

CODES AND ORDINANCES COMMITTEE
Of the Rochester City Council
Thursday February 5, 2015
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
Councilor Ray Varney

Others Present

Jim Grant, Director of BZLS
Councilor Gray
Councilor Collins
Councilor Keans
Peter Cutrer, Deputy Fire Chief
Michelle Mears, Planner

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..

2. Public Input

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

3. Approval of the Codes and Ordinances Committee Minutes

- **December 4, 2014**

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

4. Chapter 23 Fire Prevention Ordinance

Peter Cutrer, Deputy Fire Chief, addressed the Codes and Ordinances Committee with revisions to the proposed amendments to Chapter 23. He explained that he is back before the committee because of concerns that arose from the February 3, 2015, City Council meeting.

Councilor Keans explained that she had an issue with the title "Certificate of Fitness." She felt that from the sound of it, this indicates that the contractor has passed some standard of training and education to be certified by the City, but the City will not be giving any test.

Councilor Keans also expressed concerns that a lot of this is not mandatory, but required for safety and this could turn into a full time job. She would like to see a disclaimer added stating that the Fire Department will not arbitrarily uphold this agreement. Her other concern was the City being sued for licensing one company and not another. It might be considered a restriction of trade. She does understand that this is about safety.

The committee discussed the different titles for this type of license/registration. They reviewed other communities' programs on this issue.

Councilor Keans did agree that if one of these companies was going to be shutting down a fire system that the Fire Department should be made aware of it; it does make sense to have an agreement.

Councilor Varney asked how the contractor was going to be certified. Councilor Keans stated that they were not. Mr. Cutrer concurred.

Mr. Cutrer confirmed that the issues that Councilor Keans had were with certifying a contractor and possibly getting sued as a result of this agreement. He will be addressing these two issues by explaining the NFPA code, explaining that he sits on four technical committees for them. He gave committee members a handout of the NFPA Fire Code pertaining to the "Certificate of Fitness."

Mr. Cutrer explained that the City cannot make any changes to the NFPA code, but as a municipality they can change the language in their ordinance when it comes to naming the license. He read the committee sections 1.13.4 and 1.13.10, (number six), which pertains to the two issues.

Mr. Cutrer cited that local businesses are getting ripped off by unethical contractors. He gave a couple of examples of these situations and explained that he has caught two contractors without permits or licenses. Councilor Keans asked if they put this license into effect what could be done to those contractors. Mr. Cutrer said that it may sound harsh, but they can be punished. He explained the process. Councilor Keans stated that this will not stop all of these types of contractor. He agreed, but now they would be able to fine them \$175. Mr. Grant mentioned that it is \$100 right now and

Mr. Cutrer is proposing the \$175. Mr. Cutrer mentioned that if a contractor makes an honest mistake they will not be looking to fine them.

Mr. Cutrer said that this license will help contractors that want to play by the rules. If they want to work in the City they will need to have one of these agreements. He went on to explain further that other communities in New Hampshire have this.

Councilor Keans asked if a contractor needs to be licensed to install a sprinkler system. Mr. Cutrer stated that they did not need a license and in New Hampshire there is no license for anything they are proposing. Councilor Keans and Mr. Cutrer discussed this further.

Councilor Varney asked that if electricians and plumbers need licenses, why not these contractors. If this is the case, how will they prevent businesses from getting a bad contractor. He asked how would a business know if they hold this license. Mr. Cutrer said that they would be published on their website. Councilor Keans felt that this could pose a lawsuit. Councilor Varney questioned how are they going to catch these contractors before they leave town; are they going to do an inspection? Mr. Cutrer explained that before they do any work they need to pull a permit and, in this case, it would be a sprinkler permit. They would need plans to be reviewed by the Fire Department and then they would go through the Building, Zoning and Licensing Services.

Mr. Cutrer explained that it is pretty easy right now to get one of these permits. Councilor Varney asked if the proposed license would fix this. Mr. Cutrer stated it would. The contractor or applicant would need to prove to the Fire Department they have the credentials, such as a NICET or Electrical License, to do this type of work. The BZLS would not issue a permit until they have gotten the approval of the Fire Department. Councilor Keans asked where to find the criteria the contractor would have to meet. He read her the NFPA code, which explained this.

Councilor Gates asked how they were going to educate the businesses that they need a licensed contractor when it comes to these systems. He feels that most businesses would get a series of estimates and would most likely go with the lowest priced one. Mr. Cutrer agreed, but it is going to cost them more in the long run. He went on to explain that after the approval and implementation of this amendment they will have a ninety day period to make everyone aware.

Councilor Lachapelle stated he liked the proposed ordinance. Mr. Cutrer explained that there are two positives to this program. Contractors

who do quality work will get a license and they would publish a list on the Fire Department's site stating these are licensed contractors with the City; it will not state if they are recommended. Also, it will not put the City in a position to get sued per the NFPA code 1.13.10 section 6.

Councilor Collins asked Mr. Cutrer about an issue at Safran and how would this pertain to it. Mr. Cutrer briefed the Codes and Ordinances Committee on this issue.

The Codes and Ordinances Committee agreed on titling this document as "Application for Fire Alarm Contractor Listed Agent." Councilor Gray asked that they define "Listed Agent" as it pertains to the certificate of fitness within the ordinance. Mr. Cutrer said that he was going to make the revisions for Chapter 23 and he explained how he was going to list it in the ordinance.

Councilor Varney **MOVED** to present amendments to Chapter 23, Fire Safety Measures, back to the full City Council on March 3, 2015, with revised amendments. Councilor Lauterborn seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Keans asked if they were adopting everything from the NFPA chapter 1.13. Mr. Cutrer explained that not everything was going to be added, just items 5, 6, and 9.

5. Discussion: Sign Ordinance, Chapter 42

Michelle Mears, Staff Planner, explained the updated changes the Planning Department is proposing to Chapter 42.29 under Signage since meeting with them in December 2014. She passed out a memo to the committee members.

Ms. Mears stated that this memo represents the recommended changes to portable signs and special promotions, events, and grand opening signs. She explained that they struck out "no more than one such sign may be displayed on any property" when it came to portable signs. She stated that they added two requirements for special promotional signs, adding that they will require a permit and the promotion must take place on the business' premises.

Councilor Varney did not support these types of signs and asked about permanent (pylon) signs. Ms. Mears explained that there are these types of signs at such locations as Shoreyville Plaza, but they cannot be used to

promote. Mr. Grant mentioned that they had discussed allowing plazas with a large road frontage multiple pylon signs.

Councilor Lauterborn said that the business owners that were at the December meeting spoke more about portable signs, such as sandwich boards. She stated these signs would be taken in at night. Councilor Varney said that they are already allowed in the downtown area. Councilor Collins agreed with Councilor Lauterborn when it comes to special promotions and temporary signs, which would be taken in when the business is closed. Ms. Mears said that they can add that requirement to the ordinance. Councilor Varney stated that only one portable sign per business, but when it comes to a plaza they could have several put out and that would look awful. Ms. Mears said they would not be allowed because they would be in a highway zone. Councilor Varney said that in various areas of the City where the speed limits are higher who will even notice these signs.

Councilor Varney asked Ms. Mears about the special downtown overlay and downtown areas. Ms. Mears and Mr. Grant explained them and explained neighborhood mixed use lying in density rings. Councilor Varney did not think they should use the density rings. Mr. Grant explained the use of these was to define the three areas. The committee further discussed the areas that they are looking at.

Councilor Varney said that portable signs should remain on the sidewalk and not in the planting area.

Councilor Lauterborn asked if businesses outside the allowed areas can go to the Zoning Board. Councilor Varney agreed; however, it is difficult.

Councilor Gray asked Mr. Grant if they resolved the issues with the signs on Wakefield Street. Mr. Grant said they are in the process of bringing one to court and the others have taken them down.

Councilor Varney asked Ms. Mears about exempt signs indicated on page 185, 42.29 (j). He commented on political and snipe signs. Ms. Mears explained that was an oversight on her part; they are prohibited. The committee went on to discuss that political signs are a separate issue and they cannot be erected in the City's Adopt-A-Spot areas. Ms. Mears will correct this section. Councilor Varney asked her to also check into 42.29.40 pertaining to political signs.

The Codes and Ordinances Committee discussed 42.29, (m), number 13, [Off-Premise Signs and seasonal signs.] Mr. Grant gave an example that part of this section is due to the fact that some farms are off the road.

Councilor Keans and Councilor Lauterborn felt that these signs are necessary for business. Councilor Varney asked about them being permitted. Mr. Grant commented that maybe these signs need special approval. The Codes and Ordinances Committee felt that this was an option.

Councilor Varney questioned when a person is holding a sign to advertise sales and promotions, is that allowed? Mr. Grant felt that this could be crossing the line with freedom of speech so they could have issues.

Councilor Gray informed the committee on the state RSA 664.17, which pertains to political advertising. Councilor Varney also referred to a letter from Bill Gardner, Secretary of State, which pertained to political signs. Mr. Grant and the Codes and Ordinances Committee discussed that the City does have an ordinance in addition to the state RSA. Councilor Varney explained that per the letter political signs are not allowed on City property. Councilor Gray said that there are three bills currently in committee at the state level addressing this. The Codes and Ordinances Committee briefly discussed this further.

Councilor Varney showed a Power Point presentation of various signs around the City, which the committee discussed with Ms. Mears and Mr. Grant. The Codes and Ordinances Committee discussed that putting signs on light or telephone poles is illegal. Councilor Gray expressed there could be concerns if the poles are privately owned. The committee discussed seeking permission from the companies that own the poles, which would allow the City to remove signs from them.

The Codes and Ordinances Committee discussed banners, which are usually placed on fences around the City. In most cases they are temporary and promoting a charitable organization. Mr. Grant briefly discussed these types of signs with the committee.

Councilor Varney asked about promotional flags and the inflatable characters. Ms. Mears said that she would like to work on this issue. Mr. Grant explained at this time they are allowed.

The committee touched on interior signs, which are permitted, with the exception of the Historic District, where they shall not exceed twenty-five percent of the window area. Also discussed were yard sale signs and banner signs.

Councilor Keans and Councilor Lauterborn said that they had seen vehicles parked on the side of the road and in lots and are displaying

advertising. Mr. Grant said that was allowed under the current ordinance, 42.29 (i) 4, but they are looking to address this.

Councilor Varney asked how are they going to educate the public. He felt they needed adequate time to be in compliance. Councilor Lauterborn thought they could allow them a verbal warning for the first notice. Councilor Keans mentioned that they could work with the City Manager's office to help with getting information out.

Mr. Grant wanted to follow up on parked vehicles as advertising. He stated that it is listed under 42.29 (i), 5 [prohibited signs], of the ordinance, which he read to the committee.

Councilor Lachapelle agreed that there is more work to be done to the proposed ordinance and it will be staying in committee at this time. Ms. Mears stated that she will continue to work on the proposed changes and bring it back to the Codes and Ordinances Committee in March at the next scheduled meeting.

6. Discussion: Panhandling

Councilor Lauterborn explained her frustration with this issue. The Codes and Ordinances Committee discussed a Civil Liberties case pertaining to this type of ordinance. The Superior Court refused to hear the case and sent it back to the lower court.

Councilor Varney stated that the Police Department has had sixty reports over the last year.

Councilor Lauterborn said that they have given this a good effort and maybe it should be a police matter and could fall under "disorderly conduct." The Codes and Ordinances Committee discussed it further; however, Councilor Lachapelle explained that it will stay in committee and there will be no action at this time.

7. Other

Councilor Gates asked to discuss housing occupancy with the committee as he sees a possible issue with refugees coming into the area. He felt they may need to limit occupancy. He handed out his recommendations, which came from the Durham, N.H., ordinance. Councilor Gates wanted the committee to take preventive steps regarding this issue.

Mr. Grant addressed this issue with the Codes and Ordinances Committee. He gave them examples and explained that it would be hard to enforce. Councilor Gates explained that this ordinance would not pertain to families, but unrelated occupants. Mr. Grant and Councilor Gates debate this further. Councilor Lachapelle expressed that he had concerns with this ordinance.

Councilor Keans asked how would this ordinance deal with rooming houses. Mr. Grant state that the NFPA Fire Codes has regulations for rooming houses.

Mr. Grant and the committee briefly discussed Chapter 25.1, Overcrowding Housing, and 25.2, Multi-Family Dwellings, Posting of Owner and Individual Responsibility Required.

Councilor Lachapelle stated that this issue will be staying in committee at this time. No other business was discussed.

8. Adjournment

Councilor Gates **MOVED** to **ADJOURN** the Committee meeting at 8:25 PM. Councilor Varney seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Respectfully submitted,

Nancy Carignan
Assistant City Clerk