

**CODES AND ORDINANCES COMMITTEE**

Of the Rochester City Council

**May 5, 2016**

City Council Chambers

31 Wakefield Street, Rochester, NH

7:00 PM

**Committee Members Present**

Councilor Peter Lachapelle, Chair  
Councilor Elaine Lauterborn, Vice Chair  
Councilor Thomas Abbott  
Councilor Robert Gates

**Others Present**

Kelly Walters, City Clerk  
City Manager Fitzpatrick  
Terence O'Rourke, City Attorney  
Councilor James Gray

**Members Excused**

Councilor Donna Bogan

**MINUTES**

**1. Call to Order**

Councilor Lachapelle called the Committee meeting to order at 7:00 PM. All members were present, except for Councilor Bogan who had been excused.

**2. Public Input**

Councilor Lachapelle invited the public to come forward to speak about topics/issues which were not listed on the agenda. No member of the public came forward. Councilor Lachapelle closed public input at 7:01 PM.

**3. Approval of the Codes and Ordinances Committee Minutes**

**• March 3, 2016**

Councilor Lauterborn **MOVED** to **ACCEPT** the minutes of March 3, 2016. Councilor Gates seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

**4. Chapter 63.2 Amendment**

**Councilor Lachapelle referred to the Amendment to Chapter 63.2 b (1) as follows:**

### **Proposed Amendment**

#### **63.2 The Passing of Items to or from the Occupant of a Motor Vehicle on a Roadway.**

(a) Definitions. For the purpose 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 roadway.

(2) **Roadway.** All ways within the City as that term is defined in RSA 259:125, II. This definition excludes privately owned property not open for public use or generally maintained for the benefit of the public, areas in which parking is permitted in the City, and property maintained specifically for drive-thru or drive-up transactions.

(3) **Item.** Any physical object.

(b) Prohibitions 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 with the occupant of any motor vehicle when the vehicle is located in the roadway, nor shall any occupant of any motor vehicle located in the roadway pass any item with a person located outside of the vehicle.***

(2) This Section shall not apply to the distribution, receipt or exchange of any item with the occupant of a motor vehicle on privately owned property not open for public use or generally maintained for the benefit of the public, areas in which parking is permitted in the City, and property maintained specifically for drive-thru or drive-up transactions.

(3) This Section shall not apply to any law enforcement officer acting in the scope of his official duty.

(4) This Section shall not apply to the distribution, receipt or exchange 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.

(c) Penalty. A person found in violation of this Section shall be fined as follows:

- (1) 1st Offense: Not less than \$25.00.
- (2) 2nd Offense: Not less than \$250.00.
- (3) 3rd and subsequent Offenses: Not less than \$500.00; nor more than \$1,000.00.
- (d) 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.

Attorney O'Rourke gave a brief overview of the proposed Amendment and explained that "any" occupant of a vehicle in the roadway would be prevented from passing items out of a vehicle located in a roadway. The Committee briefly discussed the amendment. Councilor Abbott **MOVED** to recommend this Amendment to the full City Council for approval. Councilor Lauterborn seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

## 5. Fireworks

Councilor Lachapelle said that Chapter 23.13 outlines regulations for the use of fireworks in the City. He invited anyone from the audience to come forward to address the Committee on this matter.

Dennis Hancock, resident, addressed the Committee concerning the permitted fireworks activity in the City and its effects on children, elderly, pets, and war veterans. He stated that this is a quality of life issue and he requested that fireworks be banned from the City all together.

Margie Hancock, resident, addressed the Committee with the same concerns and stated that her granddaughter seeks shelter in the garage when the fireworks are being lit off. She also requested that the fireworks be banned from the City all together.

Bob Hersom, resident, indicated that he did not wish to speak publicly on the matter; however, he attended the meeting to support the last two speakers and their comments.

Councilor Lauterborn said that Mr. Hancock indicated that he has attended the Neighborhood Ward Four meeting. She asked if any police officers were present at the meeting and heard his complaint. Mr. Hancock replied yes. It was also noted that Mr. Hancock should report any violation of

this ordinance directly to the Police Department, Fire Department, and Building Zoning, and Licensing Services.

Councilor Abbott asked how often fireworks were being lit off in Mr. Hancock's neighborhood. Mr. Hancock replied the July 4<sup>th</sup> Holiday and New Years Eve.

The Committee briefly discussed the matter. Councilor Gray stated it seemed this is more of an enforcement issue and requested that a letter be sent to the Police Commission and Police Chief. The Committee discussed the enforcement issue. Councilor Gates **MOVED** to have such a letter sent. Councilor Abbott seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Councilor Lachapelle requested that the City Clerk draft the letter.

## **6. Section 29: General Powers of the School Board – Discussion**

Councilor Lachapelle referred to the proposed change to Chapter 29 of the City Charter as follows:

### **Section 29: GENERAL POWERS OF THE SCHOOL BOARD**

The policy-making body for the School Department of the City of Rochester shall be a School Board of the City of Rochester, consisting of thirteen (13) members. Except for the City Council's exclusive right to determine and appropriate the total amount of money to be spent by the School Department, the administration of all fiscal and prudential affairs of the City of Rochester School District, the general management and control of its schools ~~and properties,~~ and all powers prescribed by law shall be vested in the School Board. *All school properties shall be maintained by the City of Rochester.* The Superintendent of schools shall serve as Clerk of the School Board.

**Text highlight part is to be struck out.**

*The red italicized is to be added to the City Charter.*

Councilor Gates said there is no need for two building and maintenance department in the City. He recommended that the School Department's building and maintenance be shifted under the City's building and maintenance Department. He added this would allow the School Department to focus their attention solely on education.

Councilor Lauterborn questioned the legalities of this issue. She asked if any other "city" in New Hampshire operates under one building and maintenance department.

Attorney O'Rourke confirmed that this action is permissible under the State RSA's. He added that the City of Manchester is currently operating in this manner. Councilor Lauterborn recommended that Attorney O'Rourke confer with the City Attorney of Manchester and report back to the Committee with a recommendation of how this would work under the City of Rochester's Tax Cap obligations.

The Committee discussed the matter further. It was noted that this was not an urgent matter since the Charter question could not be on a ballot until the Municipal Election to be held on November 7, 2017. It was determined that the City Clerk would reach out to Superintendent Hopkins to request that Mr. Bickford, Buildings and Maintenance Supervisor for the School Department, be available to attend the August 4, 2016, Codes and Ordinances Committee. It was further noted that this would give ample time for the City Attorney to gather input from Commissioner Storer and Mike Riley of the Buildings and Grounds Department, who would also be invited to the August 4, 2016, Codes and Ordinances Committee. This matter will stay in Committee until August 4, 2016.

## **7. HB1205 Libraries with Children's Programming- Drug-free School Zone**

Councilor Lachapelle referred to the House Bill as follows:

### **STATE OF NEW HAMPSHIRE**

#### **In the Year of Our Lord Two Thousand Sixteen**

AN ACT including libraries that provide children's programming in the definition of drug-free school zone.

**Be it enacted by the Senate and House of Representatives  
in General Court convened:**

1 Drug-Free School Zone. Amend RSA 193-B:I, II to read as follows:  
II. "Drug-free school zone" means an area inclusive of any property used for school purposes by any school, *or a library facilitating programming for children*, whether or not owned by such school, within 1,000 feet of any such property, and within or immediately adjacent to school buses.

2 Effective Date. This act shall take effect 60 days after its passage.

Councilor Gray gave reasons why he has proposed this legislation at the State level. It was determined that this item would stay in Committee until more information could be provided. This will be on the August 4, 2016, Codes and Ordinances Committee Agenda.

## **8. Chapter 42 - Manufactured Housing**

Attorney O'Rourke stated that the following Amendment is being proposed in order to keep the City of Rochester in compliance with the State and Federal guidelines. This has been reviewed by the Planning Board. Councilor Abbott **MOVED** to recommend that the full City Council accept the proposed changes to the definition of Manufactured Housing and to be consistent with State Statute by deleting size restrictions located outside of the definitions of Chapter 42 as outlined below:

### Chapter 42.2 Definitions

161. **Manufactured Housing:** Any structure, meeting the federal Manufactured Home Construction and Safety Standards Act, commonly known as HUD Code, transportable in one or more sections, which, in the traveling mode, is 8 body feet or more in width and 40 body feet or more in length, or when erected on site, ~~is a minimal of 13 feet in overall width~~ and have at least ~~700~~ **320** square feet of habitable space, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to required utilities, which include plumbing, heating and electrical systems contained therein . Manufactured Housing as defined here does not include pre-site built housing as defined in RSA 674:31-a.

## **42.20 Standards for Specific Permitted Uses**

### **b. Conditions for Particular Uses**

#### **9. Manufactured Housing Subdivision**

##### **A. Overall Development.**

~~iii. Minimum Size. Every manufactured home shall be at least 23 feet in width and have at least 700 square feet of habitable living space.~~

#### **10. Manufactured Housing Unit**

~~C. Minimum Size. Every manufactured home shall be at least 23 feet in overall width and have at least 700 square feet of habitable living space.~~

Councilor Gates seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

## **9. Other**

**No discussion.**

## **10. Adjournment**

Councilor Abbott **MOVED** to **ADJOURN** the meeting at 7:51 PM. Councilor Gates seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Respectfully submitted,

Kelly Walters, CMC  
City Clerk