

CODES AND ORDINANCES COMMITTEE

Of the Rochester City Council

Thursday September 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 Bogan

Councilor Ray Varney

Councilor Sandra Keans

Others Present

Sheldon Perkins, Building, Zoning, and

Licensing Services

Thomas Kaczynski, Resident

MINUTES

1. Call to Order

Councilor Lachapelle called the Codes and Ordinances Committee to order at 7:00 PM.

2. Public Input

Councilor Lachapelle invited the public to address the Committee at 7:01 PM.

Thomas Kaczynski Jr., resident, addressed the Committee. He said that it seemed that the Committee would be discussing another way to handle panhandling [The Passing of Items to or from the Occupant of a Motor Vehicle on a Roadway] which, he believes, is not an issue in Rochester. He said the matter should be left alone. Councilor Lachapelle closed public input at 7:03 PM.

3. Approval of the Codes and Ordinances Committee Minutes

- **August 7, 2014**

Councilor Lauterborn **MOVED** to **ACCEPT** the August 7, 2014, Codes and Ordinances Committee meeting minutes. Councilor Gates seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

4. Discussion: Home Occupancy Renewals

Sheldon Perkins, Compliance Officer, stated that the City has about 150 home occupation permits currently in the City of Rochester. He listed many different kinds of home occupations. He said the most common home occupation is daycare facilities. Councilor Varney noted that the daycare facilities are regulated by the State, too.

Councilor Lauterborn questioned if there is only an initial inspection for home occupation and then the City is not required to go back at any point in the future to check on the business again. Mr. Perkins reported that the only home occupation that requires the City to have an inspection by the Building, Zoning, and Licensing Services Department are specifically for food services and daycare centers. Once a home occupation permit is issued there are no requirements of the City or the homeowner to renew their license. He agreed to double check that information and get back to the Committee.

Councilor Lauterborn questioned if other communities have re-inspections in place for home occupations. Mr. Perkins stated that the City of Dover, New Hampshire, only has one initial inspection for all of their home occupation permits.

Councilor Lauterborn questioned if the City ever checked on the home daycares. Councilor Varney stated that there are three levels of daycare centers and the State has its own regulation requirements that have to be met by each facility. It was believed that a childcare home occupation could have up to five children in their own home without requiring the State Daycare License. Councilor Lauterborn stated that daycare centers provide a much needed service in Rochester.

Councilor Lachapelle questioned what Mr. Goldstein's original complaint was about. Councilor Varney stated that it seems once a home occupation permit is acquired that there is no system in place to check back to ensure that the home occupation has not expanded into something bigger than the original intent. The Committee discussed how to resolve this problem without placing a burden on the home owner. Councilor Gates stated that Mr. Goldstein mentioned that the City has no process in place to know if a home with a home occupation has ended either because they no longer are providing the service or they have moved away.

Councilor Lauterborn stated that the Committee needs more information. She requested to invite Mr. Goldstein to the next Committee meeting in order to find out more about what the problem is that should be addressed. Councilor Lachapelle asked the City Clerk to contact Mr. Goldstein. If he is not able to attend the October meeting the Committee would request that he forward a memo to the Committee about his specific concern on the matter.

5. Response from BZLS Department to Real Estate Agent Regarding Off Premises Signs

Mr. Perkins reported that the Department of Building, Zoning, and Licensing, Services has been taking the real estate "snipe" signs down; however, they are almost immediately being placed right back up. He stated that there are at least sixty signs right now in the office. The Director of the Building, Zoning, and Licensing Service Department attempts to contact the owner of the signs when possible. The Committee suggested that the BZLS Department draft a letter to be forwarded to the Strafford County Board of Realtors with the current sign ordinance.

Councilor Varney questioned if the Planning Board is working on a new sign ordinance. Councilor Gray replied yes.

The Committee briefly discussed other problematic sign issues such as the Easter Egg Drop signs and mattress sale signs. Mr. Perkins stated that the BZLS would continue to pick up such signs.

6. Discussion: Loitering

Councilor Lauterborn stated that this matter could be discussed at the next Neighborhood Ward meeting. It is important to see what the local police officers believe could be enforced. She mentioned that Nashua has a policy that specifically states no loitering, which prevents people from just “hanging” out without some type of activity going on. However, it is important to gain input from the local authorities about what could be enforced.

Councilor Gray stated that Chapter 28 of the General Ordinances does not deal specifically with loitering. The local authorities would not be able to prohibit loitering unless there was a specific ordinance in place. The Committee discussed the local problems with loitering and panhandling.

The Committee briefly discussed closing down the Common at a certain time each evening or having some type of permit exceptions in place. It was decided that some people would (and have) complained about closing down the Common to the public.

The Committee decided that Councilor Lauterborn could address this matter with the police officers at the next Ware Two Ward Meeting. Councilor Lauterborn added that the Community Development Committee recommended that the Recreation and Arena Committee discuss the park curfews. It was decided that the posting of signs at the parks would be initiated at the Committee level; however, it would be sent to the full City Council for approval.

Councilor Lachapelle stated that there is no reason to place this item on the Agenda for next month until more information has been provided.

7. Concord Ordinance: The Passing of Items to or from the Occupant of a Motor Vehicle on a Roadway

Councilor Lachapelle said the City Clerk contacted the City of Concord to obtain the proposed ordinance [attached to this set of minutes] and was informed that this ordinance as it is written is not being challenged by the ACLU.

Councilor Gates stated that this ordinance specifically deals with the public roadways. Councilor Lachapelle noted that if the City Council did approve this ordinance then the Fire Department may have to find a different way to fund raise other than the annual “boot drive.”

Councilor Varney suggested that this proposed ordinance be sent to the Police

Councilor Bogan asked if this proposed ordinance would prevent panhandling around the Common. Councilor Lauterborn stated that this particular ordinance would not prohibit that activity at the Common and she read the following section from the proposed ordinance: ***3 B - In a permitted parking area this does not apply.*** The Committee discussed the matter briefly.

Councilor Lachapelle suggested sending this to the prosecutors at the Police Department to see if this is something that could be enforced and useful and also to Attorney Wensley for feedback.

8. Other

No discussion.

9. Adjournment

Councilor Gates **MOVED** to **ADJOURN** the Committee meeting at 7:40 PM.

Respectfully submitted,

Kelly Walters
City Clerk

City of Concord – Current Ordinance – Adopted 5-13-2013

17-7-3 The Passing of Items to or from the Occupant of a Motor Vehicle on a Roadway.

(1) *Intent of Section.* This Section 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 Section, the City Council intends to promote the health, safety and welfare of the citizens traveling by vehicle in the City.

(2) *Definitions.* For purposes of this Section, 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.

(3) *Prohibition on Roadways.* 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 Section 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 Section shall not apply to any law enforcement officer acting in the scope of his/her official duty.
- (d) This Section 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.

(4) *Sunset.* This Section shall automatically repeal on April 9, 2015, unless otherwise ratified by the City Council.

(5) *Penalty.* A person found in violation of this Section shall be guilty of a violation and may be fined not more than \$500.00.

(6) *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.