

**City Council Special Meeting
January 19, 2021
Council Chambers and
Remotely via Microsoft Teams
6:30 PM**

COUNCILORS PRESENT

Councilor Abbott
Councilor Belken
Councilor Bogan
Councilor Gray
Councilor Hainey
Councilor Hamann
Councilor Hutchinson
Councilor Lachapelle
Councilor Lachance
Councilor Rice
Councilor Walker
Deputy Mayor Lauterborn
Mayor McCarley

OTHERS PRESENT

Blaine Cox, City Manager
Katie Ambrose, Deputy City Manager
Terence O'Rourke, City Attorney

Minutes

1. Call to Order

Mayor McCarley called the City Council Special meeting to order at 6:30 PM. She had read the following preamble prior to the Public Hearing immediately preceding the special meeting:

Good Evening, as Chairperson of the City Council, I am declaring that an emergency exists and I am invoking the provisions of RSA 91-A:2, III (b). Federal, state, and local officials have determined that gatherings of 10 or more people pose a substantial risk to our community in its continuing efforts to combat the spread of COVID-19. In concurring with their determination, I also find that this meeting is imperative to the continued operation of City government and services, which are vital to public safety and confidence

during this emergency. As such, this meeting will be conducted without a quorum of this body physically present in the same location.

a.) **Public Input:** Due to the ongoing situation with COVID-19, the City of Rochester will be taking extra steps to allow for public input, while still ensuring participant safety and social distancing. In lieu of attending the meeting, those wishing to share comments, when permitted, with the City Council (Public Hearing and/or Workshop settings) are encouraged to do so by the following methods:

- **Mail:** City Clerk/Public Input, 31 Wakefield Street, Rochester, NH 03867 (*must be received at least three full days prior to the anticipated meeting date*)
- **email** PublicInput@rochesternh.net (*must be received no later than 4:00 pm of meeting date*)
- **Voicemail** 603-330-7107 (*must be received no later than 12:00 pm on said meeting date in order to be transcribed*)

Please include with your correspondence the intended meeting date for which you are submitting. *All correspondence will be included with the corresponding meeting packet (Addendum).*

In addition to the above listed public access information, the City Council will be allowing the public to enter Council Chambers and speak in person during the Public Input portion of this meeting. In an effort to adhere to CDC guidelines: enter only at the front Wakefield Street entrance and exit on the side closest to the police department and adhere to 6-foot social distancing while inside. Hand sanitizer and facemasks will be available at the Wakefield Street entrance. Participants will be admitted into Council Chambers one at a time to speak, and will exit directly thereafter. Please note; the seating in Council Chambers will not be available for the public during meetings.

At this time, I also welcome members of the public accessing this meeting by phone. The public can call-in to the below number using the conference code. This meeting will be set to allow the public to "listen-in" only, and there will be no public comment taken via conference line during the meeting.

Phone number: 857-444-0744

Conference code: 843095

b.) **Roll Call:** Please note that all votes that are taken during this meeting shall be done by Roll Call vote.

Let's start the meeting by taking a Roll Call attendance. When each member states their name (and/or ward), also please state whether there is anyone in the room with you during this meeting, which is required under the Right-to-Know law. (Additionally, Council members are required to state their name and ward each time they wish to speak.)

Deputy City Clerk Cassie Givara took the roll call. The following Councilors were present and indicated that they were alone in the location from which they were remotely connecting: Councilors Abbott, Belken, Bogan, Gray, Hainey, Hamann, Hutchinson, Lachance, Lachapelle, Lauterborn, Rice, Walker and Mayor McCarley.

2. Amendment to Chapter 80 of the General Ordinances of the City of Rochester, Outdoor Dining Establishment *first reading and consideration for adoption*

Councilor Lachapelle **MOVED** to read the amendment for a first time by title only. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous roll call vote with Councilors Walker, Belken, Bogan, Lachapelle, Hamann, Lauterborn, Hainey, Abbott, Gray, Hutchinson, Lachance, and Mayor McCarley all voting in favor. Mayor McCarley read the amendment to Chapter 80 of the General Ordinances for a first time by title only as follows:

**Amendment to Chapter 80 of the General Ordinances
of the City of Rochester, Outdoor Dining Establishment**

THE CITY OF ROCHESTER ORDAINS:

That Chapter 80 of the General Ordinances of the City of Rochester and currently before the Rochester City Council, be amended as follows:

§ 80-15 **Site plans required.**

Article II

Outdoor Dining Establishments

Such requests shall include a dimensioned site plan of the existing conditions, including a depiction of public infrastructure such as curblines, light poles, bike racks, street trees, tree grates, manhole covers, meters,

licensed A-frame signs, adjacent on-street parking and loading zones, adjacent accessible sidewalk curb cuts and the like. Such requests shall also include a dimensioned site plan depicting the proposed table/chair layout plan for outdoor dining, **lighting**, dimensioned routes of travel within the outdoor dining area and on the adjoining public sidewalk, as well as detail sheets for the proposed enclosure system, tables, chairs, lighting, trash receptacles, and the like. These plans will be reviewed by the Technical Review Group and suggestions forwarded to the City Manager. **Once Site Plans are approved, no changes shall be allowed without the approval of the City Manager.**

§ 80-26 Site design standards for establishments with alcohol service.

Outdoor dining establishments with alcohol service should meet the following site design standards:

- A. Outdoor dining establishments shall be separated from the public pedestrian space on the adjacent municipal sidewalk by an enclosure system ~~consisting of heavy-duty black decorative metal materials or equivalent~~ as approved by the City Manager or his/her designee; special attention shall be paid to the method used to support the enclosure system in order to avoid damage to public property and ensure public safety; the minimum height of the enclosure system shall be 30 inches and the maximum height shall be 36 inches, **measured from the lowest point of the public space being utilized.**
- B. Outdoor dining establishments shall not have live entertainment of any type located outside, and no visual entertainment shall be situated on the inside of the building in such a manner that it is directed toward patrons in the outdoor dining area.
- C. Seating shall be appurtenant and contiguous to a doorway accessing the main restaurant facility with service provided within the area approved by the City Manager. Exceptions to this provision will be allowed consistent with New Hampshire State Liquor Commission approval for particular licensees.
- D. The internal dimensions and table/chair layout of the outdoor dining

area must allow for the passage of customers and wait staff and shall, in any event, meet ADA requirements.

- E. Outdoor dining establishments must provide a five-foot radius clearance from the center of restaurant doorways (exterior), and doorways shall be kept clear at all times and a five-foot minimum clear pedestrian path in front of restaurant doorways (exterior) shall be maintained at all times.
- F. The enclosure system, tables and chairs shall be movable/nonpermanent. The applicant shall affix and maintain rubber tips to the legs of any table or chairs used on concrete, brick or granite surfaces. It is the applicant's responsibility to ensure that all movable items within the outdoor dining area are secured against wind or theft. The City accepts no liability for lost, stolen or damaged property.
- G. In all areas where outdoor dining establishments are allowed the width for the pedestrianway adjacent to the area shall, at a minimum, be three feet and, in any event, meet ADA requirements, but will depend on site conditions. The pedestrianway in both instances shall allow for and provide clear unimpeded passage and access along the area. The pedestrianway shall be located entirely on the public sidewalk property and shall meet criteria that ensure pedestrian safety, usability and ADA compliance. In no event shall the area interfere with accessibility or public safety, including safe lines of sight for motor vehicles.
- H. Canopies over the outdoor dining areas shall not be allowed. ~~unless they are completely supported by hardware on the building structure, that is, there shall be no vertical supports in or around the outdoor dining.~~ Table umbrellas are allowed, but must not extend beyond the area. No tents or covers shall be permitted over the outdoor dining space.
- I. No object strictly related to advertising shall be allowed in the area.
- J. No improvements or personal property located within the area shall extend on or over any City property located outside the area.

- K. Decorations must be fire retardant and meet NFPA 701 Standards.
No decorations permitted except those approved on the site plan.
No loosely hanging material.

§ 80-27 Rules and regulations.

Outdoor dining establishments shall agree at all times to comply with all local laws, rules, regulations and orders, including but not limited to the following:

- A. The Health Department shall approve outdoor food service operations and cleaning operations, with the area to be left in a clean and sanitary condition at all times, and no outdoor garbage containers will be permitted. The area shall be left in clean condition at close of business with all garbage removed in its entirety from the area, and any ground debris swept up, at close of daily business. No food prep, grilling, **cooking, appliances**, ~~service windows~~, service counters, ~~wait stations~~, or bus buckets shall be allowed in the area and no condiments, paper products or the like shall be stored on the tables in the area. The Health Department shall review/approve that kitchen facilities are sufficient to support additional seating.
- B. The Director of Buildings, Zoning, and Licensing Services shall review/approve that bathroom facilities are sufficient to support outdoor dining seating. **Outdoor dining capacity must be in compliance with State law and the Food Code to ensure that each restaurant is approved for additional seating.**
- C. ~~Only decorative lighting shall be permitted.~~
- C. **The permittee is responsible for removing trash and regularly cleaning the areas being used for outdoor dining (including the areas where servers traverse between the restaurant and extended tables and chairs). Restaurant patron trash shall only be disposed of in the restaurant's commercial trash containers and not in the sidewalk trash receptacles.**
- D. A place of assembly inspection and updated place of assembly permit

shall be required from the Fire Department, and the Fire Department shall review/approve means of egress as part of the Technical Review Group process.

Effective immediately upon passage.

Councilor Lachapelle asked if there needed to be a motion to send this amendment back to Committee. Mayor McCarley stated that to send this back to Committee would require a suspension of the Council rules and, in turn, additional votes. She recommended a motion to accept the amendments to the ordinance with a second, and then to have the motion tabled in order to have further discussion and work done at the Codes & Ordinances Committee. The amendment would then come back to Council and be removed from the table for a vote.

Councilor Lachapelle **MOVED** to **ADOPT** the amendment. Councilor Walker seconded the motion. Councilor Lachance **MOVED** to **TABLE** the motion to adopt. Councilor Lauterborn seconded. The **MOTION CARRIED** by a unanimous roll call vote with Councilors Lachapelle, Gray, Hainey, Abbott, Bogan, Hutchinson, Lachance, Hamann, Lauterborn, Walker, Belken, and Mayor McCarley all voting in favor.

3. Adjournment

Mayor McCarley **ADJOURNED** the Special City Council meeting at 6:39 PM.

Respectfully Submitted,

Cassie Givara
Deputy City Clerk