

**CODES AND ORDINANCES COMMITTEE**

Of the Rochester City Council

**Thursday March 5, 2015**

City Council Chambers

31 Wakefield Street, Rochester, NH

7:00 PM

**Committee Members Present**

Councilor Elaine Lauterborn, Vice Chair  
Councilor Robert Gates  
Councilor Donna Bogan  
Councilor Ray Varney

**Committee Members Excused**

Councilor Peter Lachapelle, Chair

**Others Present**

Jim Grant, Director of BZLS  
Councilor Gray  
Councilor Hamann  
Terence O'Rourke, City Attorney  
Seth Creighton, City Planner  
Patrick Smith, General Code  
Kyle Pimental, Strafford County  
Regional Planning Commission

**MINUTES**

**1. Call to Order**

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

**2. Public Input**

No member of the public addressed the Codes and Ordinances at that time. Councilor Lauterborn closed public input at 7:01 PM.

**3. Approval of the Codes and Ordinances Committee Minutes**

• **February 5, 2015**

Councilor Bogan **MOVED** to **ACCEPT** the Committee minutes of December 4, 2014. Councilor Gates seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

**4. Codification Presentation - Patrick Smith, General Code**

Patrick Smith of General Code gave a detailed PowerPoint presentation to the Codes and Ordinances Committee on codification. He explained the

various reasons that make codification a very useful tool for the public as well as the municipality. Mr. Smith also handed out a brochure with supplemental information. He reviewed the reasons why the City should codify. This is a way to build and plan for the future; the code book is a living breathing document. Mr. Smith explained the search process for residents to find a topic within the online version.

Terence O'Rourke, City Attorney, asked Mr. Smith about their editorial and legal analysis to find conflicts within the code and New Hampshire state statutes. Mr. Smith stated that they track the legislative changes around the nation when it comes to our City ordinances because a problem in another part of the country could eventually pose a problem to our City. He explained that they do provide guidance and he gave an example of such an issue. They are tracking trends from other communities. He explained that this is their expertise and informing the City is the best practice.

Mr. Smith said that they provide an e-kit, which would have information that could be provided to the newspaper and posters that could be hung up around the community to let the citizens know about this new program. He also said that in some communities residents who are aware of this type of program will request it from the governing body.

Mr. O'Rourke discussed the tracking process with Mr. Smith. He said that General Code will provide data if they find a conflict within the ordinances. He explained this further as it applies to the supplementations to the codes. If they find that one ordinance states an elected official's term is three years and another ordinance lists the term at two years they will work to clean it up. Mr. Smith gave the committee a few examples of the importance of making sure the fees and fines schedules are in order.

Councilor Varney said that the City does not get notification when a state law is passed, and asked how his company will get notification. He felt that the City would have to notify them. Mr. Smith agreed with Councilor Varney; however, they will notify the City if they see a lot of activity on a topic.

Councilor Varney asked if there is a standard guideline that the City will need to use when it comes to assigning numbers to the ordinances. Mr. Smith stated that there is a standard structure and that the structure is helpful for future growth. He gave examples of how this would work. Councilor Varney asked if they are proposing a total change to the City's ordinances. Mr. Smith said yes because they have found that this system works, but they could work on it if the City is set on leaving the current system alone. Councilor Varney asked if they would be able to trace to the

original number. Mr. Smith said no, but there would be a deviation table that could be found under the disposition list, which is on the website. Councilor Varney asked if the City would get documentation of all the changes made. Mr. Smith stated that the City would get a workbook of all the changes, as well as the code adoption, everything that General Code will be changing. He explained that the City Council would use this when it comes to voting on their adoption. One would be to adopt the general ordinances and the other would be to adopt the zoning ordinance.

Councilor Varney questioned how much work will the City staff be taking on if we have to make all these changes. Mr. Smith said that he would send Kelly Walters, City Clerk, more information on the process. He mentioned that the process moves quickly providing the code adoption and they will be looking for consistency. He reiterated that they can leave the numbering alone if it is a huge concern.

The Codes and Ordinances Committee discussed the costs associated with having General Code handling the City's codification. The initial cost would be \$16,000 and a yearly eCode360 maintenance fee of \$1,195, and the first year is included in the \$16,000. Councilor Varney asked if there would be other costs over and above the \$1,195. Mr. Smith explained that there would be variable fees for supplementation, which would include the editor and time and material fees, which is at a cost of \$21 per effected page of the code. He went on to explain this process and also explained that there is no limitation on the amount of changes that can be done in a year.

Councilor Lauterborn asked how often would the City be sending them information. Mr. Smith said that every time an ordinance passes would be the best practice. Mr. Smith explained every time there is a change to the law it would show up under the new law tab right away, even though it has not been put into the code; this is included in the \$1195 yearly fee. He also mentioned it could be done monthly or quarterly. Councilor Lauterborn asked if General Code will be the only ones to make changes or will the clerks be allowed. Mr. Smith said only General Code can make the changes.

Councilor Lauterborn questioned the \$16,000. Mr. Smith explained this covers the website, approximately ten code books, the editorial analysis, and the draft.

Councilor Gates asked how often would the paper book be updated. Mr. Smith stated that they would send out paper inserts right after the online version is updated and this would be done on the schedule that the City has set up. He went on to explain that they are trying to steer people to the electronic version. He also stated that they will provide an archive CD.

This is helpful in case the City incurs a lawsuit. He explained that with the CD the City will be able to access what the ordinance looked like and what was in effect at the time of a violation.

Councilor Hamann asked Mr. Smith how often the system gets backed up. Mr. Smith said quite frequently, plus they have off site servers, which are secure and rarely go down. If they have a server go down they have others with backup. The Codes and Ordinances Committee discussed this further with Mr. Smith.

Mr. Smith explained to the committee that the initial process was going to take approximately twelve to fourteen months to get up and running.

Councilor Gray asked if Mr. Smith knew how much the City of Nashua spends annually on codification since they started with General Code. Mr. Smith will research the data and send it to the City Clerk's office. He also encouraged the City to talk to Nashua since they are a frequent user and have been a long time customer.

Councilor Lauterborn wanted to confirm with Mr. Smith that when a new ordinance is adopted and sent to his company will the City be notified if there is a conflict. Mr. Smith stated that the City would be notified. He explained that they should leave the numbering off so that General Code could put it in the right section. Councilor Varney said that they could not pass an ordinance without a number. Mr. Smith explained that the City can still give it a number, but leave the placement alone. He gave the committee further explanation and discussion.

Mr. O'Rourke asked how his company would work with a city. Would they inform them of the number that they should be using. Mr. Smith stated that they would and explained that they assign an editor to one account. They get to know the community and they are there to give guidance when needed. The editor assigned will ask questions if things do not seem to be in order or conflicts arise.

Mr. Smith informed the committee that under the disposition list they can also access NCM [non code material] as it may pertain to changes.

Councilor Varney asked if this was in the budget for the upcoming fiscal year. It was the impression of the committee that it was.

## **5. Discussion: Sign Ordinance, Chapter 42**

Jim Grant, Director of the BZLS, addressed the Codes and Ordinances Committee with the changes Michelle Mears and the Planning Department made to Chapter 42.29.

Mr. Grant said that they made the correction on the "snipe sign," as now being "prohibited."

Mr. Grant explained that 42.29 (j) number 8, Political Signs, should be removed. Under number 9, Holiday Signs without Advertisement, they have removed "or special event signs." Councilor Hamann questioned church holiday signs. Mr. Grant said that they cannot advertise on these signs; however they could apply for a temporary sign.

Mr. Grant reviewed 42.29 (k) number 50, Snipe Signs. They have changed the definition verbiage and there were a few other minor changes. He reviewed (m) number 13, Off-Premise Signs, where they are making changes to item (a) to "only one free standing sign per establishment" and (b) "one real estate sign per premises." He explained that they need to be careful with these changes. Also under (m) number 14, Political Signs, the committee reviewed item (g) regarding the Adopt-A-Spots and the Rochester Common, adding "a twenty-five foot buffer from the garden bed edge." Councilor Varney asked where the issues were. The committee discussed Columbus Avenue briefly. Mr. Grant would like a map of the Adopt-A-Spots. Councilor Lauterborn mentioned that political signs still fall under state law. Mr. Grant added that according to the Attorney General, political signs cannot be on City property.

Councilor Gray informed the Codes and Ordinances Committee on this RSA (664.17) and they are looking to make changes at the State level. He was not sure what the Senate Bill number was. He said that this RSA also affects the polling locations and explained further.

Councilor Lauterborn asked if the City is trying to regulate something that is already regulated. The committee discussed this issue further with Mr. Grant and Councilor Gray. Mr. O'Rourke mentioned that there was wiggle room within the ordinance, which could be interpreted differently. Councilor Gray discussed state roads with the committee. For the time being the committee felt that they could leave the political signs in. The Codes and Ordinances Committee discussed that there is no penalty from the State for allowing them or banning them.

Mr. Grant addressed 42.29 (m) number 15 (a). This has been changed to "no more than one portable sign per property." He said that this affects multi-tenant buildings and he explained why this change was made.

Mr. Grant also mentioned that under this same section a change was made to (d), "appropriately placed to minimize appearance of clutter," which the Code Enforcement Officer will have to determine. Councilor Hamann felt that term should be added to the ordinance.

Mr. Grant explained that there was a grammar error under 42.29 (n) number 2 (d), wall signs, which will be fixed. He also mentioned that this section will also state that "no wall sign shall exceed 10% of the building frontage," which he felt was tasteful. He gave the committee his opinion as to why they are giving the 10%.

Councilor Lauterborn asked if these revisions had passed the Planning Board. Seth Creighton, Chief Planner, said that the Planning Board has not seen this version of changes.

Councilor Lauterborn discussed the proper way of sending this sign ordinance forward. This should go the Chair of the Planning Board, Nel Sylvain for him to confirm the revisions and to decide if it needs to go back before the Planning Board. Councilor Gray did not feel there was enough significant change to have it go back to the Planning Board.

Councilor Varney discussed Granite Ridge as it pertains to zoning. He felt that there are two sentences regarding signage that should be removed. He felt that this issue belongs in the sign ordinance, not zoning. Mr. Grant agreed. Councilor Varney stated that they would need to change the zoning ordinance. He discussed this further with the committee and stated that he will work on this with the appropriate parties.

Councilor Lauterborn said that it will have to go to the City Council as a special meeting for the first reading and a public hearing would need to be scheduled for the second reading.

Councilor Gates **MOVED** to present amendments to Chapter 42.29, Signs to the full City Council at the earliest possible time, with completed revisions. This will require a Special Meeting for a first reading. Councilor Varney seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

The Codes and Ordinances Committee was hoping to have the Special Meeting prior to the upcoming Workshop Meeting on March 17, 2015.

## **6. Discussion: Aquifer Protection Draft Ordinance**

Seth Creighton, Chief Planner, and Kyle Pimental, Senior Planner from

Strafford County Regional Planning Commission, reviewed the draft ordinance for the Aquifer Protection with the Codes and Ordinances Committee.

Mr. Creighton explained that they brought this issue to the committee's December meeting for discussion and now they have been given the go-ahead to start the process from the Planning Board.

Mr. Creighton said that the Aquifer Protection Ordinance is to protect the drinking water pertaining to wells within the City. He explained that he and various departments within the City, as well as the Strafford County Regional Planning Commission, have been meeting on a weekly basis to put this together. He said that they have taken the state model and geared it to our City's standards.

Councilor Lauterborn asked if the committee was comfortable enough with the draft ordinance to discuss. Mr. Pimental asked that they break the discussion up so that they can address the map and then discuss the changes to the actual ordinance. He passed out a larger version of the map so that it would be easier to read.

Mr. Pimental stated that they did make changes to the map and they worked with Emery and Garrett on the proposed new zones. The committee discussed if these wells are all active. Mr. Pimental stated only one well is active. He mentioned that one of the new zones on the map does fall partially in Farmington, NH, and they are looking to work with them on this. The committee briefly discussed the map.

Mr. Pimental went on to discuss the ordinance. He explained that the proposed changes are substantially different from the current ordinance because standards have changed. Mr. Pimental read draft 42.10 in its entirety, which can be found in the packet. He said that there were still some changes that need to be made.

The Codes and Ordinances Committee briefly discussed the maintenance and inspection process along with compliance inspection fees. The committee commented on a few recommendations. Mr. Grant suggested that they could have a separate fee schedule in the ordinance. The committee wanted to know who would they classify as a qualified professional. Mr. Pimental said that this is the formal definition from the NHDES, but it can be removed.

Councilor Varney would also like to know what properties are going to be effected because it could be substantial. Mr. Creighton stated that he will look into this.

Councilor Lauterborn asked if the Planning Board has seen this document yet. Mr. Creighton explained that they were given a copy at their March 2, 2015, meeting. He said that it was not discussed at that time. He stated that it would probably be discussed at either the March 16, 2015, or April 6, 2015, meeting. Mr. Pimental said that they have brought the draft ordinance back to this committee for their feedback and they expect to be back before them after the Planning Board looks at it for their endorsement to send it to the City Council for a first reading and a Public Hearing.

Councilor Lauterborn said that it looks like this process will still be a few month away. This issue will be staying in committee at this time.

## **7. Memo From Michael Hopkins, School Superintendant**

Councilor Lauterborn expressed that she understood School Superintendant Michael Hopkins, concerns about holding elections in the schools. His concerns are based on parking and other issues not security. She does not feel that they need to pursue the schools for elections.

Councilor Gray cited that security is still an issue. Councilor Varney agreed that parking could be an issue for some of the schools when school is in session. Councilor Lauterborn did not want to see the schools shut down to hold the elections.

Councilor Varney would like Kelly Walters, City Clerk, to check with the owners of the VFW to see if they would be willing to hold the election there if it were vacant at the time of the elections.

The Codes and Ordinances Committee commented that the City Clerk's office will continue to work on polling locations.

## **8. Other**

The Codes and Ordinances Committee discussed looking into other companies for codification proposals. The committee also discussed that this would have to be in the City Clerk's budget under "Issues and Options."

Councilor Varney wanted to see other quotes on codification. Councilor Grey mentioned that having the information from Nashua would be helpful because they are a community that deals with the same issues as

Rochester. He explained this further. The committee discussed that there would be fluctuation in any given year that would determine the cost of the updates.

Councilor Lauterborn asked if codification needs to come back to the committee. Councilor Varney mentioned that it should come back so that the committee can make recommendation before it goes up for the budget presentation. Both Councilor Varney and Councilor Lauterborn like the idea of codification if the money is available.

Councilor Gates asked if there were a lot of upcoming changes to our ordinances that would change the yearly cost that the City would incur. Councilor Varney mentioned that storm water could be an issue. Councilor Lauterborn said that with the timing of the process it could be after the committee passes a storm water ordinance.

Councilor Gates asked if we implement all these software upgrades within the City are the residents going to look for a reduction in personnel. Councilor Lauterborn did not feel that this will be an issue. The committee had a brief discussion on the implementation of software.

The Codes and Ordinances Committee discussed the staff workload as it pertains to getting codification up and running and if they would need to implement a committee to work on this project with General Code.

## 9. Adjournment

Councilor Gray **MOVED** to **ADJOURN** the Committee meeting at 9:20 PM. Councilor Gates seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Respectfully submitted,

Nancy Carignan  
Assistant City Clerk

# Why the City of Rochester, NH should do a codification of the city ordinances with General Code:

- **All of the legislation is one place.** Instead of having legislation scattered around in multiple books, filing cabinets and boxes—all of the laws are in one place.
- **All of the legislation is formatted and numbered properly.** The Code will be set up in an easy to use format and style developed in accordance with a manual developed over 50 years. The format is clear, concise and easy to read—designed with the laymen in mind. Access to information will be easier and amending legislation in the future will be a simpler and more efficient process because of the consistency imposed by following the style manual.
- **All of the legislation is up to date.** During the process of codifying your laws – an editor can review the legislation to ensure that the laws are completely up to date—free of conflicts, inconsistencies and duplications.
- **All of the legislation is cross referenced and indexed.** The Code will be cross referenced and indexed so that information can be easily located within the Code chapters
- **All of the legislation is available electronically.** Technology has greatly improved the way local governments store, maintain and access documents. Today your Code is much more than a book – it's actually a fully searchable electronic version of your Code so that everyone has instant access to the most current information. You can easily make your Code available to citizens 24 hours a day by putting it on the Internet.
- **Respond quickly and accurately to questions.** A Code is an easily accessed resource for appointed officials and community personnel, enabling them to find the information they need to answer questions from both citizens and other municipal officials in a professional and efficient manner. All officials have the same information –which is a good reflection on the local government.
- **Enforce laws with confidence and consistency.** A Code is a practical and efficient tool that your courts, police and other enforcement officials can rely on for accurate and timely information. By codifying your laws --- it is easier to cite chapters and sections of the Code.
- **Update your laws and plan for future growth and development.** A Code provides a clear view of existing situations and makes it easier to determine the impact of proposed changes and amendments. The Code is an accurate depiction of how your local government operates.
- **Fulfill a community obligation to make the laws available to everyone.** It is the duty of every municipality to maintain its laws in a comprehensive, up-to-date and understandable form in a location that the average citizen can find and use. Freedom of Information requests for your laws can be handled more efficiently.

- **Minimize the risk of legal action.** Having the laws of the community codified minimizes the risk of legal action against the community. Because the laws are documented and substantiated during the process – the risk of having out of date and obsolete provisions in the Code is reduced.
- **Transition from one administration to another.** A code enables new officials and employees to have immediate access to the same information their predecessors had—which eases the process of transitioning from one government to another.

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## *Editorial Analysis & Legal Review (why this is important):*

After a brief review of the City of Rochester’s existing Code, a General Code editor has identified the following recommendations. Please keep in mind these are just a few suggestions for improving the City’s Code. As pointed out in the attached proposal, General Code is recommending a complete editorial analysis of the City’s Code.

### **Obsolete provisions that could be revised or repealed**

Chapter 5 of the City Code sets forth the salaries of elected officials. Many municipalities choose to omit this information from the code since it may be subject to frequent revision.

### **Inconsistent provisions within and between chapters**

The Code should be reviewed to ensure that the titles of departments, boards and/or officials are used consistently throughout. For example, § 3.10 addresses the “Recreation, Parks and Youth Services Commission,” while § 3.1(a)(9) refers to the “Recreation and Park Commission.”

### **Missing Material or Additional Revisions**

1. Chapter 3 was amended in 2011 to add a new § 3.15, Arts and Culture Commission. The City may wish to also revise § 3.1 of this same chapter to add this commission to the list in Subsection (a).
2. Chapter 3 sets forth the various boards, commissions and committees in the City. In some instances the provisions include details regarding membership, duties and responsibilities; in other instances, the Code simply states that the details of the board or commission “shall be as provided by ordinance.” For the sake of consistency, the City could consider whether substantive provisions regarding all boards and commissions should appear in the Code.
3. Chapter 19, Solid Waste, § 19.6, states that residential solid waste shall be placed in suitable receptacles “as defined under 19.1(v).” The reference definition is one of “residential recycling bin,” so either the internal reference needs to be changed to refer to 19.1(y), a definition of “rubbish and waste receptacles,” or another change to the text is required.

## State legislation that may be missing from the municipality's Code

Existing Code provisions would be compared against relevant state law provisions, including recent amendments to state law.

1. For example RSA 76:11 was amended in 2012 to permit municipalities to send tax bills by electronic means "with the approval of the governing body." Are there provisions in Rochester's Code that could be revised to account for this state law amendment?
2. Are there provisions in the City Code that are affected by state law revisions to fuel service sign requirements in RSA 339:30-a adopted in 2012?

## Fees and Penalties

1. **Fees.** Where penalties appear in the Code, the City could review the amounts to ensure that they are current and accurately reflect the City's costs in administering the relevant provisions. Some municipalities choose to remove specific fee amounts from the code and instead indicate that the fees are as set by the governing body from time to time.
2. **Penalties.** State law currently permits the City to impose penalties not exceeding \$1,000 for violations of ordinances. The City could review its current penalty provisions to determine whether revisions are necessary to increase (or decrease) existing penalty amounts. (See RSA 47:17.)

## References



The following (4) references are current General Code clients who have completed similar projects. Please feel free to contact anyone on the list.

### Town of Bedford, NH

Ms. Lori Radke - Clerk

(603) 472-3550

[lradke@bedfordnh.org](mailto:lradke@bedfordnh.org)

### City of Nashua, NH

Ms. Tricia Piecuch - Deputy Clerk

(603) 589-3004

[BergeronP@nashuanh.gov](mailto:BergeronP@nashuanh.gov)

### Town of Merrimack, NH

Ms. Diane P. Trippett - Clerk

(603) 424-3651

[dpollock@ci.merrimack.nh.us](mailto:dpollock@ci.merrimack.nh.us)

### Town of Wolfeboro, NH

Ms. Patricia M. Waterman – Clerk

(603) 569-5328

[patmw1@metrocast.net](mailto:patmw1@metrocast.net)

**From:** [Pat Smith](#)  
**To:** [Nancy Carignan](#)  
**Subject:** General Code  
**Date:** Monday, March 09, 2015 3:53:31 PM  
**Attachments:** [image002.png](#)  
[image003.png](#)  
[image006.png](#)  
[image007.png](#)  
[image008.png](#)

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Hi Nancy:

1. Attached is a copy of the sample Editorial & Legal Analysis Document that I provided to the committee last week that you requested.
2. Over the last 3 years, the City of Nashua, NH has **spent on average \$4241.00** per year (1195.00 for eCode360 Maintenance and \$3046 for Supplementation of new ordinances) with General Code.

Please let me know if you have any questions.

Best regards, let me know if you got this?

Pat

**Patrick Smith**

*Account Manager*

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**From:** Nancy Carignan [<mailto:nancy.carignan@rochesternh.net>]