

Ordinance Review Committee – Meeting Notes 02/03/2021

COMMITTEE MEMBERS: CLLR. BARRY CONNELL, ATTY. JIM CONNELLY, CLLR. JARED EIGERMAN, MOLLY ETTENBOROUGH, CITY CLERK RICHARD JONES (ABSENT), CLLR. AFROZ KHAN (CHAIR), CHIEF CHRIS LECLAIRE, GREGG OGDEN (ABSENT), ATTY. MARK REICH (CITY SOLICITOR), LT. RICHARD SIEMASKO (ABSENT), MIKE STRAUSS, RON THURLOW (ABSENT)

Chair Khan started the meeting by taking a vocal roll call as noted by Atty Reich needed for all remote meetings. Members discussed the need to attend all meetings. Clarification was done by Cllr Eigerman that this group is stipulated by the Charter at a number of 9 members; 4 selected by the Council President and 5 by the Mayor. A quorum is required to meet which will be a total of 5 people. Clerk Jones and Chief LeClaire were added in an advisory nature and are not official members for voting.

Agenda posted for today is to review Chapter 6.5 on the Environment and Chapter 17 on Stormwater Management.

Chapter 6.5 – Environment Discussion

- Flood prone should be two words instead of one; better to keep a hyphen between. Lists of items were rearranged to flow better. (MS)
- Newburyport Conservation Commission reference in the Article can be noted as the Commission (capitalized) since it only refers to this section. While this group is known as the ConCom, the code should not be that colloquial. If this is the only Commission in this section, it is okay to refer to as “the Commission”. (Group)
- Capitalization throughout will be done by group and Muni-code will make sure to accommodate us on this. (Group)
- Any reference to “ordinance” should be removed since that was done as it was passed by the council. The best practice is to refer to the Article, Chapter and Section. Changes should be done throughout to refer to “Article” when referring to the whole chapter and “this section” within a subsection. The first time it is referenced it should be written out and all subsequent should just be “the Article”. (Group)
- Section can be referenced if only relevant to that particular portion of the entire Article. (Atty Reich)
- “Promulgated pursuant to” means that rules have been developed and another can be “in accordance with”, etc. This is appropriate language to use. “Under” can be used in less formal scenarios (Atty Reich)
- “Any activity, including but not limited to” - You have to be careful, because if you if you don't say, including but not limited to or a phrase like that you will argue that this is an exclusive list.
- V-zone is noted here but not defined as “Velocity Zone”. Will forward this to Julia Godtfredson to look and see if it can be defined. This was discussed as a nomenclature item and can be defined appropriately.
- Definitions section is noted at the end but in some Articles they are in the beginning. The group decided that it should be put in the front of each section. The group agreed that we will want to put the definitions in the beginning for all of the Articles. An example is that one section had a list of definitions in the middle of it but not with the bulk of the definitions.

- Substantial Improvement – Two different definitions are noted in this Chapter. Typically a court will give a meaning to the definition that is the most comprehensive. Afroz will confirm this definition with the Conservation Administrator with Julia Godtfredson to see what is the best definition and then move forward on what to use.
- 50% of the assessed value is different than 50% of the market value (BC). This is a substantive change and needs to be brought up with councillors to resolve.
- For the barrier beach, do we know if the verbiage here is consistent with the consent decrees, to which the city is a party or does that not matter and I defer to counsel. Atty Reich shared that a consent decree exists outside of your ordinances and it may influence your ability to enforce your own ordinance, the problem is, you know the consent decree may in and of itself not be a permanent thing it may be lifted or changed or altered at some point, through the judicial process. The ordinance and the decree do stand apart. If you look at just the ordinance you might think you but you've addressed something and then you have an additional document to look at, but one is not even though the city has entered into, it is not a purely city creation. Atty Reich does not recommend that we need to make a note of that.
- Make sure that the most current CZM shoreline map is referenced (ME)
- High water should have hyphen; spell checker is typically a good one to apply. Will keep hyphen in the document consistently through the document.
- Numbers should be written out in wording and actual numeric value.
- Fees should be referencing the fee schedule document that will be created.
- Severability clause is noted at the end of several chapters. Is there a reason that we have in some places and not all places. Should we have a blanket clause at the end of the entire code so it's overarchingly applied (BC). It may be at the beginning and will be confirmed by Atty Reich.
 - Verified at Section 1-4 by Cllr Eigerman. We can delete throughout the code where noted. Atty Reich will confirm that it is broad enough.
 - We should flag them but they should be noted as uncodified portions of the ordinance; but doesn't have to get put into the code.
 - At the very end we can go through the entire code and delete all of these at once.
- Sec. 6-5-43. – Short title. Should note from "This article" to "Article III of Section 6.5 (this Article)"
- Should we change name from Plastic Bags to "Thin Film". Group decided that it would be good to allow other types of Plastic Bags. This also can be superseded by the State Law. All of our ordinances have to be consistent with state law.

Chapter 17 – Stormwater Management

- Fire fighting will stay as two words; not one.
- Ask John Eric, City Engineer to review this section from a technical perspective and provide any comments.

Next Meeting

The following schedule was discussed with the group in terms of how the next meetings will be structured.

Chapter

Reviewer

Discussion Date*

Chapter	Reviewer	Discussion Date*
1 – General Provisions		January 20, 2021
2 – Administration (Article 1-1V)	Connell, Eigerman & Khan	January 20, 2021
2 – Administration (Article V)	Lt. Siemasko, Thurlow	January 20, 2021
3 – Animals	Eigerman	January 20, 2021
17 – Stormwater Management	Khan, Strauss	February 3, 2021
6.5 – Environment	Ettenborough, Strauss	February 3, 2021
5 – Buildings & Building Regulations	Connell, Eigerman	February 17, 2021
11 – Parks & Recreation	Connell, Khan	February 17, 2021
12 – Streets, Sidewalks & Other Public Spaces	Connell, Khan	February 17, 2021
16 – Local Historic District	Eigerman	February 17, 2021
6 – Civil Defense & Disaster Relief	Chief LeClaire, Lt. Siemasko, Thurlow	March 3, 2021
7 – Fire Prevention & Protection	Chief LeClaire, Lt. Siemasko, Thurlow	March 3, 2021
10 – Miscellaneous Offenses	M. Reich	March 3, 2021
8 – Health & Sanitation	Ettenborough, Strauss	March 17, 2021
14 – Utilities	Strauss, Ettenborough	March 17, 2021
4 – Boats, Docks & Waterways	Lt. Siemasko, Thurlow	March 17, 2021
13 – Traffic and Motor Vehicles	Clerk Jones, Lt. Siemasko, Thurlow	March 31, 2021
9 – Licenses, Permits & Business Regulations	Connelly, Ogden	March 31, 2021
15 – Vehicles for Hire	Connelly, Ogden	March 31, 2021

Group reviewed the overall language around “non-criminal” dispositions from the discussion from the last meeting. Language was provided by Atty Reich on language that can be use.

Non-criminal disposition, there are a couple of different ways that it could be done, Cllr Eigerman suggested the following language for use in Chapter 1 – General Provisions.

“Enforcing person as used in this Ordinance, shall mean any City of Newburyport police officer with respect to any offense; such other officers as designated under this code; and such other officials as the Mayor may from time to time designate, each with respect to violation of ordinances and rules and regulations within their respective jurisdictions. If more than one official has jurisdiction in a given case, any such official may be an enforcing person with respect thereto.”

Cllr Khan asked that folks review this language and provide their thoughts at the next meeting on its acceptability.

Committee adjourned at 8:20pm.