

CITY COUNCIL MEETING

AGENDA ITEM IV



**CITY OF FRANKLIN
COUNCIL AGENDA REPORT**

November 4, 2013 City Council Meeting

From: Richard Lewis, Director of Planning and Zoning

Subject: Scheduling of Public Hearings for Proposed Ordinances

Proposed Motion:

"I move that the Franklin City Council schedule the following public hearings for Monday, December 2, 2013: at 6:05 PM for proposed Ordinance 03-14 to address motor vehicle and pedestrian safety issues; and, at 6:06 PM for proposed Ordinance 04-14 to address the use of City Property".

Discussion:

In August of this year, the City Manager and staff began discussions on possible Ordinance revisions to better address uses and activities that occur on City-owned property or roadways and which can impact the health, welfare, and safety of City residents and visitors. Two specific areas of concern involved the interface between pedestrians and motor vehicles, and the use of City property.

After some initial discussions, the issues were brought forward to the City Council's Legislative Committee. The Committee held two meetings; the first was on September 19th, and the second was on October 17th. At both hearings, some draft language was presented for their review and comment. On 10/17/13, the Committee voted to send two proposed Ordinances to the City Council for their consideration, and to recommend that public hearings be conducted.

Copies of the proposed Ordinances are included in this CAR package. Ordinance 03-14 addresses the passing and exchange of items between pedestrians and the occupants of any motor vehicle, which is a public safety concern.

Ordinance 04-14 addresses the use of City-owned and controlled property, creates a review and permitting process, and better controls and/or restricts camping on City land. These controls and restrictions are appropriate in order to protect the health and safety of the public. Camping on City land has become a problem which consumes resources of the Fire Department's Code Enforcement Office and the Police Department.

Copies of both draft Ordinances have been submitted to the Police and Fire Departments for their final review and comment, and both indicate that they have no concerns or suggested revisions. The City Attorney, in his review, suggested that the City Council consider the appropriateness of the sunset provision in Ordinance 03-14. No other Ordinance approved by the Council contains such a provision. He stated that if the Ordinance needed to be revoked then a hearing on that action would be the best way to proceed.

Attachments:

1. Ordinance 03-13
2. Ordinance 04-14

Ordinance 03-14

AN AMENDMENT TO THE FRANKLIN MUNICIPAL CODE:

In the Year of our Lord, Two Thousand Thirteen

Be it ordained by the City Council of the City of Franklin that a new Chapter be added to the Franklin City Code as follows:

Chapter 284-20.2 The Passing of Items to or from the Occupant of a Motor Vehicle on a Roadway.

- A. *Intent of Section.* This Section is intended to provide for the free flow of motor vehicle traffic on roadways in the City. The City Council finds that persons who distribute any item to, receive any item from or exchange any item with the occupant of a motor vehicle upon a roadway present a threat to the free and safe flow of motor vehicle traffic. By this Section, the City Council intends to promote the health, safety and welfare of the citizens traveling by vehicle in the City.
- B. *Definitions.* For purposes of this Section, the following definitions apply:
- 1) *Pass/Passing.* Distributing any item to, receiving any item from, or exchanging any item with the occupant of a motor vehicle that is located in the public way.
 - 2) *Public way.* All public roads or public parking areas open to motorized vehicles within the City. This definition excludes private roads and private property.
 - 3) *Item.* Any physical object including, but not limited to, money, literature, or sales flyers.
- C. *Prohibition on Roadways.* It shall be unlawful to violate any of the prohibitions set forth below in the City.
- 1) No person shall knowingly pass any item to, receive any item from, or exchange any item with the occupant of any motor vehicle when the vehicle is located in the public way.
 - 2) This Section shall not apply to the passing of any item with the occupant of a motor vehicle on private property.
 - 3) This Section shall not apply to any law enforcement officer acting in the scope of his/her official duty.
 - 4) This Section shall not apply to the passing of any item with the occupant of a motor vehicle located in the roadway in order to assist the occupant after a motor vehicle accident, with a disabled motor vehicle or where the occupant is experiencing a medical emergency.
 - 5) No pedestrian, or other person, standing or sitting at an intersection, stop light, or other similar location where traffic is temporarily or permanently stopped, shall approach the driver or passenger of any vehicle for the purposes of asking about, or seeking, the passing of any item to and/or from the pedestrian and the occupant of the vehicle.
- D. The only exemption to the provisions of paragraph "C" above is a "toll boot" fund raising drive operated by any department of the City or School, or another organization for whom permission has been granted by the Franklin Police Chief or a designee.

- E. *Sunset*: This Section shall automatically repeal on April 9, 2015, unless otherwise ratified by the City Council.
- F. *Penalty*: A person found in violation of this Section shall be guilty of a violation and may be fined not more than \$500.00.
- G. *Severability*: If any provision of this section is declared invalid or unconstitutional by any Court of competent jurisdiction, the remaining provisions shall be severable and shall continue in full force and effect.

Roll Call Vote:

Councilor Clarenbach	_____	Councilor Dzujna	_____
Councilor Giunta	_____	Councilor Cournoyer	_____
Councilor Boyd	_____	Councilor Feener	_____
Councilor Desrochers	_____	Councilor Trudel	_____
Councilor Starkweather	_____		

A True Copy Attested _____
City Clerk

Passed: _____
Date

Approved: _____
Mayor

Ordinance 04-14

AN AMENDMENT TO THE FRANKLIN MUNICIPAL CODE:

In the Year of our Lord, Two Thousand Thirteen

Be it ordained by the City Council of the City of Franklin that a new Chapter be added to the Franklin City Code as follows:

City Property

- A: In order to protect, and provide for, the health, safety, and welfare of the citizens of Franklin and all visitors to the City, The Franklin City Council hereby establishes provisions for the use of City-owned properties, and the restrictions for certain uses that might compromise the health, safety, and welfare of all persons.
- B: As the definition of "city property" encompasses many different types of land areas, rights-of-way, and structures, there already exists a variety of City Codes that addresses the use of these areas. The existing codes include, but are not limited to, the following Chapters:

101 Alcoholic Beverages	107 Animals	113 Bicycles
125 Moving of Buildings	143 Curfew	149 Driveways
155 Public Entertainment	170 Floodplain Management	180 Hazardous Substances
203 Littering and Public Cleanliness	215 Noise	219 Nuisances
222 Parks and Beaches	230 Peddling and Soliciting	245 Sewers
252 Skates and Skateboards	257 Solid Waste	262 Streets and Sidewalks
284 Vehicles and Traffic	289 Water	294 Weapons
309 Community Center	321 G.A.R. Hall	

- C: In addition to the applicable City Codes, the City may adopt policies for the use of specific structures, parks, parking areas, sidewalks, or similar properties. The application and interpretation of the policies shall be carried out by the specific department responsible for the property. For certain proposed uses, the department head, in consultation with the City Manager, is permitted to apply some discretion to allow for certain uses that might not be included in the list of allowed uses but are determined to be consistent with, and similar to, the enumerated uses. All policies shall be adopted by the applicable committee of the City Council, or by the Council itself as deemed appropriate by the Committee.
- D: No camping or any overnight use of any City property is allowed unless it meets the following requirements:
- 1) The proposed use is being carried out by an organization which must have a recognized goal of community assistance, education, or other recognizable focus of community support. Eligible organizations may seek approval on a yearly, or a use-by-use, basis.

- 2) Prior to approval by the appropriate City department [Parks and Recreation, Conservation, Municipal Services, etc.] the organization shall outline the proposed use and duration, and the number of individuals involved.
- 3) Any City property used for any camping or overnight activities shall be cleaned after the activity and shall be left in its original condition. All trash or debris shall be removed from the property and disposed of properly.
- 4) The appropriate Department Head, or the City Manager, retains the right to deny any camping or overnight use if a determination is made that the request did not adequately describe the planning or management of the activity, or the proposed use will not protect and provide for the general health, safety and welfare of the City.

Roll Call Vote:

Councilor Clarenbach	_____	Councilor Dzujna	_____
Councilor Giunta	_____	Councilor Cournoyer	_____
Councilor Boyd	_____	Councilor Feener	_____
Councilor Desrochers	_____	Councilor Trudel	_____
Councilor Starkweather	_____		

A True Copy Attested _____
City Clerk

Passed: _____
Date

Approved: _____
Mayor



CITY OF FRANKLIN, NEW HAMPSHIRE

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cityhall@franklinnh.org

CITY OF FRANKLIN NOTICE OF PUBLIC HEARING & MEETING

In accordance with the provision of Chapter 31, Division 2 of the Franklin Municipal Code, notice is hereby given that the City of Franklin will hold two Public Hearings on Monday, December 2, 2013. The first public hearing will be held at 6:05 p.m. in the Council Chambers, Franklin City Hall concerning Ordinance #03-14 concerning motor vehicle and pedestrian safety issues. The second public hearing will be held at 6:06 p.m. in the Council Chambers on Ordinance #04-14 concerning the use of City owned property.