

Codes and Ordinances Committee

Councilor Peter Lachapelle, Chair
Councilor Elaine Lauterborn, Vice Chair
Councilor Bogan
Councilor Robert Gates
Councilor Ray Varney



AGENDA

CODES AND ORDINANCES COMMITTEE

Of the Rochester City Council

Thursday February 5, 2015

City Council Chambers

31 Wakefield Street, Rochester, NH

7:00 PM

- 1. Call to Order**
- 2. Public Input**
- 3. Approval of the Codes and Ordinances Committee Minutes**
 - December 4, 2014**
- 4. Discussion: Panhandling**
- 5. Discussion: Sign Ordinance, Chapter 42**
- 6. Other**
- 7. Adjournment**

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CODES AND ORDINANCES COMMITTEE

Of the Rochester City Council
Thursday December 4, 2014
City Council Chambers
31 Wakefield Street, Rochester, NH
7:00 PM

Committee Members Present

Councilor Peter Lachapelle, Chair
Councilor Elaine Lauterborn, Vice Chair
Councilor Robert Gates
Councilor Donna Bogan

Committee Members Excused

Councilor Ray Varney

Others Present

Jim Grant, Director of BZLS
Councilor Gray
Councilor Hamann
Kelly Walters, City Clerk
TJ Jean, Mayor
Peter Cutrer, Deputy Fire Chief
Councilor Collins
Seth Creighton, Chief Planner
Michelle Mears, Planner
Jim Campbell, Director of Planning
Norman Sanborn, Fire Chief
Dave Stevens, Moderator Ward 1
Robert Jaffin, Planning Board
Jason Hamann, Moderator Ward 4
Christine Hamann, Selectman
Ward 4
Amy Valkavitch, Manager, Home
Depot

MINUTES

1. Call to Order

Councilor Lachapelle called the Codes and Ordinances Committee meeting to order at 7:00 PM. All committee members were present with exception of Councilor Varney, who was excused.

2. Public Input

Councilor Lachapelle asked if anyone from the public would like to address the Codes and Ordinances Committee at this time.

Rob Partridge, owner of Goodfellas Pizzeria, addressed the committee in regards to his concerns with the process of the water and sewer appeals. He would like to see them amended (refer to 17.20 water and 16.17 sewer).

Mr. Partridge felt that only having one appeal per claim was not acceptable when one could find further evidence to help with the first appeal if rejected. He explained further.

Councilor Lachapelle informed Mr. Partridge that he will have communications with Mayor Jean and will do further research, but this issue will stay in committee at this time.

Melissa Morest, Owner of MCM Merchandising, addressed the Codes and Ordinances Committee on the sign ordinance. She explained that her business, located on Old Dover Road, is not allowed to have "A" frame signs out for advertising due to their zoning. She would like the committee to look into this.

Councilor Lachapelle explained that they may need to look at ordinance 42.29 again regarding these signs. Jim Grant, Director of Building Zoning and Licensing Services, explained where they are allowed and that the Planning Department could already be proposing these changes in Chapter 42.29.

Mike Wawrzkievicz, owner of NAPA Auto Parts, explained to the committee that he had an issue with the sign ordinance. He gave the reasons why he needs these signs, citing his location. He did not understand why other companies are allowed to have these signs but he cannot; he felt this was discrimination.

Mark Colonna, Owner of Tresses Hair Salon, also wanted to address the sign ordinance with the committee. He explained that the "A" frame is invaluable to his business. They need these signs to help promote business where they are set off the road. He felt that the ordinance was inadequate and the committee needs to readdress it. He explained that his flashing "open" sign was not acceptable, as well. Mr. Colonna was willing to pay a fee if needed.

Aaron Thibadeau, owner of Extreme Hair and various laundromats, addressed the committee on the "A" frame signs. He explained that they are not allowed where he is located and he is moving one of his businesses to the Shoreyville Plaza and the signs are not permitted there either. He would like the committee to look into this.

Jeff Bisson, owner of Happy Pappy's Country Store, questioned that certain signs can only be left up for thirty days per year; who is going to track that? He felt that they should be allowed to leave them up longer with permission even if they have to pay a fee.

William Smith, owner of Henri's Smokehouse, explained that he also had an issue with "A" frame signs. His location is at the Shoreyville Plaza as well. He addressed his concerns with banner signs too. He explained that he had been told he could have the banner and was later told to take it down. He felt they should be able to do the same as the downtown area.

Dave Stevens, Moderator for Ward One, wanted the committee to hold off on approving Tara Estates as a polling location for his ward. Mr. Stevens indicated that there are two churches in the Ward One area that could be looked at. He expressed his feelings that the polling locations should be brought back to the schools. They could possibly negotiate with the schools to work around a teachers' workshop.

Councilor Lachapelle agreed that they should be looking into working with the schools; it is more logical. Mr. Stevens discussed this further with the committee for their consideration, citing that a few days after the elections there was a teachers' workshop.

Councilor Lachapelle closed public input at 7:24 PM.

3. Approval of the Codes and Ordinances Committee Minutes

- **October 2, 2014**

Councilor Lauterborn **MOVED** to **ACCEPT** the Committee minutes of October 2, 2014. Councilor Gates seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Lachapelle asked the Codes and Ordinance Committee if they had any objections to amending the order of the agenda. There were no objections.

4. Elections – Ward Polling Locations

Kelly Walters, City Clerk, asked that the Ward One polling location stay in committee at this time so she can do more research.

Councilor Lachapelle reiterated that he would like the polling locations back at the schools. Ms. Walters explained that even if the schools were closed for a teacher's workshop they would still most likely have to hire a police officer for those locations.

Councilor Lauterborn said that she did not understand why you can not vote when kids are around. Being a former principle she thought it was a good experience for the students. She explained that she did not like that type of attitude. Ms. Walters will look at this situation again and explained that even when schools are having workshops there is still after-care being provided, so this would still be a security issue. She will also check with the Ward Three Moderator to see if he has any issues with that location. The Codes and Ordinances Committee briefly discussed polling locations further, stating Ward One will stay in committee and Ward Three will stay in committee until they hear from the Moderator.

Amy Valkavitch, Manager of Home Depot, expressed that they are more than happy to continue hosting the elections for Ward Four. Jason Hamann, Moderator for Ward Four, expressed that he is very pleased with having the Home Depot as a polling location. Christine Hamann, Selectman, reiterated that this location has worked out well. Councilor Hamann said that the Home Depot goes out of their way to accommodate the election. Councilor Lachapelle said that he has not heard of any complaints.

Councilor Hamann asked Ms. Walters to check to see if they could look at any type of bar coding as well as getting laptops to make the end of night processing more streamline. Councilor Gray explained that something like that would have to be moved through State law because the cities are not allowed to do this. He said a Bill would have to be proposed and brought through and a study would have to be done.

Councilor Gates asked that an invitation be sent to Mr. Hopkins, Superintendent of Schools, to attend the next Codes and Ordinances meeting. Then he could advise them as to why he opposes the polling locations at the schools.

Councilor Lachapelle stated that polling locations will be staying in committee at this time. He explained that this will be on February's agenda due to the fact they will not be meeting in January.

5. Proposed Amendment to Chapter 23 – Fire Safety Measures

Peter Cutrer, Deputy Fire Chief, addressed the Codes and Ordinances Committee with proposed amendments to Chapter 23. He explained that prior to this meeting he met with the Public Safety Committee. They are seeing a real issue with fire protection contractors, where businesses are not getting what they are paying for. The current ordinance has not been updated in quite some time and has no teeth when it comes to enforcement.

Mr. Cutrer explained that the Fire Department can not regulate which contractors can work in the City. He said that it may sound a little restrictive, but explained that is not. Currently a contractor can do poor work and make mistakes and they are not held accountable and there are no repercussions. Mr. Cutrer said there are two major issues right now: the first is safety and second is a money issue.

Mr. Cutrer said that a local collision business is only working at half capacity because the fire protection contractor installed the wrong parts. He gave examples of other businesses being affected by this issue.

Mr. Cutrer noted there are concerns with some of the City buildings and there is an ongoing investigation with the Police Department because the contractor that was hired to perform life safety fire inspections was fraudulent. The contractor put an inspection sticker on everything without doing an inspection; no service was performed. The schools are in the same situation as well as other local businesses. Mr. Cutrer stated that years ago it was considered a Bill of Goods. He said if they implement a Certificate of Fitness Program to the ordinance it would add the "teeth" they need to enforce penalties.

Councilor Lachapelle asked about 23.15, Regulation of Fire Alarms. Mr. Cutrer said that this ties into the Certificate of Fitness, which allows them to streamline the process for businesses to fit the community need. He explained that they do go to a lot of faulty alarm codes and this would help the new businesses that are looking to come to the community understand the process.

Councilor Lachapelle asked that Attorney Wensley look at Chapter 23 (23.14 and 23.15) and draft these items in legal form. Councilor Lauterborn agreed that it needs to be looked at to make sure it is formatted correctly.

Councilor Gates asked if they were going to notify the major companies so they know how this ordinance will work and when it will take effect. Mr. Cutrer stated that they are looking at the ways that they can propose this Certificate of Fitness Program. He mentioned a possible 90 day grace period as well.

Councilor Gates **MOVED** to present amendments to Chapter 23, Fire Safety Measures, to the full City Council on January 6, 2015. Councilor Bogan seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

6. Discussion: Sign Ordinance – Chapter 42

Michelle Mears, Staff Planner, explained that the Planning Department is proposing changes to Chapter 42.29 under Signage. She thanked Sheldon Perkins, Code Enforcement Officer, who helped on this proposal as well as getting the local businesses to come out to give their input. She said that they had looked at the International Building Code and other State models for this proposal. They felt that the current ordinance is very restrictive and was not friendly. Ms. Mears also spoke with various organizations to make the proposed changes. She said that most of the sign issues end up going back to the Zoning Board of Adjustment.

Ms. Mears explained that the proposals that are being suggested have been reviewed by several committees over the last eight months. Ms. Mears pointed out some of these changes, which include directory signs (businesses located on secondary streets), electronic message board signs, and portable signs, are permitted in the downtown commercial district, the special downtown overlay, and neighborhood mixed use. Special promotional signs would be thirty days with a license. A temporary banner would be thirty days with a \$10 permit. Flashing or animated signs that flash red, amber or green colored lights shall not be permitted. Wall signs shall not exceed ten percent of the area of the building frontage and will allow a maximum of ten signs.

Ms. Mears explained this is a complete overhaul of the sign ordinance because the current ordinance is very restrictive. They have added a table to the new proposal so that businesses will have ease in looking up signs that are permitted in their area.

Councilor Lauterborn questioned why the "A" frame signs are such a big issue now. Mr. Grant explained that now that they have a Compliance Officer he is addressing all compliance on signs, not just one sign in particular. He explained further that the officer is becoming more knowledgeable with this ordinance. Councilor Lauterborn and Mr. Grant discussed further. Councilor Gray added that residents have found objections to some signs and not others, but if you go by the letter of the law they all have to be compliant and these have mushroomed because they are complaint-driven.

Councilor Lachapelle agreed that there were a lot of changes in the proposed ordinance. Ms. Mears will continue to work on the proposed changes and bring it back to the Codes and Ordinances Committee in February, the next scheduled meeting. She asked them to contact her with any questions or concerns, as well as suggestions. She thanked the committee for their time.

7. Action Against Tenants – RSA 540:1

Jim Grant, Director of BZLS, explained the State RSA 540:1 to the Codes and Ordinances Committee. He cited that this should read “Actions Against Landlords.” Currently the landlords register their properties, but they removed the fines portion of the RSA. Mr. Grant said that a lot of the landlords had the attitude that there is no need to register if there was not a fine. He explained that as of January 1, 2015 the municipality can impose a fine of up to \$100. He was not saying that they need to impose the fine; he wanted to bring this to them to make them aware of the issue.

Mr. Grant agrees with the registration process because it makes it easier for the first responders, especially with the out of state landlords, if they register there is contact information.

Councilor Lachapelle stated that he would like this to stay in committee so that they can research the topic because he was under the impression that the committee had already put an ordinance in place. Councilor Lauterborn agreed that they did review in committee, but was under the impression that they were just following State law.

Councilor Hamann asked Mr. Grant about restricted properties. Mr. Grant read the State RSA citing the restricted properties.

The Codes and Ordinances Committee discussed researching the issue further.

8. Second Hand Dealers License

Jim Grant, Director of BZLS, reviewed his recommendations for a temporary 45 day license for these second hand businesses, which need to be approved by the full City Council. He explained that this time frame should be sufficient for this type of license. Councilor Lauterborn asked if this was in regards to a change of ownership. Mr. Grant agreed that could be one type of situation.

Mr. Grant explained that they will still go through the process and get background checks, but the 45 days will allow them to get it done and come before the full City Council. They would still be allowed to operate.

These recommendations would amend Chapter 34, sections 34.4 and 34.5. Councilor Lachapelle wanted Attorney Wensley to review and draft in legal form.

Councilor Lauterborn **MOVED** to present amendments for the Second Hand Dealer License, Chapter 34, to the full City Council on January 6, 2015. Councilor Gates seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

9. Aquifer Protection Ordinance Presentation

Kyle Pimental, Senior Planner with Strafford Regional Planning, gave a detailed PowerPoint presentation to the Codes and Ordinances Committee on the Ground Water Protection Act, NH RSA 485-C.

Councilor Gray questioned the mixing of ground water protection and ground water depletion. He questioned this because the presentation used examples of states such as California, which are in drought conditions. They do not have ground water to pump out. He said New Hampshire does not have that problem and should not be used as an example. Mr. Pimental states that they are looking at it from a holistic approach and wanted to give them detailed information.

Councilor Lachapelle recommended where they have time with this topic that they wait to see the full draft ordinance at this forum before they present to the full City Council. This should save a step.

Councilor Lauterborn asked if there were grants for this to be done. Mr. Pimental stated that there are clean water grants, which are Federal Grants, and he explained further to the Codes and Ordinances Committee. He went on to inform the committee that they started the process in 2012 hoping to inform the municipality to help write an ordinance. Councilor Lauterborn wanted the PowerPoint presentation sent out to them electronically so that they can review it further.

Councilor Gray had concerns with the type of permit when it comes to the regulation of ground water because constant testing will be very important due to the water discharge. He would like to know if there is coordination between the programs. The committee felt that they are looking at two separate issues.

Mr. Pimental tried to explain that there is not a direct correlation. Councilor Gray debated the matter further in regards to storm water.

Seth Creighton, Chief Planner, stated that they would be back before the committee again with both issues because they are re-writing Chapter 50, which pertains to the storm water issue. He reiterated that they are

somewhat the same, but separate. He explained the presentation at this time was to inform them that they are in the starting phase. They thanked the committee for their time and they will be back around March or April of 2015.

10. Various Amendments to Ordinances

Jim Campbell, Director of Planning, reviewed the amendments recommended to the various ordinances, which can be found in the packet as an addendum.

These proposals were a result of the Comprehensive Rezoning and are for Chapter 42.23, Accessory Uses [parking of commercial vehicles – weight limit]; Chapter 42.28, Performance Standards [glare or light]; Chapter 42.2, Definitions-Manufactured Housing and Standards for Permitted Uses [garages and overall minimum size]; and Chapter 43, Mobile Home Park Ordinances [habitable living space and lot coverage].

The Codes and Ordinances Committee suggested that Chapter 42 and 43 amendments reflect a specific date for the reason of existing properties. Councilor Hamann cited that with mobile home parks this would be necessary. The Codes and Ordinances Committee debated this further and agreed with making these amendments “as of said date.” Mr. Campbell agreed to make the change on the mobile home parks with the effective date of December 31, 2014.

Councilor Lauterborn asked if there were any objections to these changes when they were proposed. Mr. Campbell said there were no objections from the Planning Board or the public.

Councilor Lauterborn **MOVED** to present amendments to Chapters 42.23, 42.28, 42.2, and 43, be brought to the full City Council on January 6, 2015. Councilor Gates seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Lauterborn asked that they get the correct information to the Clerk’s office for Attorney Wensley to review, as the handout from that evening differed from the information that was in the packet.

Councilor Lachapelle advised the committee that this would be for a first reading and they would need to have a public hearing, as well.

11. Discussion: Durham Zoning Ordinance

Councilor Gates asked to open a discussion regarding dwelling density types as it applies to unrelated households. He provided a copy of the Durham, NH Zoning Ordinance, which can be found in the packet. Councilor Gates asked Jim Campbell if he knew if Rochester had a similar ordinance. Mr. Campbell said he was not aware of one. Councilor Gates explained that Durham is currently at 300 square feet of habitable floor area in an unrelated household. Jim Grant stated that there was an ordinance for overcrowding. Councilor Gates would like the City to incorporate an ordinance stating that it should be 600 feet. Councilor Gates explained why he would like this type of ordinance. Councilor Gray felt that 600 feet was too much and he explained why to Councilor Gates.

The Codes and Ordinances Committee debated this issue with Jim Grant, Director of BZLS. Mr. Grant felt it would be a hard ordinance to draft. It is suggested that Councilor Gates, Mr. Grant, and Peter Cutrer, Deputy Fire Chief, work together to draft such an ordinance. They felt the Fire Department should be involved with the draft ordinance due to fire code. Councilor Gates agreed to work on such an ordinance.

12. Other

There was no other business to discuss at this time.

13. Adjournment

Councilor Gates **MOVED** to **ADJOURN** the Committee meeting at 8:55 PM. Councilor Bogan seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Respectfully submitted,

Nancy Carignan
Assistant City Clerk

AMENDMENT TO ORDINANCES
ADOPTING A NEW CHAPTER OF THE
GENERAL ORDINANCES OF THE CITY OF ROCHESTER,
TO BE KNOWN AS CHAPTER 68 OF THE
GENERAL ORDINANCES OF THE CITY OF ROCHESTER

THE CITY OF ROCHESTER ORDAINS:

I. That the General Ordinances of the City of Rochester, as presently amended, be further amended, by adding to Title IV – Traffic Code thereof, a new Chapter, said Chapter to be known as Chapter 68 of the General Ordinances of the City of Rochester and entitled “Distribution of Items To and From Motor Vehicles”, said Chapter 67 to provide as follows:

“CHAPTER 68

DISTRIBUTION OF ITEMS TO AND FROM MOTOR VEHICLES

68.1 Intent of Ordinances.

This Ordinance is intended to provide for the free flow of motor vehicle traffic on roadways in the City. The City Council finds that persons who distribute any item to, receive any item from, or exchange any item with, the occupant of a motor vehicle upon a Roadway present a threat to the free and safe flow of motor vehicle traffic. By this Ordinance, the City Council intends to promote the health, safety and welfare of the citizens traveling by vehicle in the City.

68.2 Definitions.

For purposes of this Chapter, the following definitions apply:

- (a) Pass/Passing: Distributing any item to, receiving any item from, or exchanging any item with the occupant of a motor vehicle that is located in the Roadway.
- (b) Roadway. All public roads open to motorized vehicles within the City. This definition excludes private roads and private property. This definition also excludes areas in which parking is permitted in the City.
- (c) Item. Any physical object.

68.3 Prohibition of Roadway.

It shall be unlawful to violate any of the prohibitions set forth below in the City.

- (a) No person shall knowingly distribute any item to, receive any item from, or exchange any item with the occupant of any motor vehicle when the vehicle is located in the Roadway.
- (b) This Ordinance shall not apply to the distribution, receipt or exchange of any item with the occupant of a motor vehicle on private property or in a permitted parking area.
- (c) This Ordinance shall not apply to any law enforcement officer acting in the scope of his/her official duties.
- (d) This Ordinance shall not apply to the distribution, receipt or exchange of any item with the occupant of a motor vehicle located in the roadway in order to assist the occupant after a motor vehicle accident, with a disabled motor vehicle or where the occupant is experiencing a medical emergency.

68.4 Penalty.

A person found in violation of this section shall be guilty of a violation and may be fined not more than \$500.00.

68.5 Severability.

If any provision of this section is declared invalid or unconstitutional by any Court of competent jurisdiction, the remaining provisions shall be severable and shall continue in full force and effect.”

II. This ordinance shall take effect upon its passage.

CC FY 15 12-02 AB 72