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CITY OF CONCORD

New Hampshire's Main Street™
Community Development Department

REPORT TO THE MAYOR AND CITY COUNCIL

FROM: Heather Shank, City Planner
DATE: June 26, 2018
SUBJECT: Ordinance Amending the Code of Ordinances, Title I, General Code; Chapter 5, Public Works, Article 5-1, Highways and Sidewalks and Title I, General Code; Chapter I, Government Organization; Article 1-5, Fees, Fines and Penalties, Schedule I

Recommendation

Set the following for public hearing: Proposed amendment to the City Code to regulate the business use of the public right-of-way, including for outdoor dining, sidewalk signage, and other private amenities that may be located in the public right-of-way.

Provide feedback to staff regarding whether fees should be charged for outdoor dining and sidewalk sign permits.

Background

In the summer of 2017, Planning staff was asked to develop guidance for the City with regard to features permitted within the reconstructed Main Street right-of-way and the public and private use of the sidewalk areas. Planning staff met with the Architectural Design Review (ADR) Committee and the Planning Board to develop guidelines in response to this request. Recommendations pertaining to the use of private amenities in the public right-of-way were discussed during this process.

Staff presented a draft of the Main Street Design Guide, along with an outline for regulatory changes, to City Council during their February 12, 2018 meeting. City Council agreed at that time that staff should hold a public meeting to present the proposed Design Guide as well as the regulatory changes to the Main Street business owners for feedback. A public presentation was held on May 2, 2018, at which time the business owners present expressed positive support for the Design Guide and the outline for the regulatory changes.

Staff subsequently drafted the attached documents to implement the recommendations. Staff worked with Code and the Legal Department to draft the attached amendment creating the regulatory framework for the process, and also to revise the existing Sidewalk Encumbrance Application and Regulations.

Discussion

One of the central goals of the Main Street Design Guide was coordinating the use of the sidewalk for businesses and pedestrians to ensure that accessibility is maintained for all users. This was accomplished by designating “zones” in the right-of-way for various uses. “Zone A” may be utilized by a business owner for outdoor dining; “Zone B” is intended to remain clear of any object at all times for a width of six (6) feet to maintain accessibility for pedestrians; and “Zone C” is the public furniture zone, which also may be utilized for outdoor dining provided no public amenity is blocked.

The intent of the proposed amendment is to formalize the regulatory process to allow staff to issue permits for outdoor dining as well as sidewalk signage and/or other amenities that a business owner may want approval for. Staff also recommended revisions to the current permit application and regulations to formalize the sidewalk zones and better accommodate the recommendations of the Design Guide to formally permit sidewalk signs.

Also recommended through the Design Guide discussions was to prohibit balconies in the public right-of-way. Specific recommendations for when balconies should be permitted were included in the Design Guide. Staff notes that the proposal for permitting minimal intrusion for Juliet balconies (less than eight (8) inches) was not discussed during that process, though Juliet balconies are noted as acceptable solutions in the Design Guide. The current amendment proposes that minimal intrusions for Juliet balconies be allowed (less than eight (8) inches) through Architectural Design Review and Planning Board approval. The current proposal does not include a requirement for City Council approval.

Staff also conducted research on area municipalities with outdoor dining and sidewalk sign regulations during this process. The results of the research are attached. Staff notes that all other municipalities charge a fee for the initial application and annual renewal of permits for outdoor dining and sidewalk signs. While not proposed in the current amendment, public presentations and discussions indicated that there is support for charging fees to cover the cost of review and administration of the permits, including the cost of stickers provided to business owners to document permit approvals and enforcement. The City may wish to consider an annual fee of \$20 per table for outdoor dining and \$20 for sidewalk signs. This would be consistent with the lowest fees charged by area municipalities. Staff notes that the Planning Board expressed unanimous support for charging the fees during their June 20, 2018 meeting.

An ordinance implementing the proposed changes is attached, along with copies of proposed changes to the existing Sidewalk Encumbrance Application and Regulations for your information and review.