

Codes and Ordinances Committee

Councilor Peter Lachapelle, Chair
Councilor Elaine Lauterborn, Vice Chair
Councilor Tom Abbott
Councilor Donna Bogan
Councilor Robert Gates



**CODES AND ORDINANCES COMMITTEE
PUBLIC HEARING**

Of the Rochester City Council
Thursday, June 1, 2017
City Council Chambers
31 Wakefield Street, Rochester, NH

Agenda

1. **Call to Order**
 2. **Amendment to Chapter 16 of the General Ordinances of the City of Rochester Regarding the Requirement to Connect to Public Sewer P. 9**
 3. **Amendment to Chapter 42 of the General Ordinances of the City of Rochester Regarding Taverns P. 11**
 4. **Adjournment**
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CODES AND ORDINANCES COMMITTEE

Of the Rochester City Council
Thursday, June 1, 2017
City Council Chambers
31 Wakefield Street, Rochester, NH
Immediately following Public Hearing

Agenda

1. **Call to Order**
2. **Public Input**
3. **Acceptance of the Minutes: April 6, 2017 P. 3**
4. **Amendment to Chapter 16 of the General Ordinances of the City of Rochester Regarding the Requirement to Connect to Public Sewer P. 9**
5. **Amendment to Chapter 42 of the General Ordinances of the City of Rochester Regarding Taverns P. 11**
6. **Other**
7. **Adjournment**

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City Clerk's Office

CODES AND ORDINANCES COMMITTEE

Of the Rochester City Council

Thursday, April 6, 2017

City Council Chambers

31 Wakefield Street, Rochester, NH

6:00 PM

Members Present

Councilor Lachapelle, Chair
Councilor Lauterborn, Vice Chair
Councilor Abbott
Councilor Bogan
Councilor Gates
Mayor McCarley

Others Present

Attorney O'Rourke Councilor
Deputy Police Chief Toussaint
Councilor Haman
Councilor Gray
Jason Hamann, Moderator
of Ward 4

MINUTES

1. Call to Order

Councilor Lachapelle called the meeting to order at 6:00 PM. All Committee members were present.

2. Public Input

Councilor Lachapelle invited the public to address the Committee. No member of the public came forward.

3. Approval of the Codes and Ordinances Committee Minutes – December 1, 2016

Councilor Gates **MOVED** to **ACCEPT** the minutes of December 1, 2016. Councilor Bogan seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

4. Signage at 1 Wakefield Street

Councilor Lachapelle said a citizen had contacted him about vehicles being towed at 1 Wakefield Street. The citizens said the signage is posted but it seems the signs are too small or not in the right place to be seen by the citizens driving into the parking lot.

Chief Toussaint said the owner of the property is attempting to keep the lot clear for his tenants who live there and the law states that the signs

must be conspicuously posted. One could argue the term of conspicuous; however, the owner of the property is not breaking the law.

Councilor Lachapelle recalled that the owner who is having vehicles towed from the lot at the owner's expense has instructed the towing company only to accept cash as a form of payment. Chief Toussaint replied that is not unlawful; it is the owner's prerogative to do so.

The Committee discussed the matter and agreed this is a civil matter and there is no action to be taken. They requested that Ms. Walters reach out to Karen Pollard, Director of the Economic Development Department, to better communicate the issues brought forth from the Committee meeting.

5. Polling Location for Ward 4

Councilor Lachapelle invited Jason Hamann, Ward 4 Moderator, to come forward and address the Committee.

Mr. Hamann explained that Amy Valkavitch, Manager of the Rochester Home Depot, has been instrumental in having the elections held at the Rochester Home Depot; however, the area provided is too small. The City Clerk reached out to the School Department for information about using the Rochester Middle School for the Ward 4 Polling Location. Mr. Hamann recommended that the City Clerk seek to utilize the McClelland Elementary School instead. He gave reasons why the McClelland School would be a better fit for this polling location. The Committee discussed the matter briefly. Councilor Bogan **MOVED** to request the polling location change at the next full City Council meeting. Councilor Gates seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Mr. Hamann thanked the Committee for their time and requested that a letter of appreciation be sent to the Home Depot Corporation in honor of Ms. Valkavitch who made the process run as smoothly as possible. Councilor Lachapelle agreed that a letter should be sent.

6. Other

Councilor Lachapelle said that the City Council directed the Codes and Ordinances Committee to review the changes made to the Fireworks ordinances. At the February meeting, changes were made; however, a few important changes had been missed. The Committee debated some of the changes.

Councilor Lauterborn **MOVED** to send the proposed last paragraph as follows to the City Council: **The owner of record of any property upon which a violation of this Chapter occurs shall be held strictly liable for**

any violation occurring on their property and shall be guilty of a violation in the same manner as stated above. Councilor Abbott seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Lauterborn **MOVED** to send the following amendment to Chapter 23 to the full City Council at its regular meeting: ***To replace language as "Fire Chief or Police Chief" to the "Licensing Board" throughout the Fireworks portion of this chapter.*** Councilor Bogan seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Lauterborn **MOVED** to send the following amendment to the full City Council at its next regular meeting:

~~vii. Display of permissible fireworks shall be permitted on public property the evening of July 3rd beginning at 6PM, including from such time until midnight on any rain date established for the annual city-wide fireworks display held at the Rochester Fairgrounds, provided that such display shall be authorized in a duly issued Block Party.~~

Councilor Bogan seconded the motion. Councilor Lachapelle spoke against this Amendment. The Committee continued to debate this change. The **MOTION CARRIED** by a 3 to 2 show-of-hands vote.

It was determined by the Committee that the following recommendations would be made to the full City Council as one Amendment for its next Regular City Council Meeting:

AMENDMENT TO CHAPTER 23 OF THE GENERAL ORDINANCES OF THE CITY OF ROCHESTER REGARDING FIRE SAFETY MEASURES

THE CITY OF ROCHESTER ORDAINS:

That Chapter 23 of the General Ordinances of the City of Rochester regarding Fire Safety Measures and currently before the Rochester City Council, be amended as follows:

23.11 Penalty

Any person, persons, firm, corporation or partnership who shall violate any provision of Chapter 23 shall be guilty of a violation punishable by a fine of not less than one hundred dollars (\$100) or not more than five hundred dollars (\$500). Each day that the violation continues to exist shall constitute a separate offense. **The owner of record of any property upon which a violation of this Chapter occurs shall be held strictly liable for any violation occurring on their property and shall be guilty of a**

violation in the same manner as stated above.

23.13 Prohibition and Regulation of Fireworks

C. Permit Required. No Person shall use discharge or explode any permissible fireworks without a permit issued by the City of Rochester.

i. Any person wishing to obtain a permissible fireworks display permit shall apply to the ~~Fire Chief or Police Chief~~ **Licensing Board** at least 15 days prior to the display.

ii. The applicant shall provide the following information:

- a. Date of application
- b. Name, address and telephone number of applicant
- c. Address of location where the display will be held
- d. Diagram of the display location, showing the location of all nearby property lines, nearby buildings, public ways, nearby trees, electrical and telephone lines or other overhead obstructions, and the location of any nearby storage of flammable or combustible liquids or gases
- e. Name of the owner of the property where the display will be held
- f. Intended date and time of display, including a possible rain date
- g. Written authorization of the property owner, if different from the applicant
- h. Signature of the applicant

iii. Permit fee. The fee for a permissible fireworks display shall be five dollars (\$5.00) per event. The fee shall be paid at the time of application and is non-refundable.

iv. Site inspections:

a. Prior to issuing a permit, the Police Chief or the Fire Chief may conduct an inspection of the display site to determine whether a permissible fireworks display can be held in a safe manner.

b. If, in the opinion of the ~~Fire Chief or Police Chief~~ **Licensing Board**, the proposed site is not suitable for the safe display of permissible fireworks, the application for a permit shall be denied.

D.*****

~~vii. Display of permissible fireworks shall be permitted on public property the evening of July 3rd beginning at 6PM, including from such time until midnight on any rain date established for the annual city wide fireworks display held at the Rochester Fairgrounds, provided that such display shall be authorized in a duly issued Block Party.~~

The effective date of these amendments shall be upon passage.

7. Other

Councilor Gray asked why the Codes and Ordinances Committee had not addressed two issues he brought forth to the Committee last fall:

- Political signs
- Damage caused by a water run-off of an abutter’s property

Councilor Gray briefed the Committee on his concerns with the City’s Political Sign Ordinance. Councilor Lachapelle said that in order to make an amendment to a City ordinance there must be a first reading at the City Council level.

Councilor Gray said that a resident had excessive water being discharged onto his property due to a construction project of an abutter. Councilor Lachapelle recalled that the water run-off matter is between two neighbors and therefore this matter falls under a civil matter, not a City Council action item.

8. Adjournment

Councilor Gates **MOVED** to **ADJOURN** the Codes and Ordinances Committee meeting at 6:40 PM. Councilor Bogan seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Respectfully submitted,

Kelly Walters, CMC
City Clerk

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City Clerk's Office

**Amendment to Chapter 16 of the General Ordinance of the City of Rochester Regarding
the Requirement to Connect to Public Sewers**

THE CITY OF ROCHESTER ORDAINS:

That Chapter 16 of the General Ordinances of the City of Rochester regarding the requirement of property owners to connect to public sewers and currently before the Rochester City Council, be amended as follows:

16.3 Use of Public Sewers Required.

(a) ----

(b) ----

(c) ----

(d) The owner(s) of all houses, buildings, or property used for human occupancy, employment, recreation, or other purposes, situated within the City and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary sewer of the City, is hereby required at the owner(s) expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this ordinance, within ninety (90) days after date of official notice to do so, provided that said public sewer is within ~~two hundred (200)~~ **one hundred (100)** feet of the building.

(e) Structures within one hundred (100) feet of the public sewer and currently served by private wastewater disposal facilities shall connect to the public sewer within ninety (90) days after an official notice to do so. The City may grant a waiver to this requirement for properties with existing adequate sewage disposal systems which can be proven by the property owner to comply with applicable state and local regulations, to have been designed by a designer licensed in New Hampshire and to have been approved for construction by the New Hampshire Department of ~~e~~Environmental ~~s~~Services after January 1, 1985. The cost of connection to the public sewer shall be borne by the property owner, **however if a sewer stub exists with the exception of the cost of the** portion of the connection within the public right of way ~~which costs~~ shall be borne by the Rochester ~~Water Sewer~~ Enterprise Fund. For the purpose of this section, structures shall mean houses, buildings, or property used for human occupancy, employment, recreation, or other purposes.

16.4 Private Wastewater Disposal.

(a) ----

(b) ----

(c) At such time as public sewer becomes available to a property served by a private wastewater disposal system, as provided in 16.3 (d), **after connection to the public sewer**, a ~~direct~~

~~connection shall be made to the public sewer within ninety (90) days in compliance with this ordinance,~~ and any septic tanks, cesspools, and similar private wastewater disposal facilities shall be cleaned of sludge and filled with suitable material.

The effective date of these amendments shall be upon passage. CC FY 17 05-02 AB 174

**Amendment to Chapter 42 of the General Ordinances of the City of Rochester Regarding
Taverns**

THE CITY OF ROCHESTER ORDAINS:

That Chapter 42 of the General Ordinances of the City of Rochester and currently before the Rochester City Council, be amended as follows:

42.2 Definitions and Terminology

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b. Definitions

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95. Eating and Drinking Establishments:

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G) **Tavern** (also known as a “bar” or “pub” or “*nano brewery*” or “*winery*” or “*distillery*”): A commercial establishment that sells alcoholic beverages for consumption on the premises. This may include the actual production of those alcoholic beverages on the premises, *the carryout sales of those beverages produced on the premises*, and the production and sale of food products on the premises.

The effective date of these amendments shall be upon passage.



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