



**TOWN OF FREEPORT, MAINE**  
Planning Department  
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**TO: FREEPORT PLANNING BOARD**  
**FROM: CAROLINE PELLETIER, INTERIM TOWN PLANNER**  
**RE: STAFF REPORT**  
**DATE: WEDNESDAY, NOVEMBER 6, 2019**

**AGENDA ITEM 2:** Continued discussion on a request from the Freeport Town Council for the Planning Board to study adding a definition and allowed zoning districts for the use "Community Solar Farm" to the Freeport Zoning Ordinance. Some draft language from the consultant (*Northstar Planning*) will be reviewed and discussed and the consultant will be present.

Please see language provided by Northstar Planning.

**AGENDA ITEM 3:** Discussion on an application for a proposed amendment to Section 409 (Commercial I District) of the Freeport Zoning Ordinance to allow food trucks as an accessory use to businesses in the Commercial I District. (*Maine Wicked Goods Mercantile, Nick and Amanda Kent, applicants*).

**Background:** This is an applicant-initiated agenda item; their application and supporting materials are provided under separate cover. Attached to this memo, you will find minutes and back-up material from when the language was discussed and adopted by the Council in 2014. The application before the Board would apply to the Commercial I Zoning District; Section 409 of the Freeport Zoning Ordinance. The Commercial Districts also have Performance Standards; Section 527 of the Freeport Zoning Ordinance. The standards for Food Trucks are outlined in Section 526.A of the Freeport Zoning Ordinance.

This is the initial discussion by the Board. Property owners in the Commercial I District have been notified in accordance with the Planning Board's Rules of Order and Procedure.

→ **ITEM #198-14** To consider action relative to proposed amendments to Chapter 21: Zoning Ordinance Section 526A to add the uses and definitions of “artisan food and beverage” in the VC 1-4 Districts and “artisan food and beverage with food trucks” in the C1, 3 & 4, LB, I 1&2, and MD A&B Districts, and to add performance standards for food trucks, as recommended by the Planning Board.  
**PUBLIC HEARING**

Councilor Tracy explained that she would be recusing herself from this item since one of the proponents of this action is represented by her employer.

**MOVED AND SECONDED:** That the Public Hearing be opened. (Gleeson & Egan)

**VOTE:** (7 Ayes)

Town Planner, Donna Larson explained that the request came from the Maine Beer Company. They want to have food trucks which is something typical for a micro brewery. They have a tasting room and feel it is important to offer food. The Planning Board looked at it and did not want to open the door to food trucks. They feel that this is a very limited use. The patrons of the food truck have to be allowed access to the bathrooms of the host company. Trash will become the problem of the host business and not the Town. She explained the differences in the districts.

**MOVED AND SECONDED:** That the Public Hearing be closed. (Gleeson & Egan)

**VOTE:** (7 Ayes)

**BE IT ORDERED:** That proposed amendments to Chapter 21: Zoning Ordinance Section 526A to add the uses and definitions of “artisan food and beverage” in the VC 1-4 Districts and “artisan food and beverage with food trucks” in the C1, 3 & 4, LB, I 1&2, and MD A&B Districts, and to add performance standards for food trucks, as recommended by the Planning Board be approved. (Gleeson & Hendricks)

Councilor Egan noted that food trucks bring vitality to cities and while they are competition to restaurants, that is not necessarily a bad thing. She asked why government should be in the business of squashing competition in the food retail. She is interested in learning about parking. Ms. Larson explained the reasons the Planning Board decided that Freeport should not have food trucks taking up parking spaces. They were not willing to open the door to food trucks but just in this limited way.

Councilor Wellen mentioned that there is a concern that food trucks would not be paying their fair share of fees. He asked if there is a way to assess extra fees on food trucks. Ms. Larson explained that there is a fee but it is nothing like a property tax bill. Councilor Wellen asked for clarification on how often Maine Beer Company can have food trucks which Ms. Larson explained. Councilor Wellen is interested in knowing what the fees are charged in Portland for food trucks. Councilor Wellen would like to hear how restaurant owners feel about food trucks. Ms. Larson explained how notices were provided to restaurants in the area. Ms. Larson advised that a food truck in Portland pays \$200 annually. The fee in Freeport will be \$35.00 but mentioned that the fees are assessed by the Town Council and she can always bring this back.

Councilor Hendricks clarified that there is a need to have a host with a bathroom connected to the Freeport Sewer system and the host business needs to be open. He would like to see some increase in fees. \$35.00 is very inexpensive. He feels the Ordinance is good.

Chair Sachs pointed out that the Ordinance says that the Project Review Board may approve food trucks in the public way for special events. Councilor Hendricks advised that special events have to be approved by the Lt. Nourse of the Police Department as well.

Ms. Larson, using the Fourth of July as an example, if you are on private property, you don't need approval from the Planning Board or the Town Council. You do need to have a permit from the Codes Enforcement Officer. If roads are going to be blocked off and it appears it would be appropriate to have a food truck in the public way, this is when they need to go to the Project Review Board. If the Town Council approves a special event, and someone wants to have a food truck on a public road, the Council can approve it. If for some reason something is going to the Project Review Board, they too can approve it. More discussion followed.

Councilor Egan wants to be sure there is a level playing field if food trucks are allowed. She mentioned that we live in an era where we are trying to innovate and support small businesses. She feels the Council could address the issues of food trucks having too much advantage over local businesses. She agrees that fees are needed and that regulations should be comparable and we don't have trash problems and parking issues. She supports food trucks and would have to vote against this Ordinance. She feels a government body should not prohibit new businesses coming to Freeport. She would like the Planning Board to look at how food trucks can work in Freeport without trash and congestion issues.

Ms. Larson advised that the Planning Board didn't want food trucks all over the area. They didn't want food trucks in the downtown during the summer because of congestion. They didn't want food trucks in the village parking lots, on the road or on vacant lots taking up space. The Board didn't want them coming and going in a day and leaving trash behind. The Board also wanted limitation on the hours of operation and that they were not blasting music. The Board wanted to keep food trucks at a low key. In this case, they felt they were entirely appropriately. Maybe in the future if this hasn't been a problem, we could open the door a little bit more. Food trucks in Portland can park if they are 60 feet away from an established restaurant and this is not what the Planning Board wanted.

Councilor Wellen wants to make sure food trucks are paying their fair share and he would like to do more research. It appears that these food trucks are almost setting up a restaurant without paying property tax. He would be willing to do research on his own to determine what is fair to residential taxpayers and other businesses in terms of fees. He does not want to give it away. He wants to have the fee structure set up before he will vote for it. Ms. Larson offered to look at what other communities charge for food trucks.

**BE IT ORDERED:** To amend that the Ordinance will become effective December 17, 2014 pending Council discussion on the fee schedule. (Hendricks & Gleeson) **ROLL CALL VOTE:** (4 Ayes) (2 Nays-Egan & Wellen) (1 Recused-Tracy)

**ROLL CALL VOTE ON AMENDED ORDINANCE:** (4 Ayes) (2 Nays-Egan & Wellen) (1 Recused-Tracy)

Councilor Hendricks asked Mr. Joseph and Ms. Larson to provide a list of current fees in Freeport as well as fees charged in other areas.

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Councilor Tracy, being mindful of having our Police Department waiting, feels it would be considerate to move Item #201-14 up.

**MOVED AND SECONDED:** To take up Item #201-14 out of order. (Tracy & Egan)  
**ROLL CALL VOTE:** (7 Ayes)

**COUNCIL MEETING #21-14**  
**OCTOBER 21, 2014**

available on their website [www.freeportecon.com](http://www.freeportecon.com). They are looking to get a wide range of diverse candidates and he encouraged anyone with an interest to apply. He suggested that residents contact him for more information. He noted that he leaves applications up and running in the hope of having a bank of them when a Board vacancy becomes available. For this particular seat, they are hoping to have it filled by the new year.

**MOVED AND SECONDED:** To close the Public Comment Period. (Egan & DeGrandpre) **VOTE:** (7 Ayes)

**SEVENTH ORDER OF BUSINESS:** To take action on the following items of business as read by the Council Chairperson:

ITEM #180-14 To consider action relative to adopting the October 21, 2014 Consent Agenda.

**BE IT ORDERED:** That the October 21, 2014 Consent Agenda be adopted. (Hendricks & DeGrandpre)

Chair Hendricks reviewed the items on the Consent Agenda for members of the public.

**ROLL CALL VOTE:** (7 Ayes)

→ ITEM #181-14

To consider action relative to proposed amendments to Chapter 21: Zoning Ordinance Section 526A to add the uses and definitions of "artisan food and beverage" in the VC 1-4 Districts and "artisan food and beverage with food trucks" in the C1, 3 & 4, LB, I 1&2, and MD A&B Districts, and to add performance standards for food trucks, as recommended by the Planning Board.

**BE IT ORDERED:** That a Public Hearing be scheduled for December 2, 2014 at 6:30 p.m. in the Council Chambers at Town Hall to discuss proposed amendments to Chapter 21: Zoning Ordinance Section 526A to add the uses and definitions of "artisan food and beverage" in the VC 1-4 Districts and "artisan food and beverage with food trucks" in the C1, 3 & 4, LB, I 1&2, and MD A&B Districts, and to add performance standards for food trucks, as recommended by the Planning Board.

**BE IT FURTHER ORDERED:** That copies be distributed equally between the Town Clerk's Office, the Town Manager's Office and the Freeport Community Library for inspection by citizens during normal business hours and the notice be placed on Freeport's local cable channel 3 and the Town's website. (Egan & DeGrandpre)

Councilor Tracy pointed out that she plans to recuse herself from this matter because the law firm where she is employed has represented a proponent of some of the language changes. She will not participate in this item nor when it is taken up at public hearing on December 2.

Mr. Joseph explained that this has come through the Planning Board and initially through an application from the Maine Beer Company requesting a food truck outside of their shop. It became apparent that there really isn't a method in the Zoning Ordinance to deal with this so the language the Council is seeing is to enable the use of food trucks for places that have brick and mortar businesses that are doing artisan food production and toilets will have to be provided and it will have to be off the street, etc. for certain periods of time. The Town Planner will be here to explain this in much more detail.

**TOWN OF FREEPORT**  
**Planning Department**

October 8, 2014

**TO:** Peter Joseph

**FROM:** Donna Larson

**RE:** Proposed zoning amendment - Artisan Food and Beverage and Artisan Food and Beverage allowing a food truck as an accessory use

Maine Beer Company on Route One South applied for a zoning amendment that would allow them to have a food truck on their property. The beer tasting room has been very popular and they would like to offer food to their customers but they don't have the space in the building for food preparation and they aren't interested in getting into the food business. Having a food truck on the property is their solution and is typical of other microbreweries.

Food trucks, though, compete with other "bricks and mortar" restaurants that pay taxes and are in business all year, not just the busy seasons. If not carefully limited, they can also cause traffic problems.

Given those concerns it was decided that food trucks are acceptable as an accessory use to certain businesses, and they could have limited use during special events, but aside from that they should be prohibited.

Rather than just look at the Maine Beer Company request, the Planning Board took a broader view. The proposed language establishes a new use called "artisan food and beverage" (proposed to be allowed in VC-1 – 4 districts). Previously such uses would be considered "manufacturing and processing". "Manufacturing and processing" encompasses a wide variety of production of goods while "artisan food and beverage" is limited. In some districts "artisan food and beverage" allows a food truck as an accessory use (C – 1, 3, & 4, LB, I 1 & 2, and MD A&B). Artisan foods and beverages are growing in the region and Freeport. This amendment acknowledges and supports their continued growth.

So, food trucks are only allowed if they are accessory to the use of "artisan food and beverage" in certain districts, not the districts in the retail core of Freeport Village. If the use doesn't specifically say that food trucks are allowed, they are prohibited.

All food trucks must meet the standards of Section 526A – Food trucks. That is a proposed as a new section in the Zoning Ordinance (Sec. 526 is Peddlers on Private Property). Section 526A has two sections. The first section applies to food trucks that are accessory to a permitted use. Currently the only use that this applies to is "artisan food and beverage". No other such uses are anticipated at this time.

Section 526A.B applies to all food trucks. The reason for the difference is that some events, for example the Harvest Dance, have food trucks. This section would require those food trucks to meet certain standards and to register with the town. The Planning Board is also discussing some possible changes to the Temporary Activities section of the Ordinance (Sec. 501). A possible change might be to allow food trucks as a temporary activity only for a special event. No decisions have been made by the Planning Board at this time.

I will be at the public hearing to answer any questions.

## 1. Add a definition (Sec. 104) of “Artisan food and beverage”

**Artisan Food and Beverage:** Small scale production, preparation of food and/or beverages made on site with minimal automated processes involved and may include direct sales to consumers and product tasting. This definition includes uses such as small batch food producers and bakeries, craft breweries, micro-distilleries, small batch candy shops, cheese makers, and herbal remedies. Outdoor seating is allowed.

## 2. Add the use of “Artisan food and beverage” as a use requiring Site Plan Review in the following districts: Village Commercial 1 – 4, below is how the use would look in each district:

### Section 413. Village Commercial “VC-I”

#### A. Purpose:

It is the intent of this District to concentrate commercial activity within the Village Center:

#### B. Permitted Uses subject to site review regardless of size:

*(no change to uses 1 -26, add use 27)*

#### **27. Artisan Food and Beverage**

### Section 414. Village Commercial II “VC-II”

#### A. Purpose:

It is the intent of this District to begin the transition from the Village Commercial District to the neighboring residential districts.

#### B. Permitted Uses: *(no changes to permitted uses 1 – 22, add use 23)*

#### **23. Artisan Food and Beverage**

### Section 415. Village Commercial III “VC-III”

#### A. Purpose:

It is the intent of this District to begin the transition from the Village Commercial District to the neighboring districts. This District, which is included in the Design Review District, contains a mixture of residential and commercial uses which are located in structures maintaining a residential design and scale. New construction and renovation shall be compatible with the visual appearance and placement on the parcel of the existing buildings.

#### B. Permitted Uses: *(no changes to permitted uses 1 -19 add use 20)*

The following uses are subject to site review regardless of size:

#### **20. Artisan Food and Beverage**

#### **Section 416. Village Commercial IV “VC-IV”**

**A. Purpose:**

It is the intent of this District to mix commercial and residential activity within the Village Center, and by offering flexibility of use, encourage the preservation of existing buildings, in particular, the old Town Hall.

**B. Permitted Uses:** *(no changes to permitted uses 1 -19 add use 20)*

The following uses are subject to site review regardless of size:

**20. Artisan Food and Beverage**

**3. Add “Artisan food and beverage” as a use requiring Site Plan Review in the following districts: Commercial 1, 3, & 4, Local Business, Industrial 1 & 2, and Medium Density A & B Districts but also allow the use of food truck(s) subject to the standards of Sec. 526A – Food Trucks.**

**For example, in the uses subject to site plan review add:**

1. Artisan Food and Beverage
  - a. food truck(s) as an accessory use is allowed subject to the provisions of Sec. 526A – Food Trucks

#### **Section 409. Commercial District I “C-I”**

**A. Purpose:**

It is the intent of this District to provide for suitable locations for commercial uses which are appropriately situated at highway locations and to encourage an attractive entrance to the Town of Freeport. This District comprises land along the U.S. 1 corridor from Yarmouth to the plaza just north of Desert Road and is the major local connector between Yarmouth and Freeport. This district is intended to be flexible with regard to minimum lot size, road frontage requirement, and setbacks from property lines provided points of access onto U.S. Route One are limited, and design standards are met.

**B. Permitted Uses:** *(no changes to permitted uses 1 –35, add use 36, change the remaining numbers of uses accordingly)*

The following uses are subject to site review regardless of size:

**36. Artisan Food and Beverage**

- a. food truck(s) as an accessory use is allowed subject to the provisions of Sec. 526A – Food Trucks**

#### **Section 411. Commercial District III - “C-III”**

**A. Purpose:**

It is the intent of this District to create an attractive entrance to the Village. A mix of commercial and residential uses are permitted with restrictions on building size and parking locations. Landscaping requirements are mandated in the front setback. In order to limit access points on heavily traveled U.S. Route 1, access on other streets and on service roads is encouraged through decreased road frontage

requirements. This District is part of the Design Review District and contains historically and architecturally significant buildings and structures which should influence the design of future development.

B. Permitted Uses:

The following uses are subject to site review regardless of size: *(no changes to permitted uses 1 – 25, add use 26)*

**26. Artisan Food and Beverage**

**a. food truck(s) as an accessory use is allowed subject to the provisions of Sec. 526A – Food Trucks**

**Section 412. Commercial District IV “C-IV”**

A. Purpose:

This District is intended to provide suitable locations for uses which require nearby major highway connections and public utility services. Uses are designed to serve both local and regional markets and regulations are included to protect abutting residential uses and districts.

B. Permitted Uses:

The following uses are subject to site review regardless of size: *(no changes to permitted uses 1 – 28, add use 29)*

**29. Artisan Food and Beverage**

**a. food truck(s) as an accessory use is allowed subject to the provisions of Sec. 526A – Food Trucks**

**Section 420. Local Business District “LB”**

A. Purpose:

This District is intended to provide an opportunity for retail, service and municipal facilities that primarily serve local residents. Service of any extended area or regional market is ancillary to the local market.

B. Permitted Uses:

The specific permitted uses which are listed below are intended to provide examples of a type of permitted use. Uses similar to those examples which are specifically listed are permitted if their primary purpose is to serve local needs. All uses are subject to site review. *(no changes to 1 – 12, add use 13)*

**13. Artisan Food and Beverage**

**a. food truck(s) as an accessory use is allowed subject to the provisions of Sec. 526A – Food Trucks**



## **Section 421. Industrial District I “I-I”**

### **A. Purpose:**

It is the intent of this District to provide for suitable locations, near major transportation routes, for industrial, office, business, and warehouse uses, including industrial parks, which will be environmentally sound and physically attractive assets to the Town. Off-site utilities are presently or potentially available. In order to assure that developments shall be compatible with adjacent residential districts, all uses are subject to site review and shall conform to the appropriate performance standards of Article V. Specific uses which have been determined to be incompatible with residential uses are prohibited.

### **B. Permitted Uses:**

The following uses are subject to site plan review regardless of size: *(no changes to permitted uses 1 – 14 add use 15)*

#### **15. Artisan Food and Beverage**

##### **a. food truck(s) as an accessory use is allowed subject to the provisions of Sec. 526A – Food Trucks**

## **Section 422. Industrial District II “I-II”**

### **A. Purpose:**

It is the intent of this District to provide for suitable locations, near major transportation routes, for industrial, office, business and warehouse uses, including industrial parks, which will be environmentally sound and physically attractive assets to the Town. Off-street utilities are presently or potentially available. In order to assure that development shall be compatible with adjacent residential districts, all uses are subject to site review and shall conform to the appropriate performance standards of Article V. Specific uses which have been determined to be incompatible with residential uses are prohibited.

### **B. Permitted Uses:**

The following uses are subject to site review regardless of size: *(no changes to permitted uses 1 – 14 add use 15)*

#### **15. Artisan Food and Beverage**

##### **a. food truck(s) as an accessory use is allowed subject to the provisions of Sec. 526A – Food Trucks**

## **Section 406. Medium Density Districts - “MD-A and MD-B” {Amended, Effective 01/07/14}**

### **A. Purpose:**

It is the intent of this District to maintain the present balance between residential and limited business uses in an area which includes some moderately densely developed areas containing structures of historical significance in sections which are more rural in nature. Route 1 is the major roadway in this District and extends from the Village to the Town of Brunswick border. Provisions below are intended to allow a mix of residential and commercial uses while protecting the neighborhoods and residential properties.

### **B. Permitted Uses: {Amended, Effective 06/18/13}**

The following uses are subject to site review regardless of size: *(no changes to permitted uses 1 – 39 add use 40)*

**40. Artisan Food and Beverage**

**a. food truck(s) as an accessory use is allowed subject to the provisions of Sec. 526A – Food Trucks**

**4. Add new section 526A – Food Trucks (section 526 includes standards for Peddlers on Private Property)**

Food trucks individually and cumulatively have an impact similar to small structures and to other businesses. The Town acknowledges that food trucks can be desirable in limited circumstances provided certain standards can be met. For businesses and zoning districts that specifically allow food trucks and for special events that will use food trucks as a temporary activity, the following standards shall be met:

- A. For permitted uses that allow the use of a food truck as an accessory use:
  - 1. the food truck must be located on the same property as the permitted use or on an adjacent property if the owner of the land on which the permitted use is located has a legal agreement with the property owner and
  - 2. customers of the food truck must have access to restrooms on the same property that are connected to the public sewer system or a sub-surface wastewater disposal system. An agreement with the host permitted use to use the restrooms on the site must be submitted.
  - 3. One food truck is allowed at any given time, except that the host permitted use may have up to three trucks, for no more than three days, no more than three times in any calendar year.
  - 4. Site plan review is not required for the use of a food truck as an accessory use on a property that has already received site plan review.
  - 5. Food trucks may be open for business during the host businesses hours of operation; however, the hours of operation cannot be earlier or later than those included in Sec. 526A.B.12 below.
- B. All food trucks must:
  - 1. be registered by the Maine Department of Motor Vehicles and licensed by the Maine Department of Health and Human Services.
  - 2. be located on private property; except that the Project Review Board may approve food trucks in the public right-of-way if they are associated with a special event that has been approved by the Project Review Board and/or the Town Council (as an example 4<sup>th</sup> of July festivities)
  - 3. have a valid Food Truck license issued by the Codes Enforcement Officer of the Town of Freeport.
  - 4. have a valid *Victualer's* License from the Town of Freeport if they will be selling at more than 9 events and/or days in Freeport, this does not include food trucks for private catering events when the food truck is parked entirely on private property and serves the private guests of the host and all payments are made by the host, not the guests.
  - 5. not verbally solicit business from pedestrians or persons in vehicles and no sales to persons in vehicles,
  - 6. not have lighting except localized lighting that is used on or in the food truck for the purpose of food preparation and menu illumination,

7. not have signs except those identifying the name of the truck, this does not include menus,
8. provide at least one trash receptacle and one recycling receptacle for use by patrons and in a convenient location that does not impede pedestrian or vehicular traffic,
8. collect and dispose of all litter or debris within a 25-foot radius of the food truck,
10. contain all equipment needed for the preparation of food within the food truck, except for trash and recycling receptacles,
11. not have any furniture, umbrellas, generators, or other objects or structures outside of the food truck,
12. limit operation between 8am and 10pm Sunday through Thursday and 8am and 11pm Friday and Saturday,
13. not use any amplified customer notification system or amplified music.
14. food trucks must meet the setback requirements of the district in which they are located if an adjacent property's use is primarily residential.

### **Add definition of a Food Truck**

Food Truck: A truck which has a current registration from the Maine Department of Motor Vehicles from which prepared and/or unprocessed food and drinks are sold. Food trucks are not the same as peddler trucks and/or peddler carts.

### **PROPOSED MOTION**

Be it ordered that the Freeport Planning Board moves to recommend to the Town Council that the proposed zoning amendments to the Freeport Zoning Ordinance included in this document be approved. The proposal includes amendments to the following sections: Sec. 104 (Definitions) and Section 406 (MD-A &B), 409 (C-1), 411 (C-3), 412 (C-4), 413 (VC-1), 414 (VC-2), 415 (VC-3), 416 (VC-4), 420 (LB), 421 (I-1), 422 (I-2), and a new Sec. 526A. This recommendation is based on the fact that the Board finds these amendments to be consistent with the Vision of the Comprehensive Plan.