraged to provide consumers with compostable or recyclable single service articles, such as compostable forks and paper plates, and a waste, recycling container, and composting container for their disposal. No Styrofoam products or plastic bags are permitted.
5. No food truck shall make or cause to be made any unreasonable or excessive noise in violation of section 20-13 et seq.
6. Grease and grey water must be contained and disposed of in accordance with State Sanitary Code.
7. Food trucks shall be limited to no more than 25 feet in length.
8. For food trucks on public property, the City reserves the right to require a food truck operator to temporarily move a food truck to a nearby location if the approved location needs to be used for emergency purposes, snow removal, construction, or other public benefit.
9. Food trucks must conspicuously display their license and any required permit on the windshield of the truck.
10. No mobile food vendor licensee may transfer a mobile food vendor license except upon application to and approval by the Health and Human Services Commissioner of the transfer.

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Division ~~34~~. Solicitors and Canvassers

Chapter 30: Zoning Ordinance

Sec. 6.7 Accessory Uses

6.7.X Food Trucks

A. Intent. Food Trucks are intended to advance the following:

1. Bring variety to the availability of local food establishments;
2. Add vibrancy and interest to the street life of a district;
3. Encourage the advancement of new restaurants and food service businesses by serving as a form of business incubator for new restaurant ideas in a start-up phase; and
4. Create food options and amenities for underserved locations in the City.

B. Food Trucks Defined. Defined in City Ordinances Sec 17-46.

C. Rules for Food Trucks.

1. In the Public Use District, Food Trucks shall only locate on the public street 'Wells Avenue' according to City Ordinances Sec 17-48 and 17-49. Food Trucks are allowed on public land as part of a special event with a license from the Health Department.
2. A food truck shall not remain parked overnight.
3. A Food Truck is not required to provide parking.
4. A Food Truck must meet all of the requirements of City Ordinances sections 17-47 through 17-50.
5. A Food Truck operating as part of a special event or in a catering capacity for a private function is allowed in all districts subject to a license from the Health Department.