

Mayor and Commissioners

1. Parking Code Requirements (June 16 Regular Meeting, July 21 Public Hearing).

A limited proposal to clarify some specific portions of the code for commercial parking was discussed at the Regular Meeting of June 16, and a date was set for a Public Hearing to consider the proposed changes. The code contained some confusing language, particularly in the use of terms such as “same as above” as you moved through subsections. The intent was to revise the Code to address minimum parking spaces for certain uses.

On July 21, 2023, a proposal to clarify some sections of the parking requirements for commercial establishments was reviewed by the Board of Commissioners, including public comment and commissioner discussion. An example of the simplification includes removing the requirement for hotels and motels to provide two spaces for the resident family. The new language simply adds two spaces to the existing formula which also specifies one parking space for each rental unit. The Board of Commissioners passed the revisions of the commercial parking code sections.

2. Tree Code Revision (June 16 Public Hearing).

The Public Hearing regarding the proposed tree ordinance was held on June 16, 2023 as a part of the Regular Meeting agenda. **Public comment and written submissions were considered by the commissioners, including the letter of support sent by the RBHA Board of Directors.** Following the hearing and discussion, the Board of Commissioners voted to accept the revisions to the City Tree Code.

3. Rezoning Requests Pending (June 16 Regular Meeting, July 21 Public Hearing).

Following separate and independent public hearings conducted at the June 16th Regular Meeting, the requests by the two respective property owners to rezone their two C-3 (commercial) lots/properties on Scarborough Avenue to R-1 (residential, single family) were approved by a vote of the Board of Commissioners. The request by the owners of Rehoboth Auto to change the zoning of an adjacent lot and residential building from C-3 to C-1 was deferred to the July 21 Regular Meeting.

On July 21, a Public Hearing was held to consider the Rehoboth Auto rezoning application. The owners had requested the change to allow them to build a new service bay on a lot recently purchased and adjacent to their current business. The rezoning was requested as service bays are a use that is not available in the C-3 zone but would be in the C-1 zone. The Board of

Commissioners denied the request by a vote of 1 in favor and 6 against. Reasons to support the change to a more intensive use zone included supporting a business that is providing a needed service to the community and that the need for that service is increasing. Some reasons against the request included the current residential use of the property, the proximity of R-1 homes and lots, and the changing nature of the neighborhood as it migrates from mixed commercial and residential to more and more residential uses. It should be noted that the abutting neighbors had filed a petition objecting to the proposed change, triggering a section of City Code requiring a super-majority of $\frac{3}{4}$ (six votes) to pass the requested zoning change. The use of the super-majority in this part of the Code implies that the citizens of Rehoboth desired that a high bar be set when considering rezoning requests, especially in the face of opposition from neighboring properties.

4. Basements (June 5 Workshop Meeting, June 16 Regular Meeting, July 21 Public Hearing).

On June 5th, the Assistant Building Inspector made another presentation to the Board on the topic of basements, continuing the consideration of clarifying specific City Code language related to the definitions of Basement and Crawlspace, as well as dimensions that would or would not qualify for the 1,000 square foot FAR basement exemption for non-habitable space. In summary:

- a. City staff recommends revising language in City Code sections §270-4 and §270-21.B.(c) to include all basements at or above 6 feet, 8 inches in FAR calculations.
- b. Bathrooms, toilet rooms, and laundry rooms in basements will continue to be included in FAR calculations.
- c. As an alternative to (a., above): Revise language in city code sections §270-4 and §270-21.B.(c) to exclude all basements between 6 feet, 8 inches and less than 7 feet in FAR calculations.
- d. City staff recommends deleting City Code Section §102-51 in its entirety. This would require habitable basements to be built to a height of 7' rather than 8', which is consistent with ICC standards.
- e. Basements have certain life safety requirements that crawl spaces do not. Currently, there exists confusion between a 6'6" basement and a crawl space, leading to fully finished, oversized crawl spaces with no smoke/carbon monoxide detectors/alarms nor emergency escape and rescue openings. City staff propose expanding on the definition of "basement" and defining "crawl space" in §270-4 to avoid future confusion and to distinguish a crawl space from a basement.

At the Regular Meeting on June 16th, a draft ordinance was reviewed by the Commissioners incorporating the recommendations of the city staff. A Public Hearing date was set for July 21, 2023.

A Public Hearing was held on July 21, 2023 as a part of the Board of Commissioners Regular Meeting. **The hearing included public comment and review of written input from the public including a letter from the RBHA Board of Directors requesting the commissioners delay any decision to allow an opportunity for our membership to review and comment on the draft code revisions.** Following discussion among the commissioners, the proposed revisions failed by a vote of six to one. The vote leaves the above-mentioned ongoing issues unaddressed, leading to an expectation that discussions will continue in the future.

5. Preparing for the New State Law Regarding Cannabis (July 10 Workshop Meeting).

At the July 10 Workshop Meeting, the commissioners had an initial review of the draft revision to the existing Code regarding smoking. The proposed language includes “Smoking marijuana, any other matter or substance that contains marijuana, shall be prohibited at all times in all outdoor public places within the territorial limits of the City of Rehoboth Beach. Nothing contained herein shall permit the use or possession of any “Controlled Substance defined under 16 Del. Code, Chapter 47 “Uniform Controlled Substances Act.”” Discussion of the proposed code changes to address marijuana consumption will continue at the Board of Commissioners Workshop Meeting scheduled for Monday, August 7, 2023.

In addition to the possible revisions to the smoking code discussed above, the Board of Commissioners is considering adopting a new ordinance regarding the manufacture and sale of marijuana. The proposed language would prohibit the cultivation of marijuana, marijuana testing facilities, and retail marijuana stores.

6. Backflow Prevention Program (July 10 Workshop Meeting)

The State of Delaware has regulations regarding the protection of drinking water supplies through the residential and commercial use of Backflow Prevention Devices (BPDs). The state regs have deadlines for local compliance. The deadline is this February, 2024. While this topic was initially introduced to the Board of Commissioners by city staff in calendar year 2019, the pandemic is being credited for the delay in addressing this state-mandated regulatory requirement.

The state regs discriminate between Low Risk and High Risk water customers. Low risk customers are homes that have only routine water usage, generally for consumption inside the house. High risk customers include residences with irrigation systems, fire suppression systems, irrigation wells, pools and/or spas singly or in combination. The City has nearly completed a records review to determine to which category the City's water customers, both residential and commercial, belong: low or high risk. It was not clear from the discussion whether every customer will be notified of their status. What is clear is that customers who are High Risk will be notified, possibly in late Fall 2023.

Currently, the City has BPDs as a part of all of our residential water meters. City administration believes that this will be sufficient for most, if not all, Low Risk residential customers. High Risk customers will be required to have their BPDs inspected annually by an appropriately certified plumber at their own expense. An example would be the BPD initially installed or added to a home irrigation system. The cost of the annual required inspection is estimated to be \$100.00 per residential customer. This fee will include an amount that will be collected by the City, as required by the State, to fund the cost of the supervising contracted vendor.

After discussion, it was determined that the draft Code revision below would be discussed at the Regular Board of Commissioners Meeting scheduled for September 15, 2023.

Link to Cross Connection Control Plan:

<https://cityofrehoboth.civicweb.net/document/93959/City%20of%20Rehoboth%20Beach%20Cross-Connection%20Control%20Pl.pdf?handle=F4433605A2B6420B9A26776068AD8692>

Link to Draft Code Revision:

[https://cityofrehoboth.civicweb.net/document/93960/Draft%20Ordinance%20re%20Water%20Backflow%20\(v.1\)%20-%2003%20Jul%202.pdf?handle=CBAAFF61943140AAB6178DA7465D5AF3](https://cityofrehoboth.civicweb.net/document/93960/Draft%20Ordinance%20re%20Water%20Backflow%20(v.1)%20-%2003%20Jul%202.pdf?handle=CBAAFF61943140AAB6178DA7465D5AF3)

Link to video of presentation to the commissioners (at about 3:00 hour mark, approximately 20 minutes long including commissioner discussion):

<https://cityofrehoboth.civicweb.net/document/93928/?splitscreen=true&media=true>

Planning Commission

1. Bellhaven Hotel (June 9 Regular Meeting, July 14 Regular Meeting).

The Preliminary Site Plan Review process continued June 9th. Planning Commission members again cited multiple concerns with the current proposal especially whether one loading dock on Wilmington Avenue was sufficient for the needs of both the hotel and retail spaces on the property. The developer restated the belief that Code is ambiguous regarding requirements for loading docks and feels that one dock is sufficient for the total needs across the various functions of the property. Some members of the Planning Commission continued to question aspects of the site plan and voice concerns regarding code compliance and whether additional variances may be required. The developer continued to state that they had no plans to go back to the Board of Adjustment and were committed to modifying the site plan to assure code compliance.

On July 14, the Building Inspector provided an updated report on the Bellhaven application. Members of the Planning Commission expressed concerns regarding some of the opinions of the Building Inspector, including the relevance of precedents such as First Street Station having been required to have two loading docks for approval. The developer continued to assure the Planning Commission of their commitment to presenting the Planning Commission with a code compliant site plan and restated they believed no additional variances would be needed from the Board of Adjustment. Abutting neighbors continue to have concerns, including potential impacts on the stability of their buildings because of underground water pressures on foundations and the expectation that such pressures would be increased by the addition of a second level of underground parking.

2. Atlantic Crown (June 9 Regular Meeting).

The developer continued their presentation of the Project Concept Review, which is an informal first conversation regarding a development proposal. There were some adjustments that had been made in response to feedback and questions from members of the Planning Commission, but no major changes as the developer had made efforts to comply with existing codes from the outset. There remain some questions about the layout of parking, and the relationship between multiple properties controlled by the same owner and possibly sharing some parking space. It is expected that the developer will return for a formal Site Plan Review in the near future.