

Codes and Ordinances Committee

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



CODES AND ORDINANCES COMMITTEE

Of the Rochester City Council

Thursday, May 2, 2019

31 Wakefield Street, Rochester, NH

City Council Chambers

6:00 PM

Minutes

1. Call to Order

Councilor Lachapelle called the Codes and Ordinances Committee meeting to order at 7:00 PM. Kelly Walters, City Clerk, took a silent roll call. All Committee members were present.

2. Public Input

Councilor Lachapelle invited the public to come forward to address the Committee. No member of the public came forward to address the Committee.

3. Acceptance of the Minutes: March 7, 2019

Councilor Lauterborn **MOVED** to **ACCEPT** the minutes of March 7, 2019. Councilor Bogan seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Lachapelle announced that Household Hazardous Waste Day will be held on Saturday, May 4, 2019, from 8:30 AM to 12:30 PM at the Turnkey Landfill, on Rochester Neck Road in Rochester.

4. Rubbish and Refuse

Councilor Lachapelle reviewed the General Ordinances – Code §210 Solid Waste and made the following motions:

Councilor Lachapelle **MOVED** to recommend to the full City Council that the General Ordinances – Code §210-1 Definitions be amended as follows:

Code §210-1

Recyclable Material – Any material, including various glass, paper, cardboard, metal cans, plastics or other materials, that can be processed or treated at ~~the Waste Management~~ a Material Recovery Facility in order to provide reusable materials.

Councilor Lauterborn seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Lachapelle **MOVED** to recommend to the full City Council that the General Ordinances § 210-1 Definitions be amended as follows:

§ 210-1

Residential Recycling Bin – ~~Any reusable container any reusable container that is labeled for recycling. Container shall be no larger than 18 gallons in size.~~ **The specifically provided or designated container distributed by the City's waste collection contractor. No other receptacles will be permitted.**

Councilor Bogan seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Bogan **MOVED** to recommend to the full City Council that the General Ordinances §210-3 Definitions be amended as follows:

§210-3.

Rubbish collection. The City of Rochester shall only collect rubbish on public streets or highways. For those properties served by streets other than public streets or highways, including but not limited to mobile home parks, condominiums, or streets not yet accepted by the City, rubbish shall not be placed ~~within the public street~~ **curbside** for collection unless agreed to by the Commissioner of Public Works or his/her designee and the City's waste collection contractor.

Councilor Gates seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Bogan **MOVED** to recommend to the full City Council that the General Ordinances §210-6 be amended as follows:

§210-6.

Receptacles for residential solid waste. All residential solid waste shall be placed in ~~suitable~~ receptacles **provided by the city's waste collection contractor**, as defined under §210-1. Residential solid waste that does not fit in the approved receptacle shall not be collected unless such waste is recyclable materials as defined in §210-1 and placed at curbside as described in §210-17.

Councilor Gates seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Gates **MOVED** to recommend to the full City Council that the General Ordinances § 210-17 be amended as follows:

§210-17.

Residential curbside recycling. Recyclable material will be collected from residences as defined by §210-1 on the same day as rubbish collection. Recyclable material must be placed in the approved residential recycling receptacles (as defined by § 210-1). The approved residential recycling receptacles must be placed ~~at the roadside~~ **curbside** on the evening before or by 7:00 a.m. on the scheduled pickup day. Unacceptable material found in the approved residential recycling receptacles will not be collected.

Councilor Bogan seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

5. Placement of “Donation Bins”

Andrea Mitrushi, Deputy City Attorney/Prosecutor, referred to the recent issues with “dumping” near the charitable donation bins of Planet Aid (located at the old Ben Franklin parking lot) and the bins located at the Salvation Army. She said the City currently does not have any ordinance in place to regulate such charitable donation bins. Ms. Mitrushi said the Committee could discuss two possible options:

- 1.) Propose an amendment to the General Ordinances which would require a permit to be issued for such bins.
- 2.) Propose a zoning amendment which would restrict the placement of such bins within the Industrial/Recycling Zone, which is currently the same zone as the Waste Management Facility.

The Committee discussed the two options. Councilor Lauterborn supported the idea of requiring a permit for such bins because it would likely mandate that the site be kept clean of clutter. She did not support keeping these bins only in Industrial/Recycling Zones, noting that having these bins so far out of public sight may cause an even bigger problem with “dumping.”

Councilor Lachapelle suggested keeping this topic in Committee. He added that Jim Grant, Director of Building Zoning and Licensing Services, will be attending the June 6, 2019 Committee meeting to discuss the “inspection of multi-family dwelling units.” He stated that it would make sense to request that Mr. Grant be prepared to give a recommendation on how to remedy the donation bin situation, either by proposing a zoning amendment or issuing permits. If the recommendation is to issue permits for such bins, than Mr. Grant should provide the Committee with a proposed permit with detailed information outlining what the permit would entail and who would police this issue once a permit is issued. Councilor Gates suggested a requirement to keep the owner’s contact information directly upon such bins. The Committee discussed how some members of the community take advantage of the bins to drop off their “junk.” This matter has been kept in Committee.

6. Discussion: Amendment to Ordinances (proposed changes)

Council Abbott had some proposed amendments and suggested that Mr. Grant review these proposed changes as well.

Councilor Abbott said he felt it does not make sense the way in which the City adopts additional codes within the ordinances, specifically the Building Code. It would make sense for the City Council to adopt the current State Building Code only by reference, which lists the State’s adoptive Building Codes and/or an edition of said codes and which is always up-to-date. This would ensure that the City is always in compliance with the provisions of the State RSAs and is not using outdated material. In the future, at the time the State Legislation adopts a set of new Codes, the City would automatically be referencing the correct set of codes at all times. Councilor Abbott referred to some of the City’s building codes, which are now over 10-years out-of-date. The City is permitted to enforce these more stringent regulations of the past; however, if the City Council is not constantly updating new versions of the Code, it can become problematic for various reasons.

Councilor Abbott **MOVED** to recommend that the City Attorney place the following

Amendment in legal format and that it be presented to the full City Council at the next Regular meeting by adopting the building codes only by reference to RSA 155-A with the exception of the property maintenance code, which shall remain in the City ordinances as follows:

- (1) International Property Maintenance Code (2006 edition), published by the International Code Council, Inc., Copyright 2006.

Councilor Bogan seconded the motion. Councilor Lachapelle questioned if by adopting the building codes by referencing RSA 155-A if it would automatically include any newly adopted codes. Ms. Mitrushi agreed to confirm that the Rochester Code would become effective at the same time new legislation is passed and that no further City Council action would be necessary once the correct RSA is adopted by reference. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Abbott referred to City Ordinances - Code §40.15 Permits. He said this chapter has concerned him for some time. The State Building Code provides specific exemptions, especially for residential buildings/properties, of things that do not require a building permit. Some of the exemptions including small sheds (less than 200-square feet) and fencing (less than 6-feet high). He said a Rochester resident will pay more for a building permit based on how expensive the fence costs. He stated that the City should charge a straight fee for building permits not requiring an inspection. This would ensure no one is being penalized for constructing a better quality product. He **MOVED** to recommend that the City Attorney place the following Amendment in legal format to be presented to the full City Council at the next Regular meeting for the City to charge a straight fee for building permits not requiring an inspection. Councilor Bogan seconded the motion.

Councilor Lauterborn asked why the City charges a fee for an item which does not require an inspection. She questioned if other communities charge for non-inspection building permits. Councilor Abbott said he is only aware of the two other communities, in which he was previously employed, which do not charge for exempt building permits. He clarified that such building items (small sheds, some fences, and other exempted items) would still be required to follow any/all set-back requirements. He said such communities adopt the exemptions set forth in the State Building Code RSA 155-A, which has a complete list of exemptions. Councilor Lauterborn supported not charging a building permit fee for items that the State has classified as exempt. Councilor Abbott **WITHDREW** his motion and Councilor Bogan **WITHDREW** her second to the motion.

Councilor Abbott **MOVED** to recommend that the City Attorney place the following Amendment in legal format to be presented to the full City Council at the next Regular meeting, that §40-15 be amended to exempt the requirement for a building permit for items classified as exempt in the State Building Code, which are items that do not require an inspection. Councilor Lauterborn seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Abbott referred to the General Ordinances – §75-11 Means of escape. He said this information kept in §75-11 can be found in the State Building and Fire Codes so there is no reason to keep it in the ordinances as well. Councilor Abbott **MOVED** to recommend that the City Attorney place the following Amendment in legal format to be presented (deleted) to the full City Council at the next Regular meeting that Chapter §75-11 Means of escape as follows:

~~§75-11 Means of escape All factories, hotels, tenement houses, public halls, schoolhouses and other buildings used as places of public resort in the City shall be provided with ample means of escape in case of a fire and adequate facilities for entrance and exits on all occasions, and be so erected as not to endanger the health and safety of persons who occupy them.~~

Councilor Bogan seconded the motion. She questioned where the residents would go to find this information which is being removed from the ordinances. Councilor Abbott replied that it can be found in the State's Building & Fire Codes. He said that the State Building and Fire Codes address "means of escape" at great length and deal with any/all exceptions. He reiterated that there is no benefit from keeping a vague description in the City ordinances when the State thoroughly deals with the complexity of "means of escape." The **MOTION CARRIED** by a unanimous voice vote.

Councilor Abbott referred to the General Ordinances –§135-5 Mobile home lots. He said the City of Rochester no longer allows new mobile home parks so 135- 5 A (1) & (2) conflicts with the City's existing ordinances. He **MOVED** to recommend that the City Attorney place the following Amendment in legal format to be presented to the full City Council at the next Regular meeting by amending (deleting) Chapter §135-5 (A) as follows:

§135-5 A - Mobile home lots.

~~(1) Each mobile home lot shall contain a minimum of 10,000 square feet in area and shall have minimum frontage of 75 feet on a park road.~~

~~(2) No mobile home with accessory buildings, garage, structures, storage building and paved parking spaces shall occupy in excess of 35% of a mobile home lot.~~

Councilor Bogan seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

7. Other

Councilor Lauterborn mentioned that during the codification process it became clear that some of the language in the ordinances is very outdated and that the Committee should continue to make changes as they are brought to the attention of the Codes and Ordinances Committee.

Councilor Lachapelle spoke about the Clerk's office seeking an alternate location to hold the Ward 2 Polling Location. He stated there is an issues with the limited space available due to the annual craft fair at the current location, St. Mary's Church. He added that the church is not allowing the public to utilize the restrooms if needed. Councilor Lachapelle said there is another church facility located on Lowell Street, which seems to be a bit more spacious with plenty of parking. The Committee briefly discussed the matter. Councilor Lauterborn suggested that the City Clerk consider the Frisbie Memorial Hospital Conference Center, which is where the Ward Two Rochester United Neighborhoods meeting is currently held. Ms. Walters agreed to look into these other options and to bring it back to the Codes and Ordinances Committee meeting next month.

8. Adjournment

Councilor Lauterborn **MOVED** to **ADJOURN** the Committee meeting at 6:25 PM. Councilor Gates seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Respectfully Submitted

Kelly Walters
City Clerk