

Codes and Ordinances Committee

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



04/29/2016

AGENDA

CODES AND ORDINANCES COMMITTEE

Of the Rochester City Council

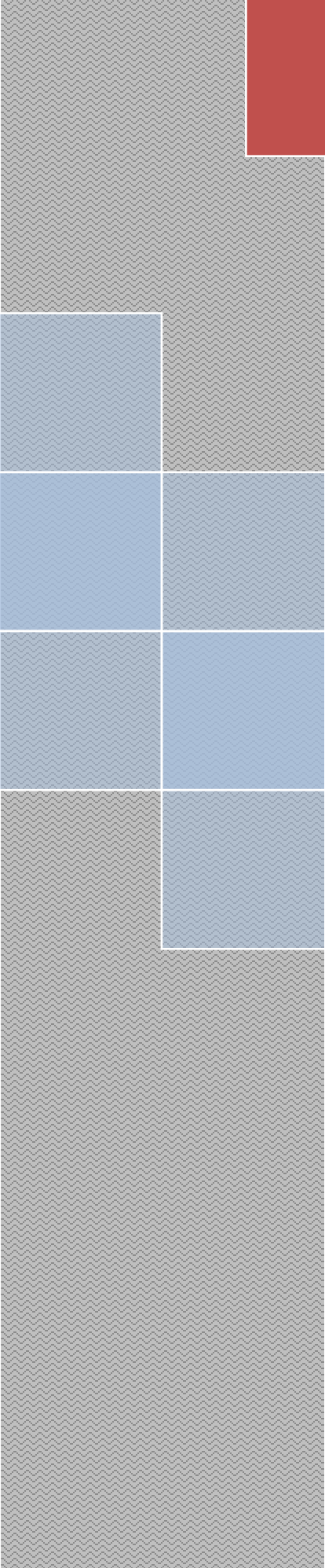
Thursday May 5, 2016

City Council Chambers

31 Wakefield Street, Rochester, NH

7:00 PM

- 1. Call to Order**
- 2. Public Input**
- 3. Approval of the Codes and Ordinances Committee Minutes P-3**
 - March 3, 2016**
- 4. Chapter 63.2 Amendment P-19**
- 5. Fireworks - Discussion P-23**
- 6. Section 29: General Powers of the School Board - Discussion P-27**
- 7. HB1205 Libraries with Children's Programming- Drug-free School Zone P-29**
- 8. Chapter 42 - Manufactured Housing - Discussion P-31**
- 9. Other**
- 10. Adjournment**



This page has
been
intentionally left
blank.



CODES AND ORDINANCES COMMITTEE

Of the Rochester City Council

Thursday March 3, 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 Tom Abbott
Councilor Donna Bogan
Councilor Robert Gates

Others Present

Terence O'Rourke, City Attorney
Dan Fitzpatrick, City Manager
Councilor Gray
Jim Grant, Director of BZLS
Sheldon Perkins, Code Enforcement
Officer
Michael Allen, Police Chief
Steve Beaudoin, Resident
Dale Sprague, Somersworth City
Councilor

MINUTES

1. Call to Order

Councilor Lachapelle called the Codes and Ordinance Committee meeting to order at 7:00 PM. Nancy Carignan, Assistant City Clerk, took a silent roll call. All committee members were present.

2. Public Input

Councilor Lachapelle asked if any members of the public would like to address the committee on any issues not listed on the agenda. There was no public input at that time. Councilor Lachapelle closed public input at 7:01 PM.

3. Approval of the Codes and Ordinances Committee Minutes

• February 4, 2016

Councilor Abbott **MOVED** to **ACCEPT** the Codes and Ordinances Committee meeting minutes of February 4, 2016. Councilor Bogan seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

4. Pawnbrokers/Second Hand Dealers Ordinance Amendments

Councilor Lachapelle asked if any committee members wanted to address the suggested amendments to pawnbrokers and secondhand dealers. Councilor Gates suggested that the committee take no action on this item. Councilor Lachapelle asked if any committee members wanted to keep this item in committee at this time or take no action. There was no discussion.

Councilor Gates **MOVED** to take no action regarding the Pawnbrokers and Second Hand Dealer amendments. Councilor Bogan seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

5. Chapter 15.5 Highways, Sidewalks, Bridges and Street Lighting

Councilor Lachapelle explained that Chapter 15.5 was taken care of during the regular City Council meeting on March 1, 2016.

6. Penalties - Chapter 40.12

Councilor Lachapelle asked Terence O'Rourke, City Attorney, to review the penalties with the committee. Mr. O'Rourke explained that 40.12 addressed that fines would have a maximum of \$1000 per day for any code violation instead of the current \$100 fine. He said the City has the authority to do this.

Councilor Bogan questioned the wording of the fine, where it is indicating a fine of \$1000 each day after conviction or after violation and written notice. She wanted to know if there was any leeway with the fine. Councilor Lauterborn agreed. Mr. O'Rourke stated that it would be up to the court.

Councilor Abbott said state statute would supersede any inconsistencies. He referred to the "Property Maintenance Code," which has fines of \$275 and \$550. He asked if it should that be in this code. Mr. O'Rourke said it would supersede.

Councilor Lauterborn asked for clarification to the answer given to Councilor Bogan. Mr. O'Rourke mentioned that when it came to the penalty phase it would be up to the court. The resident knows they have been fined at that point.

Councilor Lauterborn asked how this would work. Mr. O'Rourke said the resident would get a written notice that they are in violation and he explained that there was no fine at the time of the notice. Councilor Lauterborn explained that the wording was not clear. Councilor Abbott explained that there are several other mechanics associated with the process. He said there is the right to appeal and they can go before the Appeals Board for a stay of violation.

Councilor Lauterborn asked if the amendment was proposed to generate revenue; who proposed it and why? Mr. O'Rourke explained that it was to work in tandem with the ticketing processing system.

Councilor Lachapelle explained that Steve Beaudoin, a resident, had brought it to the Codes and Ordinances Committee a few months back. He wanted to discuss properties in violation of code and the course of speeding up the process.

Jim Grant, Director of BZLS, explained why this is being recommended. He said by having this tool it would help his office if they need it, but it might not be necessary to use it. Mr. Grant discussed this further with the committee and gave them examples of some of the ongoing violations. He said that his department will try and give verbal warnings, but some of the violations are blatant and that issuing tickets would help the process.

Councilor Abbott felt that the committee needs to skip to Chapter 44 to tie the two chapters together. He said if they work with both they can understand it better. Councilor Lachapelle agreed.

7. Chapter 11.20 - Rescission

Councilor Lachapelle said that they are looking to change the Economic Development Fund. Mr. O'Rourke stated that the City Council wants to rescind/take out section 11.20 from Chapter 11 Finance.

The Codes and Ordinances Committee discussed the flow of monies for this fund with Mr. O'Rourke. Councilor Lachapelle asked if any members of the committee had any issues with recommending this change to the full City Council.

Councilor Abbott **MOVED** to recommend to the full City Council on April 5, 2016, the repeal of Chapter 11.20. Councilor Bogan seconded the motion. The **MOTION CARRIED** by a unanimous voice vote with the

exception of Councilor Lachapelle who had to recuse himself from the vote, citing a possible conflict of interest.

8. Chapter 44 - Creation

Councilor Lachapelle explained to the committee members that Chapter 44 had been kept in committee from a previous meeting.

Steve Beaudoin, resident, addressed the Codes and Ordinances Committee regarding the issues that he had addressed previously. Mr. Beaudoin said that he did not know what chapter this ordinance should go in, but felt the City Attorney would put it where he thinks is best. He explained that there are landlords and property owners in the City that are in violation of maintaining their property.

Mr. Beaudoin, as a landlord, told the committee that there was a particular property in the neighborhood of one of his rental properties that has been of issue and nothing is being done. He went to show the apartment in that neighborhood and the individual who was to rent stated that he would not rent the property because of the location of the property in the neighborhood.

Mr. Beaudoin said he likes the proposed ordinance. He felt it was fair and would help the Code Enforcement Officer take care of these situations without always having to deal with the courts. He thought it would streamline things going forward and take the burden off the courts.

Mr. Beaudoin mentioned that Code Enforcement would be willing to work with the residents if they act on the violation and abide by the ordinances. He hopes that the Codes and Ordinances Committee will move forward on these ordinances. He thanked the committee for their time.

Councilor Lauterborn questioned section ten (X) from RSA 31:39. She wanted an explanation because it states that "this section shall not apply to violations of the New Hampshire building code." Mr. O'Rourke explained that it does not apply in New Hampshire; however, under the adopted International Maintenance Code the City's citations are going to fall under this ordinance.

Councilor Lauterborn asked if they were looking to adopt 31:39. Councilor Lachapelle said that the committee is looking to adopt the Chapter 44, which the City is entitled to do.

Councilor Abbott did not want to get into the technical issues, which could be disputed, but he explained to the committee that these penalties were less than they would be under the land use statute. Mr. Abbott mentioned that it only allows one penalty per citation. He liked the idea of the individuals getting a written notice; they will know their rights to appeal. He felt that this ordinance will help speed up the process and it is worth a shot. Councilor Lachapelle agreed.

Sheldon Perkins, Code Enforcement Officer, introduced Dale Sprague, City Councilor from Somersworth, to the Codes and Ordinances Committee.

Mr. Sprague said that he wanted to address the committee on the Somersworth ordinance that they are already using. He gave the committee handouts, which can be found attached to the minutes.

Mr. Sprague mentioned that SB 347 amended RSA 31:39 d, which helped cities in handling these citations. He said that these citations now would be handled at the District Court level and not the Superior Court. He cited how his city handles this type of property violation and gave examples of how the city enforces the violations.

Mr. Sprague said that currently the City of Somersworth has a fine of \$100 for the first offense, which goes up to \$275 for the second offense, and that fine will be charged each day until the violation is taken care of.

Mr. Sprague said that Somersworth had adopted a property maintenance code and he explained some of the issues they deal with, as well as the citation process. He felt that his City has been successful with the process and it is a tool to help the City implement compliancy. He said it also helps with property value.

Mr. Sprague wanted to urge the Codes and Ordinances Committee to communicate these changes to the City's residents and possibly inform the residents with a notice on the water bills.

Councilor Abbott asked if they only have the two penalties. Mr. Sprague said that was correct and subsequent offenses would accrue daily. The committee discussed the fines further. Mr. Sprague said they can suspend them the first time and not take action as long as they were compliant going forward. He mentioned giving the property owner a probationary period to correct the problem. Councilor Abbott discussed this further with Mr. Sprague.

Mr. Sprague explained that by implementing this process it gave his Code Enforcement department "teeth".

Councilor Abbott wanted to review the \$1000 maximum fine further. Councilor Lachapelle explained that every day the citation goes up if the individual chooses to do nothing. Mr. Sprague reiterated it is about the communication with the resident, as well as educating them.

Councilor Lachapelle mentioned that there are some neighborhoods in the City which this ordinance would help.

Mr. Sprague wanted to let the Codes and Ordinances Committee that Rochester's Planning Department and Building, Zoning and Licensing Departments have been very good to work with.

Councilor Lachapelle asked Mr. O'Rourke if he had looked at Somersworth's ordinance. Mr. O'Rourke confirmed that he had. Councilor Lachapelle asked how he came up with the fee schedule. Mr. O'Rourke stated that he and Jim Grant, Director of BZLS, worked on the schedule. He mentioned that it is not revenue generated; it is about taking action immediately. Mr. Grant explained that the higher penalties are geared to the exterior of the property and the larger penalty might help to expedite the problem. He mentioned that interiors were also addressed because they are problematic, as well. Councilor Lachapelle discussed this further and added that he did not have a problem with the fee schedule.

Councilor Abbott asked if there was a reason that this schedule could not be associated with the current building code to reflect the penalty provision as a catch-all. Mr. O'Rourke discussed this further stating that the schedule could be added at the end of the violations, under "all other violations."

Councilor Abbott **MOVED** to amend Chapter 44 as it applies to other chapters, such as the Zoning ordinance, as well as to tie into all other violations. He asked that \$100 for first offence and \$275 for second and subsequent as an additional change.

Councilor Lachapelle asked if the committee could make one motion to approve sending both Chapter 40.12, as amended, and Chapter 44, as amended, to the full City Council. Mr. O'Rourke said that the committee could do that.

Councilor Gates **MOVED** to recommend to the full City Council on April 5, 2016, the amendments to Chapter 40.12 and the creation of Chapter 44. Councilor Bogan seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

9. Other

Councilor Lachapelle asked the committee if any other member had new business to discuss. He explained that he would like to discuss Rules of Order due to questions asked during the last regular City Council meeting.

He referred to sections 1.5 "Public Hearings" and 4.7 "Public Input." Councilor Lachapelle read these sections to the committee. Councilor Lachapelle felt that these items were okay as is.

Councilor Lauterborn mentioned that Councilor Keans thought it was illegal. She felt that it was a violation of a person's First Amendment rights. Mr. O'Rourke said not in New Hampshire. The City Council does not have to have public comment and, if allowed, it can be limited and viewpoint neutral. He explained further.

Councilor Lauterborn asked about section 1.5 "Public Hearings." Mr. O'Rourke stated that the same reasoning applies.

Councilor Lachapelle said that the City Council can always suspend the rules and allow this; they have done so in the past.

Dan Fitzpatrick, City Manager, explained that the meeting is the way the council conducts City business and the City Council has the right to control their meetings. Mr. O'Rourke agreed with Mr. Fitzpatrick and he gave further explanation.

Councilor Abbott asked if this would apply to property owners. Councilor Lachapelle stated that the same thing would apply.

Councilor Gray asked if the minutes could reflect the City Attorney's comments within quotations to help other councilors that have similar questions, which are being asked, know that legal has answered the question. Councilor Lachapelle stated that it could be done.

The Codes and Ordinances Committee discussed article 4.14 from Rules of Order elections and secret ballots. Mr. O'Rourke explained that all

votes are public with the exception of elections. He said the City Council is in compliance.

Councilor Abbott explained that there had been a court case pertaining to a sheriff in regards to this. He said that if the City Council is not in compliance then the penalty would be against all of the members.

The Codes and Ordinances Committee discussed appointments versus regular elections. Mr. O'Rourke said that an appointment is an elected position. Councilor Abbott stated that he interpreted this differently.

Councilor Lachapelle addressed having a voice vote versus a secret ballot for an elected official. Councilor Lauterborn cited that comes from State law.

Councilor Lauterborn asked Councilor Abbott if he wanted to change the Rules of Order when it pertained to casting votes. Councilor Abbott said that there are three types of elections that the courts have made very clear about; however, he did not consider appointments an election. Mr. O'Rourke stated that they did not have to change. Councilor Abbott said if the way they are conducting the voting is acceptable with the City Attorney as it currently is, then it should not be changed.

10. Adjournment

Councilor Gates **MOVED** to **ADJOURN** the Codes and Ordinances Committee meeting at 7:55 PM. Councilor Bogan seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Respectfully submitted,

Nancy Carignan
Assistant City Clerk

CHAPTER 24

PROPERTY MAINTENANCE CODE

24.A Property Maintenance Code

24.A.1 A certain document , two (2) copies of which are on file in the office of the City Clerk and/or The Development Services Office of the City of Somersworth, being marked and designated as “2009 International Property Maintenance Code” as published by the International Code Council (ICC), is hereby adopted as the Property Maintenance Code of the City of Somersworth in the State of New Hampshire. For the control of buildings and structures as herein provided; and each and all of the regulations, provisions, penalties, conditions, and terms of said Property Maintenance Code are hereby referred to, adopted, and made part hereof, as if fully set out in this Ordinance, with the additions, insertions, deletions, and changes, if any.

24.A.2 The ICC’s International Property Maintenance Code is amended and revised in the following respect:

Section 101.1 Insert: [City of Somersworth]

Section 103.5 Delete section

Section 112.4 Insert \$100 and \$1,000

Section 302.4 Insert [10 inches]

Section 304.14 Insert [May 1 to August 31]

Section 602.3 Insert [October 1 to June 1]

Section 602.4 Insert [October 1 to June 1]

24.B Severability

Nothing in this Ordinance or in the Property Maintenance Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed; nor shall any just or legal right or remedy of any character be lost, impaired, or affected by this Ordinance.

Chapter 24 amended: deleted in its entirety and replaced on 02/04/2013.

TITLE III

TOWNS, CITIES, VILLAGE DISTRICTS, AND UNINCORPORATED PLACES

CHAPTER 31

POWERS AND DUTIES OF TOWNS

Power to Make Bylaws

Section 31:39-d

31:39-d Local Ordinance Citations; Pleas by Mail. – In addition to any other enforcement procedure authorized by law, and regardless of whether a town has adopted an administrative enforcement procedure under RSA 31:39-c, a local official with authority to prosecute an offense under any municipal code, ordinance, bylaw, or regulation, if such offense is classified as a violation under applicable law, may issue and serve upon the defendant, in addition to a summons to appear in the district court, a local ordinance citation as set forth in this section. The defendant receiving such a citation may plead guilty or nolo contendere by mail by entering that plea as provided herein. If such a plea is accepted by the district court and the prescribed fine is paid with the plea by mail, the defendant shall not be required to appear personally or by counsel; otherwise the defendant shall appear as directed by the court. The following procedure shall be used:

I. Notwithstanding any other provision of law, a complaint and summons may be served upon the defendant by postpaid certified mail, return receipt requested. Return receipt showing that the defendant has received the complaint and summons shall constitute an essential part of the service. If service cannot be effected by certified mail, then the court may direct that service on the defendant be completed as in other violation complaints.

II. The local ordinance citation shall contain:

- (a) The caption: "Local Ordinance Citation, Town (City) of _____".
- (b) The name of the offender, and address if known to the prosecuting official.
- (c) The code, ordinance, bylaw, or regulation the offender is charged with violating.
- (d) The act or circumstances constituting the violation.
- (e) The place of the violation.
- (f) The date, if any, upon which the offender received written notice of the violation by the municipality.
- (g) The time and date, if any, upon which any further violation or continuing violation was witnessed subsequent to such written notice.
- (h) The amount of the penalty that is payable by the offender. If the offense is a continuing one for which a penalty is assessed for each day the offense continues, the amount of the penalty shall be based on the number of days the violation has continued since the time notice was given to the offender, up to a maximum of 10 days' violation charged in one citation.
- (i) Instructions informing the defendant that the defendant may answer the citation by mail or

may personally appear in court upon the date on the summons, and instructing the defendant how to enter a plea by mail, together with either the amount of the penalty specified in the citation, or a request for a trial.

(j) The address of the clerk of the district court where the plea by mail may be entered.

(k) A warning to the defendant that failure to respond to the citation on or before the date on the summons may result in the defendant's arrest as provided in paragraph V.

(l) The signature of the prosecuting official.

III. Defendants who are issued a summons and local ordinance citation and who wish to plead guilty or nolo contendere shall enter their plea on the summons and return it with payment of the civil penalty, as set forth in the citation, to the clerk of the court prior to the arraignment date, or shall appear in court on the date of arraignment.

IV. Civil penalties collected by the district court under this section shall be remitted to the municipality issuing the citation. Whenever a defendant (a) does not enter a plea by mail prior to the arraignment day and does not appear personally or by counsel on or before that date or move for a continuance; or (b) otherwise fails to appear for a scheduled court appearance in connection with a summons for any offense, the defendant shall be defaulted and the court shall determine what the civil penalty would be upon a plea of guilty or nolo contendere and shall impose an administrative processing fee in addition to the civil penalty. Such fee shall be the same as the administrative processing fee under RSA 502-A:19-b, and shall be retained by the court for the benefit of the state.

V. The court may, in its discretion, issue a bench warrant for the arrest of any defendant who:

(a) Is defaulted in accordance with the provisions of paragraph IV of this section;

(b) Fails to pay a fine or other penalty imposed in connection with a conviction for a violation of a local code, ordinance, bylaw, or regulation which a court has determined the defendant is able to pay, or issues a bad check in payment of a fine or other penalty; or

(c) Fails to comply with a similar order on any matter within the court's discretion.

VI. For cause, the court in its discretion may refuse to accept a plea by mail and may impose a fine or penalty other than that stated in the local ordinance citation. The court may order the defendant to appear personally in court for the disposition of the defendant's case.

VII. The prosecuting official may serve additional local ordinance citations, without giving additional written notice or appeal opportunity under paragraph I, if the facts or circumstances constituting the violation continue beyond the date or dates of any prior citation. A plea of guilty or nolo contendere to the prior citation shall not affect the rights of the defendant with respect to a subsequent citation.

VIII. Forms and rules for the local ordinance citation and summons shall be developed and adopted by the New Hampshire supreme court.

IX. This section is not intended in any way to abrogate other enforcement actions or remedies in the district or superior court, nor to require written notice as a prerequisite to other types of actions or remedies for violations of local codes, ordinances, bylaws, or regulations.

IX-a. For any offense that is subject to enforcement under RSA 676:17, a person who fails to respond to a citation under this section within the time stated in the citation shall be subject to the subsequent offense penalties of RSA 676:17.

X. This section shall not apply to violations of the New Hampshire building code as defined in RSA 155-A:1, IV, or to motor vehicle offenses under title XXI or any local law enacted thereunder.

Source. 2009, 270:1, eff. Jan. 1, 2010. 2014, 77:1, 2, eff. Jan. 1, 2015.

Process:

- Senate Bill 347 amended RSA 31:39-d that allowed a simpler method of issuing land use citations which will result in more timely enforcement action. One big difference is these citations are handled in District Court instead of Superior Court like with RSA 676:17.
- SB 347 became effective in January 2015.
- With RSA 31:39-d Citations and Summons are served in hand or sent through the mail and can be pled by mail or settled in District court. This doesn't take away our ability to peruse violations in Superior Court using 676:17 if we choose to use this method, perhaps for more egregious violators.
- This new enforcement tool was implemented in Somersworth as part of our efforts to address lands use and property maintenance code violations throughout the City.

Enforcement:

- The Code enforcement Officer has the authority to issue a citation with a fine for violations of our local ordinances.
- Citations can be issued for many of our City Ordinances that include but are not limited to our Property Maintenance Code, Zoning Ordinance, Hawkers, Vendors & Peddlers License, and Site Plan and Subdivision Regulations.
- Violators will have the option to pay the fine or appeal the matter to District Court.

Example:

- The Code Officer discovers a violation and determines a land use citation is the best enforcement method to remedy the issue.
- A citation with a fine is served upon the violator.
- Somersworth City Council passed a resolution that states \$100 fine for the 1st Offense and \$275 for the 2nd Offense. Each day the violation remains after the compliance date set forth in the citation constitutes a separate offense. This is a requirement of RSA 31:39-D
- The citation includes a Court date if the violator chooses to take the matter to District Court.

How did we get there?

The Code office will need to do the following

- Derive a citation form
- Create an acceptable fine schedule for violations
- Establish an SOP (Standard Operating Procedure)

- Become confident with this new tool

The City Council will need to:

- Approve implementation and use of these RSA's
- Approve the format of the citation
- Approve the fine schedule for violations of the citation

Property Maintenance Code:

- The City of Somersworth has adopted the International Property Maintenance Code which is published by the International Code Council (ICC).
- Under this we are able to enforce a wide array of compliance issues cities and towns may battle. A few examples are:
 - Sanitation
 - Weeds (tall grass)
 - Rodents harborage or pest elimination
 - Motor Vehicles (junkyard)
 - Defacement of property
 - Swimming Pools
 - Exterior of structures (Windows, Painting, Chimneys, Screens, Foundation)
 - Interior of structures
 - Rubbish and Garbage
 - Light, ventilation and occupancy limits
 - Plumbing facilities and fixture requirements
 - Mechanical and electrical requirements
 - Fire Safety requirements

Somersworth has been very successful using the new citation process and property maintenance code within the City. We have taken landlords and property owners to court using the citation process and have been very successful thus far. While we don't use this means on everyone it is just another tool we have to help ensure compliance within the City.

LOCAL ORDINANCE CITATION of the CITY OF SOMERSWORTH

One Government Way, Somersworth, NH 03878

NOTICE OF VIOLATION

DATE: _____ TIME: _____ hrs

☐ CITATION 1st Offense \$100.00 - 2nd Offense \$275.00 - Subsequent Offense ☐ WARNING

☐ **YOU MUST COME TO COURT AT** _____ o'clock ☐ AM ☐ PM on _____ to answer this citation.

☐ ~~You~~ DO NOT HAVE TO COME TO COURT but must answer this citation by 12 o'clock NOON on _____.

Follow the instructions on the front of this Summons.

COUNTY OF STRAFFORD, 7th CIRCUIT COURT DISTRICT DIVISION • 25 St Thomas Street • Dover, NH 03820 • (855) 212-1234

CONTRARY TO RSA or ORDINANCE(S)

THE DEFENDANT: _____
(LAST NAME) (FIRST NAME) (MI)

FOR PROPERTY LOCATED AT _____
(Where violation occurred)

LOCATION OF THE VIOLATION ON ABOVE PROPERTY _____

CONTRARY TO THE RSA OR ORDINANCE SECTION(S) INDICATED, THE ABOVE DID COMMIT THE OFFENSE OF:

(DESCRIPTION)

Against the laws of New Hampshire and the City of Somersworth which the defendant should be held to answer.
Against the peace and dignity of the State.

Complainant/Signature (Code Enforcement Officer)

Date _____

INSTRUCTIONS

Unless you have been instructed to come to court in person, you may answer this complaint by mail or may personally appear in court on the date indicated above. If this is a warning you must notify the issuing department that you have met the obligation of the condition of the warning to avoid further action. If this is a Summons you must (X) one of the following choices, sign below, and return this Summons to the court no later than the date indicated above. Check and money orders shall be made payable in U.S. FUNDS ONLY to the DOVER CIRCUIT COURT. DO NOT SEND CASH through the mail. FAILURE TO RESPOND ON OR BEFORE THE DATE SHOWN ON THE TOP OF THIS CITATION MAY RESULT IN YOUR ARREST.

1. ☐ I plead NOT GUILTY and wish to have a trial. I understand that I DO NOT HAVE TO APPEAR IN COURT ON OR BEFORE THE DATE INDICATED ABOVE, and that I will be notified by mail when and where to appear for trial. I understand I have the right to represent myself or to hire a lawyer at my own expense.
2. ☐ I plead ☐ GUILTY or ☐ NO CONTEST and have enclosed a check or money order for the TOTAL amount of my civil penalty.
3. ☐ I have been charged with an offense for which no fine amount is shown on this Summons, I wish to plead ☐ GUILTY or ☐ NO CONTEST and to be notified of the amount of my fine by mail.

WARNING

1. Defendants who are issued a summons and citation and who wish to plead guilty or *nolo contendere* shall enter their plea on the summons and return it with payment of the civil penalty, as set forth in the citation, to the clerk of the court prior to the arraignment date, or shall appear in court on the date of the arraignment.
2. Failure to respond to this summons by the date shown on the front of this summons, or failure to appear for the hearing scheduled with regard to this summons will result in a \$50.00 administrative fee added to your civil penalty (RSA 676:17).
3. If you default in accordance with Paragraph 2, or fail to pay any penalty or comply with any order with regard to this summons or similar order on any matter within the court's discretion, or issue a bad check in payment of a fine or other penalty, the court may in its discretion, issue a bench warrant for YOUR ARREST.

(Date)

(Defendant's Signature)

Address if different than on Summons

White - Responsible Party

Yellow - Court

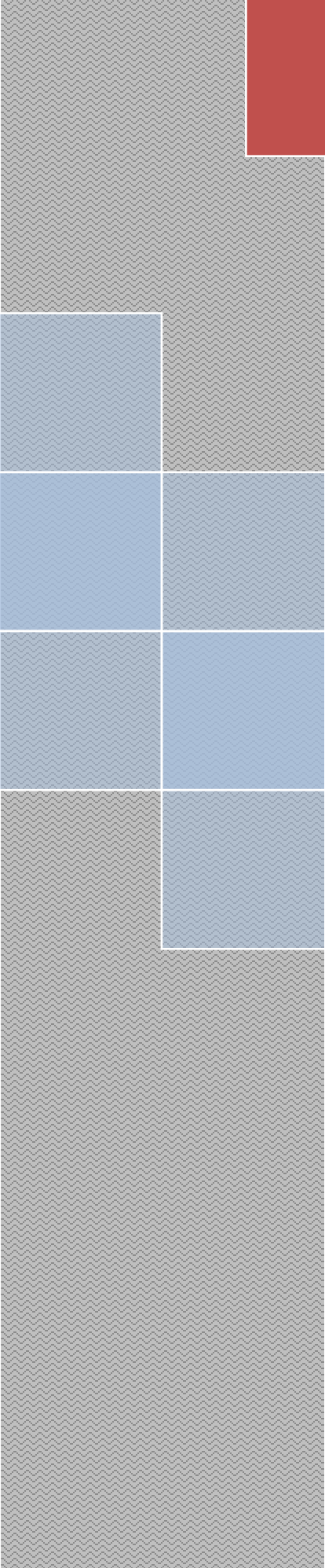
Pink - File

City Ordinances: (Checked boxes may not represent the entire Ordinance, section, or HSA)

- Chapter 7.3, Section 7.3 – Collection Schedule - Restricted** - Rubbish collection will be made Monday through Thursday of each week... The owner, lessee, agent or other in charge of premises within the City shall... place their rubbish to be collected along the curbside or street-side where normally the curbing would be, in specially marked bags as defined in Section 7.1...., on the evening before, or by 7:00am on their scheduled pickup day.
- Chapter 7.3, Section 7.5 - Litter on Public/Private Property: Owner's Duty** - Litter, rubbish or refuse shall not be cast, scattered, thrown, deposited or permitted to remain on or about public or private property within the corporate limits of the City to the detriment of public peace, health, and welfare. The owner, lessee, agent or other in charge of premises within the City shall... such nuisance as defined in Sections 7.1 of this ordinance within twenty-four (24) hours after receiving notification from the City... It shall be unlawful for any person to dump, place, scatter litter, refuse or rubbish on or about private premises, whether such premises are vacant or inhabited.
- Chapter 7.3, Section 7.6 – Removal of Empty Containers (Home/Commercial)** - Rubbish containers, and rubbish must be removed by the owner from the curbside within twenty-four (24) hours after the scheduled pickup. Any debris strewn from this rubbish by animals, wind, etc., cleaned up by the owners within twenty-four (24) hours.
- Chapter 7.3, Section 7.9 – Residential Curbside Recycling** - Recyclable materials will be collected from residences... every other week on the day as rubbish collection. The City Manager will publish a list of materials accepted by the curbside collection program. Recyclable materials be placed in Residential Recycling Bins... Bins must be placed at the curb on the evening before or by 7:00am on the scheduled pickup day. Unacceptable material found in the Residential Recycling Bins will be grounds for not emptying the bin.
- Chapter 11, Section 15 - Public Health** - No owner or occupant, or any person having control or charge of any lot, tenement, premises, building, or other place, shall cause or permit any nuisance to be or remain in or upon said lot, tenement, building, or other place, or between them and the center of any street, lane, or alley adjoining.
- Chapter 13D.3 - Noises Prohibited- Unnecessary Noise Standard** - The following acts are declared to be noise disturbances and are prohibited by this Ordinance: A- Radios, Stereos, Musical Instruments, Etc.; B- Loud speakers, Amplifiers for Advertising; C- Animals, Birds, Etc.; H- Idling; I- Construction or Repairing of Buildings (Other than between the hours of 7am until dark); J- Pile Drivers, Hammers, Engine Repair, etc.
- Chapter 14B.4 - License Required: Display of License** - No hawker, peddler, vendor or itinerant vendor... shall engage in the business... without a license being granted by the Licensing Board of the City. Such license as granted shall at all times be conspicuously displayed on or in the vehicle or stand used in such business.
- Chapter 19, Section 18A - Fence Regulations** - No fence shall be erected without a permit from the Building Inspector.
- Chapter 19, Section 19C - Swimming Pool Regulations - Setback Requirements** - No swimming pool, temporary or permanent, shall be constructed or installed within twelve feet (12') of the nearest lot line.
- Chapter 19, Section 20 - Sign Regulations**
- Chapter 18, Table of Uses - Table 4.A.3 - 811** - Storage of more than one unregistered and uninspected by the State and/or the City vehicle (also in PM 302.8 and RSA 236.111-129)
- Chapter 24 - Property Maintenance Code - (2009 IPMC)**
- 302.1 - Sanitation** - All exterior property and premises shall be maintained in a clean, safe and sanitary condition. The occupant shall maintain that part of the exterior property which such occupant occupies or controls in a clean and sanitary condition.
- 302.4 - Weeds** - All premises and exterior property shall be maintained free from weeds or plant growth in excess of 10 inches (254 mm) in height. Noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs planted by the owner; however, this term shall not include cultivated flowers and gardens.
- 304.3 - Premises Identification** - Buildings shall have approved address numbers placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals in black letters. Numbers shall be a minimum of 4 inches (102mm) high with a minimum stroke width of 0.5 inch (12.7mm).
- 305.1 - General** - The interior of a structure and equipment therein shall be maintained in good repair, structurally sound and in a safe condition. Occupants shall keep that part of the structure which they occupy or control in a clean and sanitary condition. Every dwelling unit containing a rooming house, housekeeping units, a hotel, a dormitory, two or more dwelling units or two or more non-dwelling occupancies, shall maintain, in a clean and sanitary condition, the shared or public areas of the structure and exterior property.
- 308.1- Accumulation of rubbish or garbage** - All exterior property and premises, and the interior of every structure, shall be free from an accumulation of rubbish or garbage.
- 308.3.1- Garbage facilities** - The owner of every dwelling shall supply one of the following: an approved mechanical food waste disposer; an approved incinerator unit in the structure available to the occupants in each dwelling unit; or an approved leak-proof, covered, outside garbage container.

☐ Other.

NOTES:



This page has
been
intentionally left
blank.



Current Ordinance

CHAPTER 63

RIGHTS AND DUTIES OF PEDESTRIANS

SECTION ANALYSIS

63.1 Pedestrians Crossing Street in Restricted Area.

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

63.1 Pedestrians Crossing Street in Restricted Area.

No person shall cross any street in the urban area of the City at any point other than a marked crosswalk.

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 distribute 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 roadway.

(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.

Amendments

[1] 6/6/1995

[2] 63.2 Adopted on 9/1/2015

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.

23.8 Means of Escape.**[3]**

All factories, hotels, tenement houses, public halls, schoolhouses and other buildings used as places of public resort in the City shall be provided with ample means of escape in case of a fire and adequate facilities for entrance and exits on all occasions; and be so erected as not to endanger the health and safety of persons who occupy them.

23.9 Fire Department Access**[4]**

Before construction on commercial buildings, a residential street or a private street with two (2) or more duplexes or single-family dwellings may begin, Fire Department access roads shall be designed and maintained to support the imposed loads of fire apparatus and shall be provided with a surface suitable for all-weather driving capabilities.

23.10 Control of Fire Hazards**[4]**

The Chief of his/her designee shall examine, or cause to be examined, at regular intervals, all places where combustible material may be collected or deposited and cause the same to be removed by the tenants, occupants or owners of such place, at their expense, whenever, in the opinion of the Fire Chief, such removal is necessary for the security of the City against fires. A record of all such inspections shall be kept by the Chief or his/her designee.

23.11 Penalty**[3]**

Any person, persons, firm, corporation or partnership who shall violate any provision of Chapter 23 shall be guilty of a violation punishable by a fine of not less than one hundred dollars (\$100) or not more than five hundred dollars (\$500). Each day that the violation continues to exist shall constitute a separate offense.

23.12 Sprinkler Requirements for Certain Single-family Dwelling Units.**[6]**

In addition to sprinkler requirements for structures under the provisions of the applicable N.F.P.A. (National Fire Protection Association) Code and/or any other applicable law or regulation all newly constructed duplexes, triplexes and single-family dwelling unit combination structures that are attached to each other, shall be sprinkled in accordance with National Fire Protection Association (N.F.P.A.) Code standards as contained in the New Hampshire State Fire Code.

23.13 Prohibition and Regulation of Fireworks.**[7][8][9]****Current Fireworks**

- A. In accordance with the provisions of RSA 160-C, it shall be illegal for any person, firm, partnership or corporation to offer for sale, expose for sale, sell at retail, purchase, possess, use, explode or display any permissible fireworks within the City of Rochester, except as specifically provided for in this ordinance.
- B. As used in this ordinance:
 - i. "Display" means the use, explosion, activation, ignition, discharge, firing or any other activity which is intended to cause or which causes a firework to do what it was manufactured to do.
 - ii. "Permissible fireworks" means those consumers firework devices defined as "permissible fireworks" in RSA 160-C, as the same currently exists or as, from time to time, hereinafter amended.
 - iii. "Fire Chief" means the Fire Chief of the City of Rochester or his/her designee.

- iv. "Police Chief" means the Police Chief of the City of Rochester or his/her designee.
- C. Subject to, and in accordance with the provisions of Chapter 160-C of the New Hampshire Revised Statutes Annotated it shall be lawful to possess and/or display permissible fireworks upon compliance with the following requirements:
- i. A person who is 21 years of age or older may display permissible fireworks on private property with the written consent of the owner or in the owner's presence, subject to the provisions of this ordinance and RSA Chapter 160-C, and any other applicable ordinance regulation or statute.
 - ii. No display of permissible fireworks shall be permitted within the City except between the hours of 6 PM and 11 PM on Saturdays in the months of June and July and between the hours of 6 PM and 10 PM on Saturdays between the months of August through May. Permissible fireworks shall be permitted on the following holidays; Labor Day, Fourth of July (including the evening of July 3rd beginning at 6PM, including from such time until midnight on any rain date established for the annual city-wide fireworks display held at the Rochester Fairgrounds), on New Year's Eve (December 31st), provided, however, that on New Year's Eve such display shall be permitted to occur between the hours of 6 PM on December 31st and 1:00 AM on January 1st.
 - iii. The display of permissible fireworks shall be of such a character, and so located and conducted, that it shall not be hazardous to property or endanger any person. In accordance with the provisions of RSA Chapter 160-C no permissible fireworks shall be permitted on public property and must be at least 50 feet from nearby buildings, nearby trees, electrical and telephone lines or other overhead obstructions, and the location of any nearby storage of flammable or combustible liquids or gases.
 - iv. No permissible fireworks may be used, discharged, exploded, or displayed during periods of very high or extreme fire danger as determined by the Fire Chief or the NH Division of Forests and Lands.
 - v. Permissible fireworks may be used, discharged, exploded, or displayed in a manner such that any all discharge debris shall remain within the property lines of the lot on which the display originates.
 - vi. Anyone using permissible fireworks shall be responsible for removing any debris accumulated due to the discharge of fireworks that fall onto the public way, public property, and any private property twenty-four hours. Anyone failing to remove such debris shall be financially responsible for its clean up.
 - vii. Display of permissible fireworks shall be permitted on public property the evening of July 3rd beginning at 6PM, including from such time until midnight on any rain date established for the annual city-wide fireworks display held at the Rochester Fairgrounds, provided that such display shall be authorized in a duly issued Block Party

Application/Permit from the City's Licensing Board covering the public property on which the display is to occur."

[11]

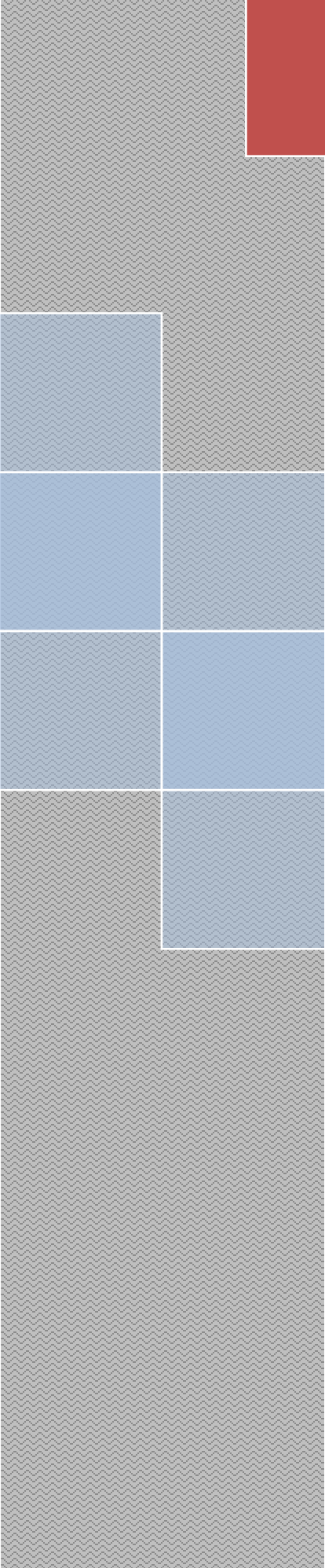
- D. A violation of this ordinance shall be subject to the penalties provided for in Chapter 23, Section 23.11, Penalty, of the City of Rochester General Ordinance.
- E. This ordinance shall be construed consistently with NH Code of Administrative Rules Section 2600, as made applicable by state statute and as adopted by reference in Section 23.1, of the General Ordinances of the City of Rochester, and is not meant to repeal any section thereof. Nothing in this ordinance shall be interpreted so as to conflict with the provisions of Chapters 160-B or 160-C of the New Hampshire Revised Statutes Annotated, as currently written, or as from time to time hereafter amended. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such provision shall be deemed a separate, distinct independent provision and such holding shall not affect the validity of the remaining portions thereof. 11-9-10
- F. The Police Chief or Fire Chief may suspend the use of permissible fireworks for any of the following reasons:
 - i. Unfavorable weather conditions, including but not limited to, lightning storms or high wind conditions exceeding 20 miles per hour or higher.
 - ii. If any person under the age of 21 possesses, uses, discharges or explodes, used, discharged or exploded any permissible firework device.
 - iii. If any person who is using, discharging, exploding, or displaying the permissible fireworks appears to be under the influence of alcohol or drugs;
 - iv. If, in the opinion of the Police Chief or Fire Chief, the use, discharge, exploding, or display of permissible fireworks would create a threat to public safety.
- G. The Police Chief and/or Fire Chief are authorized to seize, take, remove or cause to be removed, at the expense of the owner, all firework devices that are being discharged in violation of this ordinance."

23.14 Listed Agent Program

In accordance with NFPA 1:2009 1.13, or the applicable adopted section of the current Code, the Rochester Fire Department enacts the Listed Agent Program. The Fire Chief or his designee shall promulgate administrative rules for the management of the Listed Agent Program."

23.15 Regulation of Fire Alarms

The Fire Chief or his designee shall promulgate administrative rules for the management of the installation and maintenance of Fire Alarms.



This page has
been
intentionally left
blank.



Proposed City Charter change. Submitted by Councilor Robert Gates on 4/19/2016.

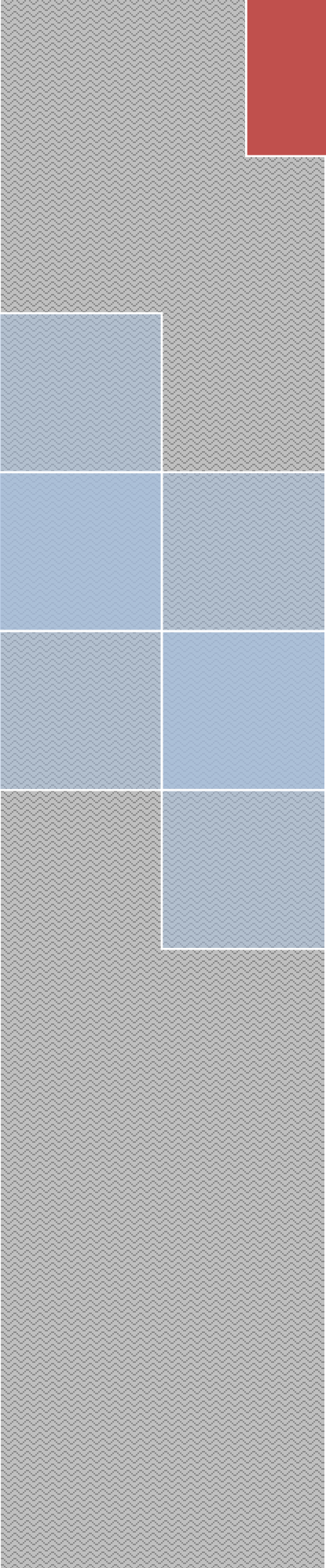
Rochester City Charter, amended January 1, 2013

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.



This page has
been
intentionally left
blank.



HB 1205 - AS INTRODUCED

2016 SESSION

16-2080
08/09

HOUSE BILL **1205**

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

SPONSORS: Rep. Gray, Straf. 8

COMMITTEE: Education

ANALYSIS

This bill includes libraries with children's programming in the definition of "drug-free school zones."

.....

Explanation: Matter added to current law appears in ***bold italics***.

Matter removed from current law appears ~~[in brackets and struck through]~~.

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

16-2080
08/09

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Sixteen

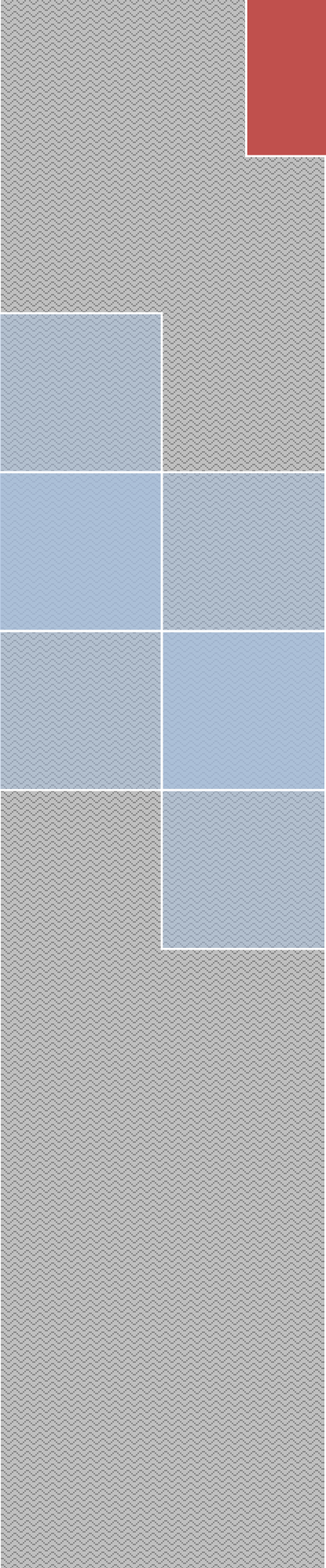
AN ACT including libraries that provide children's programming in the definition of drug-free school zone.

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

1 Drug-Free School Zone. Amend RSA 193-B:1, 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.



This page has
been
intentionally left
blank.



Chapter 42 Manufactured Housing

*Pages Are
Forthcoming...*