

Codes and Ordinances Committee

Councilor Peter Lachapelle, Chair

Councilor Tom Abbott

Councilor Laura Hainey

Councilor Christopher Rice



**CODES AND ORDINANCES
COMMITTEE**

Of the Rochester City Council

Thursday, December 2, 2021

31 Wakefield Street, Rochester, NH

Council Chambers

6:00 PM

Agenda

1. Call to Order
2. Public Input
3. Acceptance of the Minutes
 - 3.1 October 7, 2021 *motion to approve* P. 3
4. Code of Ordinances Review
 - 4.1 Amendment to Chapter 254 of the General Ordinance of the City of Rochester regarding storage of Recreational vehicles, travel trailers, campers and boats P. 9
 - 4.2 Chapter 275-29 of the General Ordinances of the City of Rochester regarding signage P. 15
5. Other
6. Adjournment

*Intentionally
left blank...*

City Clerk's Office

Codes and Ordinances Committee

Councilor Peter Lachapelle, Chair
Councilor Tom Abbott
Councilor Chris Rice
Councilor Laura Hainey
Councilor Daniel Fitzpatrick



Others Present

Terence O'Rourke, City Attorney
City Councilor David Walker

CODES AND ORDINANCES COMMITTEE
Of the Rochester City Council
Thursday, October 7, 2021
Council Chambers
6:00 PM

Minutes

1. Call to Order

Chairman Lachapelle called the Codes and Ordinances Committee meeting to order at 6:00 PM. Deputy City Clerk Cassie Givara took a silent roll call attendance. All Councilors were present except for Councilor Abbott, who was excused.

2. Public Input

There was no one present to speak during public input.

3. Acceptance of the Minutes

3.1 August 5, 2021

Councilor Rice **MOVED** to accept the minutes of the August 5, 2021 Codes and Ordinances Committee meeting. Councilor Fitzpatrick seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

4. Code of Ordinances Review

4.1 Amendment to Chapter 254 of the General Ordinance of the City of Rochester regarding storage of Recreational vehicles, travel trailers, campers and boats.

Attorney O'Rourke gave a brief background on the suggested amendment to chapter 254. He reported that there were areas of the City where RVs, boats or campers have been parked for long periods in the grassy areas off the right-of-way, obstructing views of the roadway. He said that the issue was in need of more immediate attention as opposed to the time taken for a zoning amendment. Attorney O'Rourke reported that Planning Director Saunders had drafted some language based upon the verbiage from a similar situation in her previous municipality. The new language would prohibit these types of vehicles from being parked within 10-feet of the lot line. He stated that there was nothing in the existing ordinance which covered this particular situation.

Councilor Walker spoke about eliminating the provision for the 10-foot setback from the property line in the proposed amendment. He said that there were many areas of the City where residents would be able to safely park their campers alongside their houses, but the size of the lots would not allow these vehicles to be 10-feet back, leaving the owners in noncompliance if they stored their recreational vehicles in these spaces. Councilor Walker said that he had received complaints about detached trailers being stored off the right-of-way in this same manner and suggested that verbiage be added to prohibit this activity for detached trailers as well.

Councilor Hainey stated that she felt the ordinance as written did not specifically mention obstructing the right-of-way, and the proposed verbiage would require residents to utilize carports, enclosed structures, or their rear yard to store recreational vehicles. This could cause a hardship for residents who do not have enclosed structures or carports and who do not have adequate room in their rear yard. Councilor Walker suggested that there be an amendment made to remove the terms "carport" and "enclosed structure" and rather state that vehicles need to be stored to the side or rear of a residence, not obstructing the right-of-way. Councilor Rice spoke of instances where disallowing these vehicles to be parked in front of a residence would be a hardship to property owners even when their vehicles would not be causing any obstruction.

Attorney O'Rourke cautioned against amending the language to expressly prohibit parking in the right of way. He stated that there are gravel portions or unpaved areas within the right-of-way where it is legal to park. He gave an example of a person driving a recreational vehicle who visits a friend and parks their vehicle in such an area temporarily. It was discussed that the problem arises with these vehicles being stored in a manner which obstructs the right of way, and that should be the intent of the amendment. Councilor Rice suggested that the word "storage" would need to be defined and there may need to be specific time limits designated.

Councilor Fitzpatrick requested that the amendment be sent back to the legal department to be reworked with the changes discussed this evening.

Councilor Hainey asked if the parties causing the issue that triggered this discussion had been approached to rectify the situation. Councilor Walker answered that the resident in question had been contacted multiple times and was not amenable to changing their parking habits. Councilor Rice said that in this particular situation, the resident was detaching his trailer and storing it in an obstructive manner.

Chairman Lachapelle reiterated that this item would go back to legal for further work. Councilor Rice suggested the City Attorney look into the ordinances for other cities across the county to see how other municipalities handle this issue. There was a brief discussion regarding

the importance of getting this ordinance on the books in a timely manner. Councilor Fitzpatrick suggested that the Codes and Ordinances Committee could vote to send to full council language restricting long-term storage in the right-of-way with additional verbiage to be added later. It was discussed that the term “long-term” would also need to be defined eventually.

Attorney O’Rourke suggested the following language: *“Recreational vehicles, travel trailers, campers, automobile utility trailers, and boats shall not be stored off the travel portion of the roadway within the City’s right-of-way.”* Councilor Rice reiterated the issue of detached trailers being stored separate from their primary mode of transport, and suggested language to specify this. This would allow for contractors and other businesses to park in these areas and perform a service on a short-term basis. Attorney O’Rourke suggested that “storage” could be defined as a period of time not to exceed 48-hours. He amended the passage to read, *“Recreational vehicles, travel trailers, campers, automobile utility trailers, and boats shall not be stored off the travel portion of the roadway within the City’s right-of-way. To store shall mean for a continuous period of more than 48-hours.”* Attorney O’Rourke stated he would confer with the police department to determine whether it was legal to park a detached trailer in the City right-of-way and, dependent on the answer, he could add verbiage.

Councilor Rice **MOVED** to send the amendment as drafted by the City Attorney to full Council at the November 3 meeting. Councilor Fitzpatrick seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

5. Ethics Committee & Code

Chairman Lachapelle stated there were no additional edits suggested by either the School Board or Police Commission at this time. Councilor Fitzpatrick **MOVED** to send the Ethics Code to the full council. Councilor Rice seconded the motion. Councilor Hainey stated that she felt the Ethics Code was still lengthy and cumbersome, but supported a vote in order to have the document in place, which could later be amended. Chairman Lachapelle said that the motion could be amended to include the date in which this Code will go into effect. Chairman Lachapelle stated that when he makes the motion to full Council in November, he would add language to specify that the Code goes into effect following the inauguration. There was a discussion regarding the hyperbolic language contained in the Code and potentially amending it at a future date. The **MOTION CARRIED** by a unanimous voice vote.

6. Other

Chairman Lachapelle reminded the Committee that due to the Municipal election occurring on November 2, the Regular City Council meeting will be held on Wednesday, November 3 and the November Codes meeting would be cancelled. He stated that the Codes and Ordinances Committee would reconvene on Thursday, December 2, 2021.

Chairman Lachapelle spoke about the ordinance review the committee had been undertaking for each City department. The Department of Public Works’ chapters were anticipated to take several meetings in order to review the large amount of revisions and proposed amendments. He suggested postponing the review of these chapters until after the New Year due to the potential

change in committee members following the election and inauguration. There was a discussion about any amendments and recommendations from the Codes Committee being voted on by a new Council in January 2022. It was decided that unless there was an urgent matter, any ordinance reviews would take place in the New Year with the newly seated Codes & Ordinance Committee members.

7. Adjournment

Chairman Lachapelle **ADJOURNED** the Codes & Ordinance Committee meeting at 7:04 PM.

Respectfully Submitted,

Cassie Givara
Deputy City Clerk

Original proposed ordinance prior to amendments made at 10/7/21 Codes
& Ordinances Meeting

**Amendment to Chapter 254 of the General Ordinances of the City of Rochester Regarding
Storage of Recreational Vehicles, Travel Trailers, Campers and Boats**

THE CITY OF ROCHESTER ORDAINS:

That Chapter 254 of the General Ordinances of the City of Rochester and currently before the Rochester City Council, be amended as follows (additions in *italics*):

§ 254-28 Additional parking regulations.

D. Storage of recreational vehicles, travel trailers, campers and boats. Recreational vehicles, travel trailers, campers or boats shall be stored in a carport, enclosed building or rear yard area and shall not be located within 10 feet of the lot line. No such equipment shall be used for living, sleeping or housekeeping purposes.

The effective date of these amendments shall be upon passage.

*Intentionally
left blank...*

City Clerk's Office

Amendment to Chapter 254 of the General Ordinances of the City of Rochester Regarding Storage of Recreational Vehicles, Travel Trailers, Campers, Automobile Utility Trailers and Boats

THE CITY OF ROCHESTER ORDAINS:

That Chapter 254 of the General Ordinances of the City of Rochester and currently before the Rochester City Council, be amended as follows (additions in *italics*):

§ 254-28 Additional parking regulations.

D. Storage of recreational vehicles, travel trailers, campers, automobile utility trailers and boats. Recreational vehicles, travel trailers, campers, automobile utility trailers or boats shall not be stored within the City's right of way off the traveled portion of any roadway. "Storage" and "stored" means parking in the prohibited area for a continuous period more than forty-eight hours. No such equipment shall be used for living, sleeping, housekeeping, or recreational purposes while located in the City's right of way.

The effective date of these amendments shall be upon passage.

*Intentionally
left blank...*

City Clerk's Office

§ 275-29.9. Prohibited signs.

The following devices and locations shall be specifically prohibited:

- A. Signs located in such a manner as to obstruct or otherwise interfere with an official traffic sign, signal or device, or obstruct or interfere with a driver's view of approaching, merging or intersecting traffic.
- B. Except as provided for elsewhere in this article, signs encroaching upon or overhanging public rights-of-way. No sign shall be attached to any utility pole, light standard, street tree or any other public facility located within the public right-of-way.
- C. Signs which blink, flash or are animated by lighting in any fashion that would cause such signs to have the appearance of traffic safety signs and lights, or to have the appearance of municipal vehicle warnings from a distance.
- D. Any sign attached to, or placed on, a vehicle or trailer parked on public or private property, except for signs meeting the following conditions:
 - (1) The primary purpose of such a vehicle or trailer is not the display of signs.
 - (2) The signs are magnetic, decals or painted upon an integral part of the vehicle or equipment as originally designed by the manufacturer, and do not break the silhouette of the vehicle.
 - (3) The vehicle or trailer is in operating condition, currently registered and licensed to operate on public streets when applicable, and actively used or available for use in the daily function of the business to which such signs relate.
- E. Vehicles and trailers used primarily as static displays, advertising a product or service, or utilized as storage, shelter or distribution points for commercial products or services for the general public. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**
- F. Snipe signs.

§ 275-29.12. General provisions.

- A. Conformance to codes. Any sign hereafter erected shall conform to the provisions of this article or regulation within this jurisdiction.
- B. Signs in rights-of-way. No sign other than an official traffic sign or similar sign shall be erected within two feet of the lines of any street, or within any public way, unless specifically authorized by other ordinances or regulations of this jurisdiction or by specific authorization of the City Council after a recommendation is made by the Licensing Board.
- C. Projections over public ways. Signs projecting over public walkways shall be permitted to do so only subject to the projection and clearance limits either defined

§ 275-29.13 Specific Sign Requirements

§ 275-29.13

brightness levels specified in this subsection.

- (5) The brightness shall not exceed 0.3 footcandle at night.
- (6) Flashing or animated signs (including temporary interior window displays or banners) of red, amber, or green colored lights shall not be permitted.
- H. Flags. Each store front may be allowed one "open" or "welcome" flag that is positioned at a height so as not to impede the flow of pedestrians.
- I. Home occupation signs. See Article 24, Home Occupations. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**
- J. Marquee. No marquee shall be erected unless designed by a registered structural engineer and approved by the Director of Building, Zoning, and Licensing Services. It may extend over the sidewalk across the right-of-way to the curblin provided it has a minimum height above the sidewalk of 10 feet above the curb level and does not exceed five feet in height.
- K. Off-premises signs. Off-premises signs are prohibited except for the following signs if permission is granted from the owner of the off-premises location. A setback of at least five feet is required for these signs and they shall not be placed in the road right-of-way (i.e., they must be placed on private property).
 - (1) One freestanding sign per business directing people to the site. The sign may not exceed two square feet per side or four feet in height. No illumination is allowed. It may include only the name and/or logo, with simple directions. The sign must be durable and constructed of solid, finished materials.
 - (2) A real estate sign, one per premises, shall not exceed six square feet per side.
 - (3) Yard sale signs (see Subsection V).
 - (4) A sign for an office park or industrial park may be erected at the entrance to the park on an out parcel or within the road right-of-way, with the approval of the City Manager.
 - (5) A promotional banner for a special event may be placed anywhere in the City, including across a public road, if approved by the City Manager.
 - (6) Two seasonal agricultural directional signs not to exceed four square feet each are permitted when intended to direct patrons to a farm for the purpose of purchasing or picking seasonal agricultural produce or products during the season within which the produce is available for sale or harvest.
 - (7) One portable sign on the sidewalk in front of businesses in the Downtown Commercial District, Special Downtown Overlay District, and Neighborhood Mixed-Use District lying in density rings.
 - (8) Road signs.
- L. Political signs; political advertising. The following provisions are in addition to the

§ 275-29.13

§ 275-29.13

political advertising controls established under RSA 664:14, 664:17, and 664:2, as amended:

- (1) Political advertising shall be defined in RSA 664:2, as amended. No political advertising shall be placed or affixed upon any public property, including City rights-of-way. No political advertising shall be placed or affixed upon private property without the owner's consent.
- (2) Signature, identification, and lack of authorization shall be in accordance with RSA 664:14, as amended.
- (3) Political signs shall not be erected in the City Adopt-A-Spots or the Rochester Common.
- (4) Removal of signs shall be in accordance with RSA 664:17, as amended.
- (5) The area and location of signs used in conjunction with uses allowed by the Board of Adjustment as special exceptions shall also be approved by the Planning Board and shall conform to the sign regulations for the district in which they are located. The area and location of such signs shall be in harmony with the character of the neighborhood in which they are located.
- (6) Political signs shall not require a sign permit. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**

M. Portable signs. Portable signs shall be permitted only in the Downtown Commercial District, Special Downtown Overlay District, and Neighborhood Mixed-Use District lying in density rings, subject to the following limitations:

- (1) No more than one such sign may be displayed on any property, and the sign shall not exceed a height of four feet or an area of eight square feet per side.
- (2) Any portable sign that is placed on a sidewalk:
 - (a) Shall be situated directly in front of the business(es) which is being advertised.
 - (b) Shall not block passage along the sidewalk, including passage for handicapped persons, and shall not present a safety hazard.
- (3) May be displayed during business hours only.
- (4) Appropriately placed to minimize appearance of clutter as determined by the Director of Building, Zoning, and Licensing Services.
- (5) Only one sign per individual business.

N. Projecting signs. Signs are permitted in the following zones:

- (1) Multiple projecting signs shall be permitted on buildings having multiple occupants provided only that one projecting sign per occupant will be permitted.

*Intentionally
left blank...*

City Clerk's Office

Excerpt from November 3, 2021 City Council Meeting

13.4 Review of Chapter 275-29 of General Ordinances of the City of Rochester regarding signage *refer to Codes & Ordinances Committee*

Mayor Lauterborn informed the City Council that the review of signs is being sent to the Codes & Ordinances Committee because of the restrictions placed on political signage. Mayor Lauterborn called for vote to refer the matter to the Codes and Ordinances Committee's December meeting. There was a unanimous voice vote taken.

Councilor Rice shared an experience about his recent visit to NY and stated that he did not feel political signs should be permitted in the public right of way. He questioned who is bringing forth this discussion. Councilor Walker stated that it is being brought forward by a recent candidate as well as an email from former Congresswoman Carol Shea-Porter, who is also in support of allowing political signs in the public right of way. Councilor Lachapelle received the email from the former Congresswoman; however, he disagreed with some of the statements presented in the email. He said one statement was to the effect that some candidates do not have the time to go door-to-door campaigning. He said a candidate must make time to campaign if they are running for any particular office. He welcomed the topic to be presented at the December Codes and Ordinances Committee meeting.

Councilor Gray stated that he is in favor of allowing political signage on the public right-of-way in front of property owned by the resident displaying the sign. He shared that because he runs for a State office that his political signs are placed in other communities. He said other communities do allow the signage in their public right of way and do not have compliance issues. He also shared that he does not agree with the City Attorney's interpretation of this particular law; however, he believed bringing the matter to the Codes and Ordinances Committee would give everyone another look at the ordinance and allow this discussion again.

City Attorney O'Rourke stated that the Codes and Ordinances Committee did hold a discussion about the topic of signs in August of 2020. He indicated that the US Supreme Court case on this matter has not changed. He explained that all signs must be treated equally. The City cannot have a separate manner in which political signs are treated versus how other types of signage is governed. He said if the City allows political signs in the City's right-of-way, then it must allow all other signage in the right-of-way. He said

Excerpt from November 3, 2021 City Council Meeting

that opens it up for any kind of sign to be erected in the City's right-of-way without discretion. He said there are currently signs on private property within the City which contain questionable material. He speculated what could happen if all signage was permitted in the City's right-of-way without an ordinance prohibiting the type of sign. He said it can be discussed again, however, his opinion will not change because the law has not changed.

Councilor Rice asked if an offensive sign could be taken down by City staff if erected in front of City Hall. Attorney O'Rourke said if the City passed an ordinance to allow political signs in the City's right-of-way, then the City could not remove a sign unless it was obscene. He clarified that a sign containing profanity might be permissible and not considered obscene. These signs could be removed from the lawn of City Hall; however, they could not be removed from the City's right-of-way directly in front of the lawn.

Councilor Gray reiterated that he supports allowing political signs to be erected on the public right-of-way if it is in front of a resident's own property. He gave details of what he would consider to be within the right-of-way as well as in front of an owner's property. He believed the City could ban all signs with profanity in the public right-of-way. City Attorney did not agree that certain signs could be banned under current laws. Mayor Lauterborn invited the City Councilors who feel strongly about the issue one way or the other to attend the next Codes and Ordinances Committee in December.