

**Regular City Council Meeting  
November 10, 2020  
Council Chambers  
31 Wakefield Street  
and remotely via Microsoft Teams  
6:49 PM**

**COUNCILORS PRESENT**

Councilor Belken  
Councilor Bogan  
Councilor Gray  
Councilor Hailey  
Councilor Hamann  
Councilor Hutchinson  
Councilor Rice  
Councilor Walker  
Deputy Mayor Lauterborn  
Mayor McCarley

**OTHERS PRESENT**

Blaine Cox, City Manager  
Katie Ambrose, Deputy City Manager  
Terence O'Rourke, City Attorney  
Peter Nourse, Director of City Services  
Paul Toussaint, Chief of Police  
Shanna Saunders, Director of Planning

**COUNCILORS ABSENT/EXCUSED**

Councilor Abbott  
Councilor Lachapelle

**Minutes**

**1. Call To Order**

Mayor McCarley called the City Council Regular meeting to order at 6:49 PM and read the following preamble:

Good Evening, as Chairperson of the City Council, I am declaring that an emergency exists and I am invoking the provisions of RSA 91-A:2, III (b). Federal, state, and local officials have determined that gatherings of 10 or more people pose a substantial risk to our community in its continuing efforts to combat the spread of COVID-19. In concurring with their determination, I also find that this meeting is imperative to the continued operation of City government and services, which are vital to public safety and confidence during this emergency. As such, this meeting will be conducted without a quorum of this body physically present in the same location.

a.) **Public Input:** Due to the ongoing situation with COVID-19, the City of Rochester will be taking extra steps to allow for public input, while still ensuring participant safety and social distancing. In lieu of attending the meeting, those wishing to share comments, when permitted, with the City Council (Public Hearing and/or Workshop settings) are encouraged to do so by the following methods:

- **Mail:** City Clerk/Public Input, 31 Wakefield Street, Rochester, NH 03867 (*must be received at least three full days prior to the anticipated meeting date*)
- **email** [PublicInput@rochesternh.net](mailto:PublicInput@rochesternh.net) (*must be received no later than 4:00 pm of meeting date*)
- **Voicemail** 603-330-7107 (*must be received no later than 12:00 pm on said meeting date in order to be transcribed*)

Please include with your correspondence the intended meeting date for which you are submitting. *All correspondence will be included with the corresponding meeting packet (Addendum).*

In addition to the above listed public access information, the City Council will be allowing the public to enter Council Chambers and speak in person during the Public Input portion of this meeting. In an effort to adhere to CDC guidelines: enter only at the front Wakefield Street entrance and exit on the side closest to the police department and adhere to 6-foot social distancing while inside. Hand sanitizer and facemasks will be available at the Wakefield Street entrance. Participants will be admitted into Council Chambers one at a time to speak, and will exit directly thereafter. Please note; the seating in Council Chambers will not be available for the public during meetings.

At this time, I also welcome members of the public accessing this meeting by phone. The public can call-in to the below number using the conference code. This meeting will be set to allow the public to "listen-in" only, and there will be no public comment taken via conference line during the meeting.

Phone number: 857-444-0744      Conference code: 843095

b.) **Roll Call:** Please note that all votes that are taken during this meeting shall be done by Roll Call vote.

Let's start the meeting by taking a Roll Call attendance. When each member states their name (and/or ward), also please state whether there is anyone in the room with you during this meeting, which is required under the Right-to-

Know law. (Additionally, Council members are required to state their name and ward each time they wish to speak.)

## **2. Roll Call**

Deputy City Clerk Cassie Givara took the roll. The following Councilors were present in Council Chambers: Councilors Belken, Gray, Hainey, Hamann, Rice, Walker, Deputy Mayor Lauterborn and Mayor McCarley. The following Councilors were connecting remotely and indicated that they were alone in the location from which they were attending: Councilors Bogan, Hutchinson, and Lachance. Councilors Abbott and Lachapelle were excused.

## **3. Opening Prayer**

In lieu of an opening prayer, City Manager Cox played a video of the One Voice Children's Choir singing Maroon 5's "Memories."

## **4. Pledge of Allegiance**

Mayor McCarley led everyone present in the Pledge of Allegiance.

## **5. Acceptance of Minutes**

### **5.1 Regular City Council Meeting: October 6, 2020** ***consideration for approval***

Councilor Walker **MOVED** to approve the minutes of the October 6, 2020 Regular City Council meeting. Councilor Hamann seconded the motion. The **MOTION CARRIED** by a 11-0 roll call vote with Councilors Hainey, Lauterborn, Hutchinson, Rice, Walker, Gray, Bogan, Hamann, Belken, Lachance, and Mayor McCarley voting in favor.

### **5.2 Special City Council Meeting: October 20, 2020** ***consideration for approval***

Councilor Walker **MOVED** to approve the minutes of the October 6, 2020 Regular City Council meeting. Councilor Hamann seconded the motion. The **MOTION CARRIED** by a 11-0 roll call vote with Councilors Rice, Walker, Belken, Bogan, Hamann, Lauterborn, Hainey, Gray, Hutchinson, Lachance and Mayor McCarley voting in favor.

## **6. Communications from the City Manager**

### **6.1 City Manager's Report**

City Manager Cox stated his report is in the packet as follows:

Contracts and documents executed since last month:

- **City Manager**
  - Software Agreement – Qless queue management
- **Department of Public Works**
  - Certificate of Completion – Four Rod Rd culvert – Ted Berry Co, LLC
  - Letter of Commitment – 2022 Household Hazardous Waste Day
  - Notice of Bid Award – Crack sealing – Indus, Inc.
  - Notice to Proceed – Portland St Culvert – Integrity Earthworks, LLC
  - Agreement for engineering Srvcs – Tara Estates Sewer Pump Station – Weston & Sampson Engineers, Inc.
  - Engineering Amendment – Colonial Pines Phase II – Underwood Engineers
  - Engineering Amendment – New DPW Facility – Weston & Sampson
  - Scope of Services – Water Distribution Hydraulic Model – Wright Pierce
  - Access Agreement – Verizon Wireless
- **Economic Development**
  - Appraisal Report Agreement – GSBP water-sewer line ext - Fremeau Appraisal, Inc.
  - CDBG Environmental Reviews – CAP Weatherization, Heating system replacement
  - CDBG Environmental Reviews – CAP Weatherization, Cocheco River Estates
  - CDBG Environmental Reviews – CAP Weatherization Oil Heating System replacement
  - CDBG Environmental Reviews – CAP Full Weatherization steam heating system replacement
- **IT**
  - Service Agreement – App Development – RePoint Technologies
- **Police Department**
  - Scope of Services Agreement – Heartline Fitness Company

Other documents included for information:

The following standard reports have been enclosed:

- Monthly Overnight Travel Summary - none
- Permission & Permits Issued -none

- Personnel Action Report Summary

City Manager Cox thanked City Staff who had helped at the November 3, 2020 election; not only the City Clerk staff who ran the election, but staff from other departments who assisted with food delivery, the absentee ballot process, supplies, and help at the polling places. He also thanked SUR Construction for their help supplying electronic message boards directing voters to the polling places.

City Manager Cox also thanked Bob Veno, City Health Officer, for his support of the schools during their recent issues with COVID.

## **7. Communications from the Mayor**

Mayor McCarley indicated that the next day was Veteran's Day and there would be a ceremony at the Rochester Common where veterans will lay a wreath at 11:11 AM. Somersworth is also dedicating their new veteran's park, and the mayors from Dover, Rochester and Somersworth will all be present with the presentation being filmed.

### **7.1 Tri-Cities Mayors' Challenge Pledge**

Councilor Hutchinson reported that this item is an initiative which was brought to the Fidelity Committee in an attempt to eradicate homelessness in NH veterans. The pledge will be signed by all three Tri-City Mayors at the veteran's park ceremony in Somersworth the following day. In signing this pledge, Dover, Rochester and Somersworth will be joining 77 other communities in NH to work towards the goal of ending veteran homelessness.

### **7.2 Proclamation: The Ridge Art Walk**

Mayor McCarley read the proclamation declaring November 10, 2020 as "The Ridge Celebrates Art Day." She encouraged everyone to go to the Ridge and see the art work which the Spaulding High School students have displayed.

### **7.3 Proclamation: Rochester City Clerks and Election Officials Week, November 16 – 22**

Councilor Rice read the proclamation declaring the week of November 16 – 22 as Rochester City Clerks and Election Officials week. Mayor McCarley agreed that the election went very well and thanked all those involved.

## **8. Presentation of Petitions and Council Correspondence**

No Discussion.

## 9. Nominations, Appointments, Resignations, and Elections

No Discussion.

## 10. Reports of Committees

### • Appointments Committee (*added to revised agenda*)

**New Appointment:** James Hayden, Zoning Board of Adjustments, Regular Member – *Term to expire 1/02/2021 consideration for approval*

**Re-Appointment:** Marsha Miller – Rochester Economic Development Committee, Regular Member – *Term to expire 1/02/2023 consideration for approval*

**Re-Appointment:** Mark Hourihane – Rochester Economic Development Committee, Regular Member – *Term to expire 1/02/2023 consideration for approval*

**Re-Appointment:** Eli Barnes – Utility Advisory Board, Regular Member – *Term to expire 1/02/2023 consideration for approval*

Mayor McCarley **MOVED** to approve all of the above listed appointments with the terms as listed. Councilor Walker seconded the motion. The **MOTION CARRIED** by an 11 – 0 roll call vote with Councilors Hamann, Walker, Hutchinson, Belken, Lachance, Gray, Rice, Bogan, Hailey, Lauterborn, and Mayor McCarley all voting in favor.

### 10.1 Codes & Ordinances Committee

**10.1.1 Committee Recommendation:** to accept the amendments to Chapter 16 (Alarm Systems) of the City Ordinances as presented by City staff *consideration for approval*

Councilor Lauterborn **MOVED** to accept the amendments to Chapter 16 of the City Ordinances. Councilor Rice seconded the motion. The **MOTION CARRIED** by an 11- 0 roll call vote with Councilors Belken, Gray, Hamann, Rice, Lauterborn, Hailey, Hutchinson, Walker, Lachance, Bogan, and Mayor McCarley all voting in favor.

*Amendments to Chapter 16 – Addendum A*

**10.1.2 Committee Recommendation: To accept the amendments to Chapter 75 (Fire and Fire Safety) as presented by City Staff *consideration for approval***

Councilor Lauterborn **MOVED** to accept the amendments to Chapter 75 of the City Ordinances. Councilor Rice seconded the motion. The **MOTION CARRIED** by an 11- 0 roll call vote with Councilors Rice, Gray, Hainey, Bogan, Hutchinson, Lachance, Hamann, Lauterborn, Walker, Belken, and Mayor McCarley all voting in favor.

*Amendments to Chapter 75 – Addendum B*

**10.2 Fidelity Committee**

Councilor Hutchinson gave an update on the Fidelity Committee's work. He stated that the original plan to use the Care Pharmacy property as a cold weather shelter had fallen through; it was deemed too costly to bring the building up to code and the work necessary would push the opening of the facility well into winter. Councilor Hutchinson reported that there had been a new location sourced in Dover; The Garrison Hotel. There are CARES act funds as well as other grant funds available for this shelter. He stated that there are 30 rooms being offered in one wing of the hotel, but the Committee is still looking for overflow facilities due to the anticipated need being greater than the hotel can provide.

Mayor McCarley stated that Chris Bowlen, Director of Recreation and Arena, will be presenting at the next City Council meeting in regards to the Recover Friendly Workplace initiative.

**10.3 Finance Committee**

Mayor McCarley reported that the finance committee had spent a great deal of time at their last meeting discussing the questions which had arisen in regards to the school department's supplemental appropriation and the accounting of the numbers. The School Department is now being asked to report to the Finance Committee on a monthly basis with updates. There was also discussion on the cost of the election.

**10.4 Planning Board**

Councilor Walker said that the Planning Board had met on November 1.

They had discussed the mural ordinance and cleared up some legal questions on the matter. He stated there would be some amendments made to the ordinance and it would come back to the Planning Board the following month.

## **10.5 Public Safety**

### **10.5.1 Committee Recommendation: to make the North Main Street municipal parking lot one-way access with traffic entering in the northern driveway closest to the bridge and exiting from the driveway closest to the new Citizens Bank *consideration for approval***

Councilor Hamann **MOVED** to make the North Main Streets municipal parking lot one-way access with traffic entering in the northern driveway closest to the bridge and exiting from the driveway closest to Citizen's Bank. Councilor Rice seconded the motion. The **MOTION CARRIED** by an 11-0 roll call vote with Councilors Rice, Walker, Belken, Bogan, Hamann, Lauterborn, Hailey, Gray, Hutchinson, Lachance, and Mayor McCarley voting in favor.

## **10.6 Public Works**

### **10.6.1 Committee Recommendation: To approve the streets, as submitted by DPW, for paving *consideration for approval***

Councilor Walker **MOVED to** approve the street list for paving. Councilor Lachance seconded the motion. The **MOTION CARRIED** by an 11-0 roll call vote with Councilors Hailey, Lauterborn, Hutchinson, Rice, Walker, Gray, Bogan, Hamann, Belken, Lachance, and Mayor McCarley voting in favor.

### **10.6.2 Resolution Authorizing Supplemental Appropriation to the Department of Public Works (DPW) CIP Fund in the Amount of \$200,000.00 for the Milton Road/Amarosa Drive/Salmon Falls Road Intersection Improvement Project *first reading and refer to public hearing***

Councilor Walker **MOVED** to read the resolution for a first time by title only. Councilor Rice seconded the motion. The **MOTION CARRIED** by an 11-0 roll call vote with Councilors Hamann, Walker, Hutchinson, Belken, Lachance, Gray, Rice, Bogan, Hailey, Lauterborn and Mayor McCarley voting in favor. Councilor Walker read the resolution for a first time by title only as follows:



**Resolution Authorizing Supplemental Appropriation to the  
Department of Public Works (DPW) CIP Fund in the Amount of  
\$200,000.00 for the Milton Road/Amarosa Drive/Salmon Falls Road  
Intersection Improvement Project**

**BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF  
ROCHESTER:**

That the amount of Two Hundred Thousand Dollars (\$200,000.00) is hereby appropriated as a supplemental appropriation to the DPW CIP Fund for the purpose of paying costs associated with the Milton Road/Amarosa Drive/Salmon Falls Road Intersection Improvement Project. The funding for this supplemental appropriation shall be derived in its entirety from the General Fund Unassigned Fund Balance.

To the extent not otherwise provided for in this Resolution, the Finance Director is hereby authorized to establish and/or designate such multi-year, non-lapsing accounts and or account numbers as are necessary to implement the transactions contemplated in this Resolution.

Councilor Walker **MOVED** to refer the resolution to a public hearing. Councilor Rice seconded the motion. The **MOTION CARRIED** by an 11-0 roll call vote with Councilors Belken, Gray, Hamann, Rice, Lauterborn, Hainey, Hutchinson, Walker, Lachance, Bogan, and Mayor McCarley all voting in favor.

Councilor Walker inquired when the public hearing would be held. Mayor McCarley clarified that the public hearing would take place on Tuesday, November 17.

**11. Old Business**

**11.1 Resolution Authorizing Supplemental  
Appropriation to the Department of Public Works  
(DPW) CIP Fund in the Amount of \$1,000,000.00 for  
the FY 2021 Paving Rehabilitation Program *second  
reading and consideration for adoption***

Councilor Walker **MOVED** to read the resolution for a second time by title only. Councilor Rice seconded the motion. The **MOTION CARRIED** by an 11 – 0 roll call vote with Councilors Rice, Gray, Hainey, Bogan, Hutchinson, Lachance, Hamann, Lauterborn, Walker, Belken, and Mayor

McCarley all voting in favor. Mayor McCarley read the resolution for a second time by title only as follows:

**Resolution Authorizing Supplemental Appropriation to the Department of Public Works (DPW) CIP Fund in the Amount of \$1,000,000.00 for the FY 2021 Paving Rehabilitation Program**

**BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF ROCHESTER:**

That the amount of One Million Dollars (\$1,000,000.00) is hereby appropriated as a supplemental appropriation to the DPW CIP Fund for the purpose of paying costs associated with the FY 2021 Paving Rehabilitation Program. The funding for this supplemental appropriation shall be derived in its entirety from the General Fund Unassigned Fund Balance.

To the extent not otherwise provided for in this Resolution, the Finance Director is hereby authorized to establish and/or designate such multi-year, non-lapsing accounts and or account numbers as are necessary to implement the transactions contemplated in this Resolution.

Councilor Walker **MOVED** to **ADOPT** the resolution. Councilor Rice seconded the motion. Councilor Rice asked if it was known how much money was remaining in the paving budget. Director Nourse stated that he did not have an exact amount; there could be upwards of \$470,000, but there are still invoices outstanding. He stated that he hoped to have approximately \$1.4 million going into this project. The **MOTION CARRIED** by an 11 – 0 roll call vote with Councilor Rice, Walker, Belken, Bogan, Hamann, Lauterborn, Hailey, Gray, Hutchinson, Lachance, and Mayor McCarley voting in favor.

**11.2 Resolution Authorizing Supplemental Appropriation to the Department of Public Works (DPW) CIP Fund in the Amount of \$250,000.00 for the FY 2021 Sidewalk Replacement Program *second reading and consideration for adoption***

Councilor Walker **MOVED** to read the resolution for a second time by title only. Councilor Rice seconded the motion. The **MOTION CARRIED** by an 11 – 0 roll call vote with Councilors Hailey, Lauterborn, Hutchinson, Rice, Walker, Gray, Bogan, Hamann, Belken, Lachance, and Mayor McCarley all voting in favor. Mayor McCarley read the resolution for a second time by title only as follows:

**Resolution Authorizing Supplemental Appropriation to the**

**Department of Public Works (DPW) CIP Fund in the Amount of \$250,000.00 for the FY 2021 Sidewalk Replacement Program**

**BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF ROCHESTER:**

That the amount of Two Hundred Fifty Thousand Dollars (\$250,000.00) is hereby appropriated as a supplemental appropriation to the DPW CIP Fund for the purpose of paying costs associated with the FY 2021 Sidewalk Replacement Program. The funding for this supplemental appropriation shall be derived in its entirety from the General Fund Unassigned Fund Balance.

To the extent not otherwise provided for in this Resolution, the Finance Director is hereby authorized to establish and/or designate such multi-year, non-lapsing accounts and or account numbers as are necessary to implement the transactions contemplated in this Resolution.

Councilor Walker **MOVED** to **ADOPT** the resolution. Councilor Rice seconded the motion. Councilor Hailey asked where the sidewalks being replaced are located. Director Nourse stated the sidewalk replacement was taking place on Oak Street. The **MOTION CARRIED** by an 11 – 0 roll call vote with Councilors Hamann, Walker, Hutchinson, Belken, Lachance, Gray, Rice, Bogan, Hailey, Lauterborn, and Mayor McCarley voting in favor.

**12. Consent Calendar**

No discussion.

**13. New Business**

**13.1 Amendment to Chapter 200 of the General Ordinances of the City of Rochester Regarding Sewers *first reading and consideration for adoption***

Councilor Walker **MOVED** to read the amendment for a first time. Councilor Rice seconded the motion. The **MOTION CARRIED** by an 11 – 0 roll call vote with Councilors Belken, Gray, Hamann, Rice, Lauterborn, Hailey, Hutchinson, Walker, Lachance, Bogan, and Mayor McCarley voting in favor.

Councilor Walker **MOVED** to **ADOPT** the amendments to Chapter 200. Councilor Rice seconded the motion. Councilor Hailey inquired why these changes were being proposed. Director Nourse stated that these changes are required by the EPA and DES. The changes are considered non-substantial modifications not requiring a public hearing; they relate to industrial users in

industrial pre-treatment programs and they provide flexibility for sampling or pass throughs as well as citing specific penalties for violations. Director Nourse gave some further clarifications on the changes being recommended. Councilor Rice asked if this would affect commercial users or if they were already up to this standard. Director Nourse stated there is already a robust program in place and he did not feel there would be any impact. The **MOTION CARRIED** by an 11- 0 roll call vote with Councilors Rice, Gray, Hailey, Bogan, Hutchinson, Lachance, Hamann, Lauterborn, Walker, Belken, and Mayor McCarley all voting in favor.

*Amendments to Chapter 200 – Addendum C*

**13.2 Resolution Confirming Results of the October, 2020 Virtual Public Auction *first reading and consideration for adoption***

Councilor Walker **MOVED** to read the resolution for a first time by title only. Councilor Rice seconded the motion. The **MOTION CARRIED** by an 11- 0 roll call vote with Councilors Rice, Walker, Belken, Bogan, Hamann, Lauterborn, Hailey, Gray, Hutchinson, Lachance, and Mayor McCarley all voting in favor. Mayor McCarley read the resolution for a first time by title only as follows:

**Resolution Confirming Results of the October, 2020 Virtual Public Auction**

**BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF ROCHESTER, AS FOLLOWS:**

That the following result of the October, 2020 Virtual Public Auction is confirmed as follows:

<b><u>Property</u></b>	<b><u>Purchaser</u></b>	<b><u>Amount</u></b>
24 Cherokee Drive	David Roy Family Trust	\$17,100.00

Councilor Walker **MOVED** to **ADOPT** the resolution. Councilor Rice seconded the motion. The **MOTION CARRIED** by an 11 – 0 roll call vote with Councilors Hailey, Lauterborn, Hutchinson, Rice, Walker, Gray, Bogan, Hamann, Belken, Lachance, and Mayor McCarley voting in favor.

**13.3 Resolution Accepting NH Department of Environmental Services (NHDES) Grant, in Connection with 2021 Household Hazardous Waste Day and**

**Authorizing City Manager to Enter Into a Contract with  
NHDES not to exceed \$13,350.00 *first reading and  
consideration for adoption***

Councilor Walker **MOVED** to read the resolution for a first time by title only. Councilor Rice seconded the motion. The **MOTION CARRIED** by an 11 – 0 roll call vote with Councilors Hamann, Walker, Hutchinson, Belken, Lachance, Gray, Rice, Bogan, Hainey, Lauterborn, and Mayor McCarley all voting in faavor. Mayor McCarley read the resolution for a first time by title only as follows:

**Resolution Accepting  
NH Department of Environmental Services (NHDES) Grant,  
in Connection with 2021 Household Hazardous Waste Day  
and Authoring City Manager to Enter Into a  
Contract with NHDES not to exceed \$13,350.00**

**BE IT RESOLVED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY  
OF ROCHESTER, AS FOLLOWS:**

That a NHDES Grant, in the amount not to exceed Thirteen Thousand Three Hundred Fifty Dollars (\$13,350.00) to the City of Rochester, for the purpose of hosting hazard mitigation, is hereby accepted by the City of Rochester. The associated revenue and expenses accounts have previously been approved by the Council in the Department of Public Works 2021 operating budget of the City of Rochester.

Additionally, the City Manager of the City of Rochester, be, and hereby is authorized to enter into a contract with the NHDES with respect to such grant and the conduct of the aforementioned 2021 Household Hazardous Waste Day.

Furthermore, to the extent not otherwise provided for in this Resolution, the Finance Director is hereby authorized to designate and/or establish such accounts and/or account numbers as necessary to implement the transactions contemplated by this Resolution.

Councilor Walker **MOVED** to **ADOPT** the resolution. Councilor Rice seconded the motion. The **MOTION CARRIED** by an 11 – 0 roll call vote with Councilors Belken, Gray, Hamann, Rice, Lauterborn, Hainey, Hutchinson, Walker, Lachance, Bogan, and Mayor McCarley all voting in favor.

**13.4 Resolution Authorizing a Supplemental Appropriation in the Amount of \$290,000.00 for the Purchase of 11 Barker Court *first reading and referral to public hearing***

Councilor Walker **MOVED** to read the resolution for a first time and refer to public hearing. Councilor Rice seconded the motion. The **MOTION CARRIED** by a 10 -1 roll call vote with Councilors Rice, Hailey, Bogan, Hutchinson, Lachance, Lauterborn, Walker, Belken, and Mayor McCarley all voting in favor and Councilor Gray voting opposed. Mayor McCarley read the resolution for a first time by title only as follows:

**Resolution Authorizing a Supplemental Appropriation in the Amount of \$290,000.00 for the Purchase of 11 Barker Court**

**BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF ROCHESTER:**

That the amount of Two Hundred Ninety Thousand Dollars (\$290,000.00) is hereby appropriated as a supplemental appropriation for the purpose of paying costs associated with the purchase of 11 Barker Court. The funding for this supplemental appropriation shall be derived in its entirety from the General Fund Unassigned Fund Balance.

To the extent not otherwise provided for in this Resolution, the Finance Director is hereby authorized to establish and/or designate such multi-year, non-lapsing accounts and or account numbers as are necessary to implement the transactions contemplated in this Resolution.

Mayor McCarley stated that the Public Hearing would take place prior to the City Council Workshop meeting on November 17.

**13.5 Resolution Accepting \$726,914.00 GOFERR Coronavirus Relief Funds from the State of New Hampshire *first reading and consideration for adoption***

Councilor Walker **MOVED** to read the resolution for a first time by title only. Councilor Rice seconded the motion. The **MOTION CARRIED** by an 11 – 0 roll call vote with Councilors Walker, Rice, Bogan, Belken, Hamann, Lauterborn, Hailey, Gray, Hutchinson, Lachance and Mayor McCarley all voting in favor. Mayor McCarley read the resolution for a first time by title only as follows:

**Resolution Accepting \$726,914.00 GOFERR Coronavirus Relief Funds  
from the State of New Hampshire**

**BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF  
ROCHESTER:**

That the amount of Seven Hundred Twenty Six Thousand Nine Hundred Fourteen Dollars (\$726,914.00) in State of New Hampshire Governor's Office for Emergency Relief and Recovery Coronavirus Relief Funds is hereby accepted.

Further, that the amount of Fifty Four Thousand Five Hundred Dollars (\$54,500.00) is hereby accepted to the Economic Development Fund to reimburse for costs associated with the City's Small Business Grants Program and that the amount of Six Hundred Seventy Two Thousand Four Hundred Fourteen Dollars (\$672,414.00) is accepted to the General Fund as unanticipated revenue.

To the extent not otherwise provided for in this Resolution, the Finance Director is hereby authorized to establish and/or designate such multi-year, non-lapsing accounts and or account numbers as are necessary to implement the transactions contemplated in this Resolution.

Councilor Walker **MOVED** to **ADOPT** the resolution. Councilor Rice seconded the motion. The **MOTION CARRIED** by a 10 – 1 roll call with Councilors Lauterborn, Hainey, Hutchinson, Rice, Walker, Gray, Bogan, Hamann, Belken, and Mayor McCarley all voting in favor and Councilor Lachance voting opposed.

**13.6 Resolution Authorizing Acceptance and  
Appropriation of NH State Council On The Arts Grant *first  
reading and consideration for adoption***

Councilor Walker **MOVED** to read the resolution for a first time by title only. Councilor Rice seconded the motion. The **MOTION CARRIED** by an 11 – 0 roll call vote with Councilors Hamann, Walker, Hutchinson, Belken, Lachance, Gray, Rice, Bogan, Hainey, Lauterborn, and Mayor McCarley all voting in favor. Mayor McCarley read the resolution for a first time by title only as follows:

**RESOLUTION AUTHORIZING ACCEPTANCE AND APPROPRIATION**

**OF NH STATE COUNCIL ON THE ARTS GRANT**

Councilor Walker **MOVED** to **ADOPT** the resolution. Councilor Rice seconded the motion. Councilor Walker inquired what the grant amount would be because the amount was not listed on the original resolution. Shanna Saunders, Director of Planning, stated that the grant is for \$5625 with a \$5000 cash match and some in-kind match requirements. Councilor Rice read the revised resolution in its entirety as follows:

**RESOLUTION AUTHORIZING ACCEPTANCE AND APPROPRIATION  
OF NH STATE COUNCIL ON THE ARTS GRANT**

**BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF ROCHESTER, AS FOLLOWS:**

WHEREAS, that a New Hampshire State Council on the Arts grant in the amount of Five Thousand Six Hundred Twenty Five Dollars (\$5,625.00) has been awarded tentatively to the City of Rochester's Planning Department and is hereby accepted by the City of Rochester;

WHEREAS, the aforesaid grant requires a cash match by the City of Rochester in the amount of Five Thousand Dollars (\$5,000.00), which shall be derived from the City of Rochester's Economic Development Department O&M Community Services account.

FURTHER, that the sum of Ten Thousand Six Hundred Twenty Five Dollars (\$10,625.00) be, and hereby is, appropriated to a non-lapsing Special Revenue Fund to be created for the purpose of carrying out the purposes of the New Hampshire State Council on the Arts grant;

FURTHER, that an in-kind grant match of Two Thousand Five Hundred Dollars (\$2,500.00), represented by the Planning Department's staff time is hereby authorized;

FURTHER, that the City Manager is authorized to enter into a grant agreement and any other contracts with the New Hampshire State Council on the Arts that are necessary to receive and administer the grant funds detailed above; and

FURTHER, to the extent not otherwise provided for in this Resolution, the Finance Director is hereby authorized to designate and/or establish such



accounts and/or account numbers as necessary to implement the transactions contemplated by this Resolution.

Councilor Lachance inquired about the purpose of this grant. Director Saunders said the purpose was to fund an art walk downtown. There would be approximately 10 pieces of arts in varying mediums with a walking map for patrons. There was discussion on how the art would be sourced and who approves the art pieces.

Councilor Rice asked if there was a proposed location for these pieces. Mayor McCarley said that the locations would be decided based upon the individual pieces of art, so the locations are to be determined. The **MOTION CARRIED** by an 11 – 0 roll call vote with Councilors Belken, Gray, Hamann, Rice, Lauterborn, Hainey, Hutchinson, Walker, Lachance, Bogan and Mayor McCarley all voting in favor.

**13.7 Motion Authorizing the City Manager to initiate investigations into feasibility of solar farm options with City of Rochester solar consultant *first reading and consideration for adoption***

Councilor Walker **MOVED** to read the proposed motion for a first time. Councilor Rice seconded the motion. The **MOTION CARRIED** by an 11 – 0 roll call vote with Councilors Gray, Rice, Hainey, Bogan, Hutchinson, Lachance, Hamann, Lauterborn, Walker, Belken, and Mayor McCarley all voting in favor. Councilor Walker **MOVED** to **APPROVE** the motion. Councilor Belken seconded the motion. Councilor Rice inquired if the City already had a consultant or if there were several they were choosing between. City Manager Cox stated that the City already has a consultant that they are working with. Councilor Rice asked if there was a cost associated with using the consultant. Director Nourse said that this consultant is being used on the DPW facility as well as exploring options for a solar farm. They would like to establish a letter of intent to give the consultant authority to move forward, but at this time they are not asking for any investment from the City and there is no current cost associated. In the future, they may come back to council with monetary requests. The **MOTION CARRIED** by an 11 – 0 roll call vote with Councilors Rice, Walker, Belken, Bogan, Hamann, Lauterborn, Hainey, Gray, Hutchinson, Lachance, and Mayor McCarley all voting in favor.

**13.8 Resolution Authorizing the Acceptance of a \$16,154.00 U.S. Department of Justice (USDOJ) Ballistic**

**Vest Grant by the Rochester Police Department (RPD)  
and Supplemental Appropriation in Connection  
Therewith *first reading and consideration for adoption***

Councilor Walker **MOVED** to read the resolution for a first time by title only. Councilor Rice seconded the motion. The **MOTION CARRIED** by an 11 – 0 roll call vote with Councilors Hailey, Lauterborn, Hutchinson, Rice, Walker, Gray, Bogan, Hamann, Belken, Lachance, and Mayor McCarley voting in favor. Mayor McCarley read the resolution for a first time by title only as follows:

**Resolution Authorizing the Acceptance of a \$16,154.00 U.S. Department of Justice (USDOJ) Ballistic Vest Grant by the Rochester Police Department (RPD) and Supplemental Appropriation in Connection Therewith**

**BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF ROCHESTER:**

That a Sixteen Thousand One Hundred Fifty Four Dollar (\$16,154.00) USDOJ Ballistic Vest Grant is hereby accepted by the City on behalf of the RPD.

Further, the City Council authorizes a supplemental appropriation to the RPD operating budget in the amount of Sixteen Thousand One Hundred Fifty Four Dollar (\$16,154.00) with the entirety of the supplemental appropriation being derived from said Grant.

To the extent not otherwise provided for in this Resolution, the Finance Director is hereby authorized to establish and/or designate such accounts and or account numbers as are necessary to implement the transactions contemplated in this Resolution and to establish special revenue, non-lapsing, multi-year fund accounts(s) as necessary to which said sums shall be recorded.

Councilor Walker **MOVED** to **ADOPT** the resolution. Councilor Rice seconded the motion. Councilor Rice asked Chief Toussaint if this would allow the entire department to have the outer carry vests. Chief Toussaint replied that the outer carry vests were purchased using JAG grant funding and the all of the patrol officers currently had them. Councilors Hamann, Walker, Hutchinson, Belken, Lachance, Gray, Rice, Bogan, Hailey, Lauterborn, and Mayor McCarley all voting in favor.

**14. Other**

Councilor Lachance requested that each council member be supplied a link and invitation to all board and committee meetings. Mayor McCarley indicated that this could be done going forward.

## **15. Non-Public**

### **15.1 Non-Public Session – Land, RSA 91-A:3, II (d)**

Councilor Lauterborn **MOVED** at 7:56 PM to enter into non-public session under RSA 91-A:3, II (d), Land. Council Walker seconded the motion. The **MOTION CARRIED** by an 11 – 0 roll call vote with Councilors Belken, Gray, Hamann, Rice, Lauterborn, Hainey, Hutchinson, Walker, Lachance, Bogan, and Mayor McCarley all voting in favor.

Councilor Lauterborn **MOVED** to exit the non-public session at 9:03 PM and to seal the minutes of the non-public session as disclosure would render the proposed action ineffective. The **MOTION CARRIED** by a 9 – 2 roll call vote with Councilors Rice, Gray, Hainey, Bogan, Lachance, Hamann, Lauterborn, Walker, and Mayor McCarley voting in favor and Councilors Hutchinson and Belken voting opposed.

## **16. Adjournment**

Mayor McCarley **ADJOURNED** the Regular City Council meeting at 9:05 PM.

Respectfully Submitted,

Cassie Givara  
Deputy City Clerk

Deletions are show as ~~strikethroughs~~ and Additions are in red

## Chapter 16

# Alarm Systems

**[HISTORY: Adopted by the City of Rochester 6-6-1995 as Ch. 33 of the 1995 Code; amended 6-6-2006. Subsequent amendments noted where applicable.]**

### GENERAL REFERENCES

Fires and fire safety — See Ch. 75.

#### § 16-1 Purpose.

The purpose of this chapter is to provide minimum standards for operation and regulations applicable to ~~emergency fire alarm systems~~, burglar alarm systems, alarm businesses and alarm users.

#### § 16-2 Alarm user permit required.

Within 60 days after the effective date of this chapter, every alarm user shall obtain an alarm user permit for each alarm system he/she operates within the City of Rochester. This permit shall be obtained through the Communications Center which is located in the Police Department.

#### § 16-3 Alarm user permit application.

- A. The alarm user applying for the permit required in § 16-2 of this chapter shall state on the permit application prescribed by the Chief of the Police Department ~~or Fire Department~~ his/her name, the address of the residence or business or businesses where the alarm system has been installed, his/her telephone number, and at least two persons who can be reached any time day or night and who are authorized to respond to an alarm signal and who can open the premises in which the system is installed.
- B. Any false statement or misrepresentation of a material fact made by an applicant for the purpose of obtaining a user's permit or renewal, or while making a change thereto, shall be sufficient cause for refusal to grant or revocation of a permit.

#### § 16-4 Alarm user permit fee.

- A. Fee. There will be a permit fee of twenty-five dollars (\$25.) for the installation of a new alarm system. For each year after the initial installation, the renewal fee shall be ten dollars (\$10.). All permits shall be renewed each year by April 1. Any renewal fee not paid within 30 days of April 1 shall be subject to a late fee of ten dollars (\$10.) in addition to the renewal fee.
- B. Fee exceptions. If a residential alarm user is over 65 years of age and is the primary resident of the dwelling and if no business is conducted in the residence, a user's permit may be obtained without the payment of a fee. Federal, state, county or local government agencies that operate an alarm system shall be exempt from payment of a fee.

#### § 16-5 Misuse of alarm user information.

The information contained in the alarm user permit application required by § 16-3 and other information received by the Chief of the Police Department ~~or Fire Department~~, through correspondence or communications with the alarm user, shall be securely maintained and restricted to inspection by the Chief of the Police Department ~~or Fire Department~~ or certain police ~~or fire officers~~, or City employees specifically

assigned the responsibility for handling and processing alarm user permits in the course of their duties. If one of those persons is found to have purposely or knowingly revealed the information contained in an alarm user permit application or in correspondence or communications with an alarm user to any person for any purpose not related to this chapter or official law enforcement matters, or without the express written consent of the alarm user supplying such information, he/she shall be guilty of a violation.

**§ 16-6 Operating system without permit; penalty.**

Any alarm system user who operates or permits to be operated any alarm system without first obtaining a permit as required by this chapter, or who operates or permits to be operated an alarm system when such permit has expired, shall be guilty of a violation and, upon conviction, shall be fined not less than one hundred dollars (\$100.).

**§ 16-7 Operating system after revocation or suspension of permit; penalty.**

Any alarm system user who, after having a permit revoked or suspended and after exhausting his/her right to a hearing, fails to disconnect his/her alarm system, or reconnects his/her system prior to the restoration of his/her permit, shall be guilty of a violation and, upon conviction, shall be fined not less than one hundred dollars (\$100.).

**§ 16-8 False alarms.**

- A. For the purpose of this chapter, a false alarm shall be defined as an alarm signal eliciting a response by police or fire personnel when a situation requiring a response by police or fire personnel does not exist, but does not include an alarm signal caused by violent conditions of nature.
- B. Any case where a false alarm is received in excess of six alarms in any calendar year from an alarm system for which an alarm user permit has been obtained, a service charge of one hundred dollars (\$100.) shall be levied.
- C. If the false alarm is due to an alarm system malfunction that is in the process of being repaired or where immediate steps are taken to identify or correct the problem and notification has been made to the dispatch center as applicable, the Chief of the Police Department ~~or Fire Department~~ may waive the civil assessment. Refusal to pay the civil assessment within 30 days of the assessment shall be punishable as a violation and may be cause for revocation of the alarm user's permit. **[Amended 3-5-2019]**

**§ 16-9 Revocation procedure.**

- A. If the Police Department, in the case of a burglar alarm, ~~or the Fire Department, in the case of a fire alarm,~~ has recorded false alarms in excess of limits stated in § 16-8, the Chief of the Police Department ~~or Fire Department~~ shall notify the permit holder in writing and request the permit holder to submit a report within 15 days describing efforts to discover and eliminate the cause(s) of the false alarms. If the alarm user reasonably requests an extension of time to file said report based upon some extraordinary circumstances, the Chief of the Police Department ~~or Fire Department~~ may extend the 15 days for a reasonable time. If the permit holder fails to submit his/her report within the specified period, the Chief of the Police Department ~~or Fire Department~~ shall notify the alarm user that his/her permit to operate an alarm system has been revoked, and under such circumstances the user shall not be entitled to a hearing as hereinafter provided.
- B. If the alarm user submits a report as required by Subsection A of this section but the Chief of the Police Department ~~or Fire Department~~ finds the report unsatisfactory, then the Chief of the Police Department ~~or Fire Department~~ may issue a written notice of his/her intent to revoke the alarm user's permit.

- C. If after submission of a report required by Subsection A of this section which is satisfactory to the Chief of the Police Department ~~or Fire Department~~ the alarm system of the permit holder incurs two or more false alarms during the same calendar year, the Chief of the Police Department ~~or Fire Department~~ may issue a written notice of his/her intent to revoke the alarm user's permit.
- D. Upon receipt of a notice of intent to revoke an alarm user's permit, the permit holder may, within 10 days of such receipt, submit a written request for a hearing before the Licensing Board setting forth the reasons that his/her permit should not be revoked. Written notice of the time, date and place of the hearing shall be served to the permit holder at least five days prior to the date set for the hearing.
- E. At the hearing before the Licensing Board, the holder of the permit or his/her authorized representative shall have the right to be made aware of the circumstances leading to revocation of the alarm permit and to present evidence on his/her own behalf. After the hearing, the Licensing Board may either issue an order of revocation, withdraw the notice of revocation or allow a reasonable time, not to exceed 15 days, in which the alarm user must take action to eliminate the cause(s) of the false alarms.

**§ 16-10 Application for revoked user permit.**

- A. An alarm user whose permit has been revoked may apply for a revoked user permit as provided in § 16-9 of this chapter. The Chief of the Police Department ~~or Fire Department~~ shall not be required to issue a revoked user permit unless he/she is satisfied that the user's system has been properly serviced and its deficiencies corrected. The Chief of the Police Department ~~or Fire Department~~ may also impose reasonable restrictions and/or conditions that shall appear on the permit and shall provide for automatic revocation on the occurrence of four false alarms in the remaining permit year.
- B. In situations where a user permit is revoked under the conditions in Subsection A of this section, there shall be no appeal to the Licensing Board and said revocation shall remain in effect for the remainder of the calendar year.
- C. The fee for reissuance of a user permit shall be seventy-five dollars (\$75.).

**§ 16-11 Violations and penalties.**

Unless otherwise provided, any person, firm or corporation within the boundaries of the City of Rochester who or which violates any provision of this chapter shall be guilty of a violation and, upon conviction, shall be punished by a fine of not more than five hundred dollars (\$500.). Each day during which a violation continues shall be considered a separate offense.

**§ 16-12 When effective.**

The provisions of this chapter shall take effect upon its passage.

Deletions are show as ~~strike throughs~~ and Additions are in red

## Chapter 75

# Fires and Fire Safety

**[HISTORY: Adopted by the City of Rochester as indicated in article histories. Amendments noted where applicable.]**

### GENERAL REFERENCES

~~Alarm systems — See Ch. 16.~~

Building construction and property maintenance — See Ch. 40.

Nuisances — See Ch. 149.

### Article I

#### Fire Department

**[Adopted 6-6-1995 as Ch. 22 of the 1995 Code; amended 6-6-2006; 8-7-2018]**

#### § 75-1 Appointment and requirements of Fire Chief.

**[Amended 3-5-2019]**

Upon appointment, the Fire Chief shall within six months establish residence within the City's boundaries. The Fire Chief shall work under the direct supervision of the City Manager in accordance with the provisions of Section 18 of the Rochester City Charter. The Fire Chief shall manage the Fire Department and consult with and advise the City Manager on all matters pertaining to the equipment and control of the Fire Department. Subject to the approval of the City Manager, the Fire Chief shall make rules and regulations for the internal operation of the Fire Department as he/she deems necessary and shall keep the same posted in the fire station and other buildings of the Department.

#### § 75-2 Transfer of authority in Chief's absence.

The Assistant Chief shall be senior in rank to the Deputy Chief and Fire Marshal and in the absence of the Chief shall perform all the duties and have the powers of the Chief. In the absence of the Fire Chief and Assistant Fire Chief, the Fire Chief shall designate an Acting Chief who shall perform all the duties and accept all the responsibilities of the Fire Chief per RSA 154:5 and 154:7 until such time as the Fire Chief or Assistant Fire Chief returns and assumes his/her duties.

#### § 75-3 Taking equipment and apparatus outside of City.

The Fire Chief or his/her designee shall be notified by dispatch whenever an apparatus responds to an incident outside of the City. The Chief shall notify the City Manager ~~whenever practical and convenient~~ when an apparatus is to be outside the City for extended periods or other circumstances **as necessary as** determined by the Chief **or designee**.

### Article II

#### Fire Prevention

**[Adopted 6-6-1995 as Ch. 23 of the 1995 Code]**

**§ 75-4 Fire Safety Rules and Regulations.**

The rules and regulations of the State Fire Marshal as they are now constituted and as they are from time to time amended are hereby adopted as and for the Fire Safety Rules and Regulations of the City of Rochester. The full text of such rules and regulations may be obtained by any person at the office of the Chief of the Fire Department of the City of Rochester.

**§ 75-5 Enforcement officer.**

The words "officer" and/or "local authorities" wherever used in the rules and regulations of the State Fire Marshal adopted in the foregoing section shall be deemed to refer to the Chief of the Rochester Fire Department **or designee or the Authority Having Jurisdiction.**

**~~§ 75-6 Smoke detector wiring.~~**

**~~{Amended 2-8-2000}~~**

~~When installing one hundred twenty volt hard wired smoke detectors in any type occupancy, the smoke detector shall be wired to a lighting circuit.~~

**§ 75-7 Outdoor fires.**

No person shall kindle, light, or otherwise start an outdoor fire in the City of Rochester for any purpose whatsoever without first having obtained a written permit **in accordance with RSA 227-L:17.** ~~without cost, from the Chief of the Rochester Fire Department. All such permits shall be in writing and in such form as the Chief of the Rochester Fire Department shall prescribe and shall set forth any conditions or restrictions which, in the opinion of the Fire Chief, shall be reasonably necessary and prudent to ensure the safe performance of permitted activities.~~

**Commented [1]:** Editor's Note: See also § 149-1, Burning of refuse and garbage.

**§ 75-8 Provisions for rapid entry.**

A. For purposes of rapid entry in cases of emergencies or required access to buildings after hours, any new construction on the following type occupancies occurring after the date of the adoption of this article will require a Knox-Box® to be installed on such premises:

- (1) Assembly.
- (2) Educational.
- (3) Mercantile.
- (4) Business.
- (5) Industrial.
- (6) Apartment complex.

B. The Fire Chief shall have authority to require any other type of building, not listed above, to install a Knox-Box® to meet rapid entry requirements, if in his/her discretion public safety considerations require such installation.

**~~§ 75-9 Public safety amplification system required in large facilities.~~**

**~~{Amended 1-2-2007}~~**

~~The purpose of this system is to provide minimum standards to ensure a reasonable degree of reliability for emergency services communications from within certain buildings and structures within the City to and from~~



~~emergency communications centers. It is the responsibility of the emergency service provider to get the signal to and from the building site.~~

~~A. Applicability. The provisions of this section shall apply to:~~

- ~~(1) New buildings greater than 50,000 square feet;~~
- ~~(2) Existing buildings over 50,000 square feet when modifications, alterations or repairs exceed 50% of the value of the existing building(s) and are made within any twelve month period or the usable floor area is expanded or enlarged by more than 50%; and~~
- ~~(3) All sublevels, regardless of the occupancy, over 10,000 square feet.~~

~~B. Radio coverage.~~

- ~~(1) Except as otherwise provided in this section, no person shall erect, construct or modify any building or structure or any part thereof, or cause the same to be done, which fails to support adequate radio coverage for firefighters and police officers.~~
- ~~(2) The City's Fire Department, with consideration of the appropriate emergency services department, shall determine the frequency range or ranges that must be supported. [Amended 3-5-2019]~~
- ~~(3) For the purposes of this section, adequate radio coverage shall constitute a successful communications test between the equipment in the building and the communications center for all appropriate emergency service providers for the building.~~

~~C. Inbound into the building.~~

- ~~(1) A minimum average in building field strength of 2.25 microvolts (-100 dbm) for analog and five microvolts (-93 dbm) for digital systems throughout 85% of the area of each floor of the building when transmitted from the City's police dispatch center and the appropriate emergency service dispatch centers which are providing fire and emergency medical protection services to the building.~~
- ~~(2) If the field strength outside the building where the receive antenna system for the in building system is located is less than -100 dbm for analog or -93 dbm for digital systems, then the minimum required in building field strength shall equal the field strength being delivered to the receive antenna of the building.~~
- ~~(3) As used in this section, 85% coverage or reliability means the radio will transmit 85% of the time at the field strength and levels as defined in this section.~~

~~D. Outbound from the building.~~

- ~~(1) A minimum average signal strength of 112 microvolts (-6 dbm) for analog and five microvolts (+1 dbm) for digital systems as received by the City's police dispatch center and the appropriate emergency service dispatch centers which are providing fire and emergency medical protection services to the building.~~

- ~~(2) FCC authorization. If amplification is used in the system, all FCC authorizations must be obtained prior to use of the system. A copy of these authorizations shall be provided to the City's Fire Department.~~

~~E. Enhanced amplification systems:~~

- ~~(1) Where buildings and structures are required to provide amenities to achieve adequate signal strength, they shall be equipped with any of the following to achieve the required adequate radio coverage: radiating cable system(s), internal multiple antenna system(s) with an acceptable frequency range and an amplification system(s) as needed, voting receiver system(s) as needed, or any other City approved system(s).~~
- ~~(2) If any part of the installed system or systems contains an electrically powered component, the system shall be capable of operation on an independent battery or generator system for a period of at least eight hours without external power input or maintenance. The battery system shall automatically charge in the presence of external power.~~
- ~~(3) Amplification equipment must have adequate environmental controls to meet the heating, ventilation, cooling and humidity requirements of the equipment that will be utilized to meet the requirements of this section. The area where the amplification equipment is located must be free of hazardous materials such as fuels, asbestos, etc. All communications equipment, including amplification systems, cable and antenna systems, shall be grounded with a single point ground system of five ohms or less. The ground system must include an internal tie point within three feet of the amplification equipment. System transient suppression for the telephone circuits, AC power, radio frequency (RF) cabling and grounding protection are required as needed. **[Amended 3-5-2019]**~~
- ~~(4) The following information shall be provided to the Fire Department by the builder:~~
- ~~(a) A blueprint showing the location of the amplification equipment and associated antenna systems which includes a view showing building access to the equipment; and~~
- ~~(b) Schematic drawings of the electrical, backup power, antenna system and any other associated equipment relative to the amplification equipment, including panel locations and labeling.~~

~~F. Testing procedures; method to conducts tests. Tests shall be made using frequencies close to the frequencies used by the police and appropriate emergency services. If testing is done on the actual frequencies, then this testing must be coordinated within the City's Fire Department. All testing must be done on frequencies authorized by the FCC. A valid FCC license will be required if testing is done on frequencies different from the police, fire or emergency medical frequencies.~~

~~G. Measurements shall be made using the following guidelines:~~

- ~~(1) With a service monitor using a unity gain antenna on a small ground plane;~~
- ~~(2) Measurements shall be made with the antenna held in a vertical position at three to four feet above the floor;~~
- ~~(3) A calibrated service monitor (with a factory calibration dated within 24 months) may be used to do the~~

~~test;~~

- ~~(4) The telecommunications unit representative for the City may also make simultaneous measurements to verify that the equipment is making accurate measurements. A variance of three db between the instruments will be allowed; and~~
- ~~(5) If measurements in one location are varying, then average measurements must be used.~~
- ~~(a) All testing shall be done in the presence of a Fire Department representative at no expense to the City or appropriate emergency services department.~~
- ~~(b) Signal strength, both inbound and outbound as defined above, shall be measured on each and every floor above and below ground, including stairwells, basements, penthouse facilities and parking areas of the structure. The structure shall be divided into fifty foot grids and the measurements shall be taken at the center of each grid.~~
- ~~H. Annual tests. Annual tests will be conducted by the City's telecommunications unit or appropriate emergency services department. If communications appear to have degraded or if the tests fail to demonstrate adequate system performance, the owner of the building or structure is required to remedy the problem and restore the system in a manner consistent with the original approval criteria. The re-testing will be done at no expense to the City or the appropriate emergency services department as required in the original testing procedures.~~
- ~~I. Field testing. Police and fire personnel, after providing reasonable notice to the owner or his/her representative, shall have the right to enter onto the property to conduct field testing to be certain the required level of radio coverage is present. Certificates of occupancy may be denied for new and existing buildings for failure to comply with these requirements.~~

**§ 75-10 Administration and enforcement.**  
**[Amended 3-7-2006; 3-3-2015; 3-5-2019]**

The authority having jurisdiction for the administration and enforcement of this article shall be the Fire Chief of the City of Rochester **or designee.**

A. The fee schedule under this article shall be as follows:

- (1) Tank removal: twenty-five dollars (\$25.).
- (2) Blasting: twenty-five dollars (\$25.).
- ~~(3) Incident report: five dollars (\$5.).~~
- (4) Fire ~~Marshal's investigation~~ **Department Incident** report: twenty-five dollars (\$25.).
- (5) Photographs (fire scene): fifteen dollars (\$15.).
- ~~(6) CD photos (fire scene): fifteen dollars (\$15.).~~
- (7) Fire alarm system plan review: one dollar (\$1.) per device or fifty dollars (\$50.) minimum.

- (8) Sprinkler system plan review: one dollar (\$1.) per device or fifty dollars (\$50.) minimum.
  - (9) Commercial hood fire suppression: one dollar (\$1.) per device or fifty dollars (\$50.) minimum.
  - (10) Clean agent: one dollar (\$1.) per device or fifty dollars (\$50.) minimum.
  - (11) Initial inspection: free of charge.
  - (12) Reinspections (sprinkler systems, fire alarm systems, commercial hood fire suppression, clean agent): fifty dollars (\$50.) per person with one hundred dollars (\$100.) minimum.
  - (13) Listed agent: twenty-five dollars (\$25.) per year, per restriction.
  - (14) False alarm, fire alarm activation: one hundred seventy-five dollars (\$175.) after two ~~consecutive false alarms~~ **alarms (as defined by RSA 644:3) or two improper activations not related to actual emergencies;** per calendar year.
- B. The fine for working without a permit or license is one hundred seventy-five dollars (\$175.).

**§ 75-11 (Reserved)**

**§ 75-12 Fire Department access.**

**[Amended 6-6-2006]**

Before construction on commercial buildings, a residential street or a private street with two or more duplexes or single-family dwellings may begin, Fire Department access roads shall be designed **as per the rules and regulations of the State Fire Marshal and adopted codes** and maintained to support the imposed loads of fire apparatus and shall be provided with a surface suitable for all-weather driving capabilities.

**§ 75-13 Inspections; control of fire hazards.**

**[Amended 6-6-2006]**

The Chief or 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 **or designee**, 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.

**§ 75-14 Violations and penalties.**

**[Amended 6-6-2006; 5-2-2017]**

Any person, persons, firm, corporation or partnership who or which shall violate any provision of this article 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. The owner of record of any property upon which a violation of this article occurs shall be held strictly liable for any violation occurring on his/her or its property and shall be guilty of a violation in the same manner as stated above.

**§ 75-15 Sprinkler requirements for certain dwellings.**

**[Amended 3-6-2007]**

In addition to sprinkler requirements for structures under the provisions of the applicable NFPA (National Fire Protection Association) code and/or any other applicable law or regulation, all newly constructed

**Commented [2]:** Editor's Note: Former § 75-11, Means of escape, as amended, was repealed 8-6-2019.

duplexes, triplexes and single-family dwelling unit combination structures that are attached to each other shall be sprinklered in accordance with National Fire Protection Association (NFPA) code standards as contained in the New Hampshire State Fire Code.

**§ 75-16 Fireworks.**

**[Added 3-4-2008; amended 11-9-2010; 4-2-2013]**

- 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 section.
- B. As used in this section, the following terms shall have the meanings indicated:

**DISPLAY**

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.

**FIRE CHIEF**

The Fire Chief of the City of Rochester or his/her designee.

**PERMISSIBLE FIREWORKS**

Those consumer firework devices defined as "permissible fireworks" in RSA 160-C, as the same currently exists or as, from time to time, hereinafter amended.

**POLICE CHIEF**

The Police Chief of the City of Rochester or his/her designee.

- C. Permit required. No person shall use, discharge or explode any permissible fireworks without a permit issued by the City of Rochester. **[Added 2-14-2017]**
  - (1) Any person wishing to obtain a permissible fireworks display permit shall apply to the Licensing Board at least 15 days prior to the display. The time frame may be waived at the discretion of the Police and Fire Chiefs. **[Amended 5-2-2017]**
  - (2) The applicant shall provide the following information:
    - (a) Date of application.
    - (b) Name, address, and telephone number of applicant.
    - (c) Address of location where the display will be held.
    - (d) Diagram of the display location, showing the location of all nearby property lines, nearby buildings, public ways, nearby trees, electrical and telephone lines or other overhead obstructions, and the location of any nearby storage of flammable or combustible liquids or gases.
    - (e) Name of the owner of the property where the display will be held.

- (f) Intended date and time of display, including a possible rain date.
  - (g) Written authorization of the property owner, if different from the applicant.
  - (h) Signature of the applicant.
- (3) Permit fee. The fee for a permissible fireworks display shall be five dollars (\$5.) per event. The fee shall be paid at the time of application and is nonrefundable.
- (4) Site inspections.
- (a) Prior to issuing a permit, the Police Chief or the Fire Chief may conduct an inspection of the display site to determine whether a permissible fireworks display can be held in a safe manner.
  - (b) If, in the opinion of the Licensing Board, the proposed site is not suitable for the safe display of permissible fireworks, the application for a permit shall be denied. **[Amended 5-2-2017]**
- D. 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:
- (1) 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 section and RSA 160-C and any other applicable ordinance, regulation or statute.
  - (2) No display of permissible fireworks shall be permitted within the City except between the hours of 6:00 p.m. and 11:00 p.m. on the following holiday: Fourth of July (including the evening of July 3 beginning at 6:00 p.m., including from such time until 12:00 midnight on any rain date established for the annual City-wide fireworks display), after obtaining a permit. **[Amended 6-6-2013; 2-14-2017; 9-3-2019]**
  - (3) 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 160-C, permissible fireworks shall not 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.
  - (4) 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 New Hampshire Division of Forests and Lands.
  - (5) Permissible fireworks may be used, discharged, exploded, or displayed in a manner such that any and all discharge debris shall remain within the property lines of the lot on which the display originates.
  - (6) 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 within 24 hours. Anyone failing to remove such debris shall be financially responsible for its cleanup. **[Amended 3-5-2019]**

- (7) Display of permissible fireworks shall be permitted on public property the evening of July 3 beginning at 6:00 p.m., including from such time until 12:00 midnight on any rain date established for the annual City-wide fireworks display, 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. **[Added 6-4-2013; amended 9-3-2019]**
- E. A violation of this section shall be subject to the penalties provided for in § **75-14** of this article.
- F. This section shall be construed consistently with New Hampshire Code of Administrative Rules Chapter Saf-C 2600, as made applicable by state statute and as adopted by reference in § **75-4** of this article, and is not meant to repeal any section thereof. Nothing in this section shall be interpreted so as to conflict with the provisions of Chapter 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 subsection, sentence, clause, phrase or portion of this section 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.
- G. The Police Chief or Fire Chief may suspend the use of permissible fireworks for any of the following reasons:
- (1) Unfavorable weather conditions, including but not limited to lightning storms or high wind conditions exceeding 20 miles per hour or higher.
  - (2) If any person under the age of 21 possesses, uses, discharges or explodes or used, discharged or exploded any permissible firework device.
  - (3) If any person who is using, discharging, exploding, or displaying the permissible fireworks appears to be under the influence of alcohol or drugs.
  - (4) 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.
- H. The Police Chief and/or Fire Chief is 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 section.
- I. The City Manager, Mayor, and/or the City Council may declare a special event of cultural or civic significance and authorize the display of fireworks on the same terms as Subsection **D(2)** on particular days to celebrate those special events. **[Added 2-14-2017]**

**§ 75-17 Listed Agent Program.**  
**[Added 3-3-2015]**

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/her designee shall promulgate administrative rules for the management of the Listed Agent Program.

**§ 75-18 Regulation of fire alarms.**  
**[Added 3-3-2015]**

The Fire Chief or his/her designee shall promulgate administrative rules for the management of the installation and maintenance of fire alarms.



## Amendment to Chapter 200 of the General Ordinances of the City of Rochester Regarding Sewers

THE CITY OF ROCHESTER ORDAINS:

That Chapter 200 of the General Ordinances of the City of Rochester and currently before the Rochester City Council, be amended as follows (deletions ~~struck out~~ additions in **RED**):

## Chapter 200 Sewers

[**HISTORY: Adopted by the City of Rochester 6-6-1995 as Ch. 16 of the 1995 Code. Amendments noted where applicable.**]

### GENERAL REFERENCES

Building construction and property maintenance — See Ch. **40**.

Health and sanitation — See Ch. **94**.

Stormwater management — See Ch. **218**.

Water — See Ch. **260**.

### Article I Sewer Use

#### § 200-1 **Definitions.**

Unless the context specifically indicates otherwise, the meaning of terms used in this article shall be as follows:

#### **ACT OR “THE ACT”**

**The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. Section 1251, et seq.**

#### **BEST MANAGEMENT PRACTICES (BMPs)**

**Schedule of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed under Section 200-3 (A) and Section 200-16 (C)(1) & (3) [40 C.F.R. 403.5 (a)(1) and (b)]. BMPs include treatment requirements, operating procedures to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.**

#### **BIOCHEMICAL OXYGEN DEMAND (BOD)**

The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures in five days at 20° C., expressed in milligrams per liter.

#### **BUILDING DRAIN**

That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet (1.5 meters) outside the inner face of the building wall.

**BYPASS**

The intentional diversion of waste streams from any portion of an industrial user's pretreatment facility.

**CATEGORICAL PRETREATMENT STANDARD OR CATEGORICAL STANDARD**

**Any regulation containing pollutant discharge limits promulgated by EPA in accordance with Section 307(b) and (c) of the Act (33 U.S.C. 1317) that apply to a specific category of the Users and that appear in 40 C.F.R Chapter I, Subchapter N, Parts 405-471.**

**CATEGORICAL INDUSTRIAL USER (CIU)**

**An Industrial User subject to a Categorical Pretreatment Standard or Categorical Standard.**

**COMBINED SEWER**

A sewer intended to receive both wastewater and stormwater or surface water.

**COMMISSIONER**

The Commissioner of Public Works or his/her designee. See § 7-18A of the City Code.

**[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**

**DOMESTIC WASTEWATER or SANITARY SEWAGE**

Normal water-carried household and toilet waste or waste from sanitary conveniences, excluding groundwater, surface water, or stormwater.

**EASEMENT**

An acquired legal right for specific use of land owned by others.

**FLOATABLE OIL**

Oil, fat, or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. A wastewater shall be considered free of floatable oil if it is properly pretreated and the wastewater does not interfere with the collection system.

**[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**

**GARBAGE**

The animal and vegetable waste resulting from the handling, preparation, cooking, and serving of foods.

**GREASE**

Includes the fats, oils, waxes and other related constituents found in wastewater.

**GRIT**

Sand, gravel, cinders, or other heavy solid materials that have subsiding velocities or specific gravities substantially greater than those of the organic putrescible solids in wastewater. Grit also includes eggshells, bone chips, seeds, coffee grounds, and large organic particles, such as food or wastes.

**INDUSTRIAL USER**

A source of the introduction of pollutants into the POTW from any non-domestic source regulated under Section 307(b), (c) or (d) of the Federal Clean Water Act, 33 U.S.C. § 1251 et seq.

**INDUSTRIAL WASTES**

The wastewater from industrial processes, trade, or business as distinct from domestic or sanitary wastes.

**INTERFERENCE**

A discharge which, alone or in conjunction with a discharge or discharges by other sources, inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal and therefore causes a violation of the City's National Pollutant Discharge Elimination System (NPDES) permit or prevents sewage sludge use or disposal in compliance with applicable federal, state or local statutes, or with regulations or permits issued thereunder.

**MAXIMUM DAILY DISCHARGE LIMITATION**

The highest allowable discharge of a pollutant measured during a calendar day or any twenty-four-hour period that reasonably represents a calendar day.

**MAY**

Is permissive (see "shall").

**MONTHLY AVERAGE DISCHARGE LIMITATION**

The highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.

**NATIONAL CATEGORICAL PRETREATMENT STANDARD**

Any regulation effective as of the date of discharge containing pollutant discharge limits promulgated by the Environmental Protection Agency (EPA) in accordance with Section 307(b) and (c) of the Federal Clean Water Act, 33 U.S.C. § 1251 et seq., which apply to a specific category of industrial users and which appear in 40 CFR, Chapter 1, Subchapter N, Parts 405 through 471.

**NATIONAL PRETREATMENT STANDARD**

Any regulation effective as of the date of discharge containing pollutant discharge limits promulgated by the EPA under Section 307(b) and (c) of the Federal Clean Water Act, 33 U.S.C. § 1317, applicable to industrial users.

**NATURAL OUTLET**

Any outlet, including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake, or other body of surface water or groundwater.

**NEW SOURCE**

Any facility from which there is or may be a discharge of pollutants, construction of which began after the publication of proposed pretreatment standards under Section 307(c) of the Federal Clean Water Act, 33 U.S.C. § 1251 et seq., which will apply to such source if such standards are thereafter promulgated, provided that:

- A. The facility is constructed at a site at which no other source is located;
- B. The facility totally replaces the process or production equipment that causes the discharge of pollutants

at an existing source; or

- C. The production or wastewater generating processes of the facility are substantially independent of an existing source at the same site.

#### **PASS-THROUGH**

A discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, cause a violation of the City's NPDES permit.

#### **PERSON**

Any individual, firm, company, association, society, corporation, or group, including all federal, state, and/or local government entities and any other legal entity.

#### **pH**

The logarithm of the reciprocal of the hydrogen-ion concentration. The concentration is the weight of hydrogen-ions, in grams, per liter of solution. Neutral water, for example, has a pH value of 7 and a hydrogen-ion concentration of  $10^{-7}$ .

#### **POTW or PUBLICLY OWNED TREATMENT WORKS**

A wastewater treatment works which is owned by a state or municipality. This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial waste of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a POTW wastewater treatment works. The term also means the municipality which has jurisdiction over discharges to and the discharges from such a treatment works.

#### **PRETREATMENT REQUIREMENT**

Any substantive or procedural requirement related to pretreatment, other than a National Pretreatment Standard, imposed on an industrial user.

#### **PRIVATE SEWER**

That portion of the sewer defined as the "building drain."

#### **PROCESS WASTEWATER**

Wastewater that excludes sanitary, non-contact cooling and boiler blowdown wastewaters.

#### **PROPERLY SHREDDED GARBAGE**

The wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than 1/2 inch (1.27 centimeters) in any dimension.

#### **PUBLIC SEWER**

A common sewer controlled by a governmental agency or public utility.

#### **SANITARY SEWER**

A sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial

plants, and institutions together with minor quantities of groundwater, stormwater, and surface water that are not admitted intentionally.

**SCREENING LEVEL**

That concentration of a pollutant which under baseline conditions would cause a threat to personnel exposed to the pollutant or would cause a threat to structures of wastewater facilities. To be administered as limits applicable to a particular discharge, the screening levels must be adjusted to account for conditions at the point of discharge which differ from baseline conditions.

**SEWAGE**

The spent water of a community. The preferred term is "wastewater."

**SEWER**

A pipe or conduit that carries wastewater or drainage water.

**SEWER SERVICE**

The extension from the building drain to the public sewer; also called "house connection," "building sewer," or "sewer lateral."

**SHALL**

Is mandatory (see "may").

**SIGNIFICANT INDUSTRIAL USER (SIU)**

Any industrial user subject to a National Categorical Pretreatment Standard and any other industrial user that discharges 25,000 gallons per day or more of process wastewater to the POTW, contributes a process waste stream which makes up 5% or more of the average dry weather hydraulic or organic capacity of the POTW, or is designated by the Environmental Protection Agency, the State of New Hampshire or the City on the basis that the industrial user has a reasonable potential to adversely affect the POTW's operation or to violate a pretreatment standard or requirement.

**SIGNIFICANT NONCOMPLIANCE**

Any industrial user who violates one or more of the criteria outlined at 40 CFR 403.8(f)(2)(viii)(A) to (H).

**SLUG**

Any discharge of water or wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than five times the average twenty-four-hour concentration or flows during normal operation and shall adversely affect the collection system and/or performance of the wastewater treatment works.

**STORM DRAIN (sometimes termed "storm sewer")**

A drain or sewer for conveying water, groundwater, subsurface water, or unpolluted water from any source.

**SUSPENDED SOLIDS (SS)**

Total suspended matter that either floats on the surface of or is in suspension in water, wastewater, or other liquids and that is removable by laboratory filtering as prescribed in Standard Methods for the

Examination of Water and Wastewater and referred to as "nonfilterable residue."

#### **UNPOLLUTED WATER**

Water of quality equal to or better than the effluent criteria in effect or water that would not cause a violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.

#### **WASTEWATER**

The spent water of a community. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions, together with any groundwater, surface water, and stormwater that may be present.

#### **WASTEWATER FACILITIES**

The structures, equipment, and processes required to collect, carry away, and treat domestic and industrial wastes and dispose of the effluent.

#### **WASTEWATER RATES AND CHARGES**

A separate listing of all deposits, water rates, charges, and fees and can be obtained from the Department of Public Works or the Business Office.

#### **WASTEWATER TREATMENT WORKS**

An arrangement of devices and structures for treating wastewater, industrial wastes, and sludge. Sometimes used as synonymous with "waste treatment plant" or "wastewater treatment plant" or "water pollution control plant."

#### **WATERCOURSE**

A natural or artificial channel for the passage of water either continuously or intermittently.

#### **§ 200-2 Plan of sewer systems.**

It shall be the duty of the Commissioner to keep a chart or plan upon which shall be represented the streets and places in and through which the sewer pipes are laid, and upon which chart shall be designated, by appropriate figures and characters, the exact size and length of the pipes, the precise location in such streets, and places of each pipe and each connection therewith, each branch Y, T, manhole and flush tank.

#### **§ 200-3 Use of public sewers required.**

- A. It shall be unlawful for any person to place, deposit or permit to be deposited any human or animal excrement, garbage, or objectionable waste in any unsanitary manner on public or private property within the City of Rochester, or in any area under the jurisdiction of said City.
- B. It shall be unlawful to discharge to any natural outlet within the City of Rochester, or in any area under the jurisdiction of said City, any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with federal, state and local requirements.
- C. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater within the sewer service area. When a private wastewater disposal system is found to be in failure, it is the duty of the owner and/or his/her agent to contact the City to determine if the property falls within the sewer service area. **[Amended 3-5-2019]**

- D. The owner(s) of all houses, buildings, or property used for human occupancy, employment, recreation, or other purposes, situated within the City and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary sewer of the City, is hereby required at the owner's expense to install suitable toilet facilities therein and to connect such facilities directly with the proper public sewer in accordance with the provisions of this article, within 90 days after date of official notice to do so, provided that said public sewer is within 100 feet of the building. **[Amended 6-6-2017]**
- E. Structures within 100 feet of the public sewer and currently served by private wastewater disposal facilities shall connect to the public sewer within 90 days after an official notice to do so. The City may grant a waiver to this requirement for properties with existing adequate sewage disposal systems which can be proven by the property owner to comply with applicable state and local regulations, to have been designed by a designer licensed in New Hampshire and to have been approved for construction by the New Hampshire Department of Environmental Services after January 1, 1985. The cost of connection to the public sewer shall be borne by the property owner; however, if a sewer stub exists the cost of the portion of the connection within the public right-of-way shall be borne by the Rochester Sewer Enterprise Fund. For the purpose of this subsection, "structures" shall mean houses, buildings, or property used for human occupancy, employment, recreation, or other purposes. **[Amended 2-14-2017; 6-6-2017]**
- F. No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes Pass Through or Interference. These general prohibitions apply to all Users of the POTW whether or not they are subject to categorical Pretreatment Standards or any other National, State, or local Pretreatment Standards or Requirements.

**§ 200-4 Private wastewater disposal.**

- A. Where a public sanitary sewer is not available under the provisions of § **200-3D**, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of state law.
- B. The type, capacities, location, layout and installation (including inspection) of a private wastewater disposal system shall comply with all requirements of the New Hampshire Department of Environmental Services (DES). No permit shall be issued for any new private wastewater disposal system employing subsurface soil absorption facilities where the lot area is less than is required by subdivision lot size requirements of DES. No septic tank or cesspool shall be permitted to discharge to any natural outlet.
- C. At such time as public sewer becomes available to a property served by a private wastewater disposal system, as provided in § **200-3D**, after connection to the public sewer any septic tanks, cesspools, and similar private wastewater disposal facilities shall be cleaned of sludge and filled with suitable material. **[Amended 6-6-2017]**
- D. The owners shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times, at no expense to the City. All sludge removal from private disposal systems shall be performed by licensed operators and disposed of at state-licensed facilities. At no time should any quantity of industrial waste be discharged to a private wastewater disposal facility.
- E. No building permits or any final Planning Board approvals shall be issued without prior state approvals

and permits being issued.

- F. No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the Health Officer pursuant to RSA 147:8.

**§ 200-5 Application for service.**

- A. All applications for sewer service must be made at the Department of Public Works office on a work order form, stating fully and truly the character of the wastewater to be discharged into the sewer system. The customer or his/her duly authorized agent must sign such application. All applications shall be accompanied by payment of the permit and inspection fee set forth in § **200-33**, Wastewater Rate and Fee Schedule.
- B. If any installation or repair work is to be performed by the Department of Public Works or its agent, an estimate of the cost of the work will be prepared by the Department of Public Works.
- C. A deposit equal to the estimated cost or a payment agreement shall be made with the Business Office before work is begun on a new service, or a repair to existing service, to be applied against the cost of the work necessary to successfully serve the property. Actual costs will be determined upon completion of the work and the customer charged or refunded as the case may be.
- D. All financial obligations involved in such transactions shall be adjusted immediately upon the completion of the work in the interests of all parties involved.
- E. The Commissioner may waive the deposit for emergency repair purposes.
- F. Applicants may enter into agreements, at the discretion of the City of Rochester, to pay all costs in equal installments over a period of time. Late payments shall accrue interest at the same rate charged by the City for overdue property tax bills. Such agreements shall be recorded with the Strafford County Register of Deeds at the expense of the applicant. In the event property is conveyed, all monies owed to the City of Rochester shall be remitted in full. **[Amended 3-5-2019]**

**§ 200-6 Service installation and repair.**

- A. The Department of Public Works or its agent or the developer's or property owner's contractor shall install all new sewer services.
- B. The property owner is responsible for the costs incurred for the repair and maintenance of all existing sewer services from the property line to the building or structure.
- C. If a developer or property owner installs new services, the Department of Public Works must approve all materials and inspect the installation. All charges incurred during this work are the responsibility of the developer or property owner. If a developer's or property owner's contractor's installation is found to be incorrect, it shall be the developer's or property owner's responsibility to have it corrected.
- D. Annually, before any contractor or company shall install or repair any portion of a wastewater system within the City of Rochester, such contractor or company shall obtain an installation and repair license from the Department of Public Works authorizing such entity to perform installations or repairs to such system. Licenses shall be valid from January 1 through December 31 for any given year. The Department of Public Works shall issue such license only to contractors or companies which



demonstrate the ability to perform wastewater system installation and repairs in a workmanlike manner, consistent with standards maintained by the Department of Public Works. All applicants shall be required to submit evidence of general liability insurance. The City Manager shall establish an annual fee for such license. This fee shall be listed in § **200-33**, Wastewater Rate and Fee Schedule. [**Amended 3-5-2019**]

- E. Any contractor or company installing or repairing any portion of the wastewater system must receive written authorization from the Department of Public Works and may be required to provide a performance bond or escrow account in the name of the City for the total (100%) of the estimated cost of work.
- F. The Department of Public Works shall have an easement 10 feet on each side of the sewer service for its entire length for installation or repairs to the service.
- G. The customer shall be charged for all materials and labor associated with initial installation or subsequent repairs due to the negligence of the customer. The Department of Public Works shall do its best to return the easement to its prior condition; however, it will be the customer's responsibility to repair and replace any damaged property within the aforementioned easement.
- H. Ordinarily, no new service pipes or extensions of mains will be installed between December 1 and March 31. An additional charge shall be applied to the customer for road maintenance during these winter conditions if service or extension is allowed, consisting of the minimum charge listed in § **200-33**, Wastewater Rate and Fee Schedule, or the actual cost associated with such road maintenance, if greater.

§ 200-7 **Sewer services and connections.**

- A. No unauthorized person(s) shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a license pursuant to § **200-6D** and written authorization pursuant to § **200-6E**.
- B. There shall be two classes of sewer permits: for residential service and for service to establishments producing commercial and/or industrial wastes. In either case, the owner(s) or his/her agent shall make application on a special form furnished by the City. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Commissioner. A permit and inspection fee as listed in § **200-33**, Wastewater Rate and Fee Schedule, for a sewer permit shall be paid to the City at the time the application is filed. This fee shall be paid regardless of whether the installation is to be accomplished by the Department of Public Works or the developer or property owner. [**Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)**]
- C. In addition to the permit requirements of Subsection **B** above, any new construction or use other than a single-family home which exceeds 500 gallons per day of discharge, as estimated by New Hampshire Administrative Rules Section Env-Wq 1008.03, Table 1008-1, shall be required to also obtain a wastewater discharge permit and pay the reserve capacity assessment. Application for such permit shall be made to the Department of Public Works together with the wastewater discharge permit fee as listed in § **200-33**, Wastewater Rate and Fee Schedule. All such requests for a wastewater discharge permit are subject to the approval of the Commissioner based on the existing sewer line's ability to handle the

increased discharge. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**

- D. All costs and expenses incidental to the installation and connection of a new sewer service shall be borne by the owner(s). The owner(s) shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the sewer service. If installation and connection are accomplished at a location where the City has previously installed a sewer stub, the Sewer Enterprise Fund will bear the cost of installation of the sewer stub. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**
- E. A separate and independent sewer service shall be provided for every building, except that where one building stands at the rear of another or can be connected to the rear building through an adjoining alley, courtyard, or driveway, the front building sewer may be extended to the rear building and the whole considered as one building sewer. This exception shall be allowed only when no other reasonable alternative exists to provide a separate and independent sewer service for each building. The City does not and will not assume any obligation or responsibility for damage caused by or resulting from any such single connection aforementioned.
- F. Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Commissioner, to meet all requirements of this article.
- G. The size, slope, alignment, materials of construction of a sewer service, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench shall all conform to the requirements of the Building and Plumbing Code or other applicable rules and regulations of the City.
- H. Whenever possible, the sewer service shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the sewer service.
- I. No person(s) shall make connection of roof downspouts, foundation drains, areaway drains, or other sources of surface runoff or groundwater to a sewer service or building drain which in turn is connected directly or indirectly to a public sanitary sewer.
- J. The connection of the sewer service into the public sewer shall conform to the requirements of the Building and Plumbing Code or other applicable rules and regulations of the City or the procedures set forth in appropriate specifications of the American Society for Testing and Materials (ASTM) and the Water Environment Federation Manual of Practice No. 9. All such connections shall be made gastight and watertight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved by the Commissioner before installation. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**
- K. All public sewers shall be laid by the Commissioner or his/her employees or by a licensed contractor, but the Commissioner shall have authority to prescribe rules as to such other material to be used as is not herein specified, and all work shall be done as directed by him/her and subject to his/her inspection, and the pipe trench shall be kept open until the work has been so inspected. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**

- L. The applicant for the sewer permit shall notify the Commissioner when the sewer service is ready for inspection and connection to the public sewer. The connection and testing shall be made under the supervision of the Commissioner or his/her representative. A minimum of 24 hours' notice is required. If the sewer service is buried prior to inspection, the applicant may be required to uncover the sewer service and connection.
  - M. No private sewer shall pass under another house or within four feet of the wall thereof except by written permission of the Commissioner.
  - N. In addition to the afore-described permit, the Commissioner may also require, prior to commencing construction work for any private sewer, a like certificate evidencing the deposit of any amount equal to the estimated cost of such construction and/or a satisfactory guarantee that the actual cost of such construction will be paid in full upon completion of the work.
  - O. The Commissioner shall keep a written report of his/her inspection of all such private sewer lines.
  - P. All excavations for sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City at the expense of the owner.
  - Q. Any person proposing a new discharge into the system, or a discharge of listed or characteristic waste, or an increase in the volume or in the strength or character of pollutants that are discharged into the system, shall notify the Commissioner at least 60 days prior to the proposed change or connection. Proposed new discharges from residential or commercial sources involving loading exceeding 50 population equivalents (5,000 gallons per day), any new industrial discharge, or any alteration in either flow or waste characteristics in industrial discharge must be approved by the New Hampshire DES.
  - R. The Department of Public Works will approve plans for new systems, extensions, or replacement sewers. No plans will be approved which allow rainwater from roofs, streets, and other areas and groundwater from foundation drains to enter into the sanitary sewer system. Separate storm drain systems must be provided.
  - S. Whenever any sewer service shall become clogged, broken, or obstructed, out of order, or detrimental to the use of any public sewer, or unfit for sewerage purposes in that part situated outside of any street or private way in which public sewers are laid, the owner, agent, occupant or person having charge of any building or premises in which such sewer service is located shall, when directed by the Commissioner, remove, reconstruct, alter, cleanse, or repair said sewer, as the condition thereof may require. In case of neglect or refusal to comply with such notice within five days after the same is given, the Commissioner may cause such sewer to be removed, reconstructed, repaired, altered, or cleansed, as he/she may deem expedient, at the expense of such owner, agent, occupant or other person so notified, who shall also be liable for a penalty in accordance with § 200-20, Violations and penalties. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**
  - T. Reserve capacity assessments.
- (1) Proposed multifamily dwellings, new subdivisions, and commercial, industrial or business structures within sewer service area or expansion of such structures.

- (a) Property owner or applicant shall file a sewer connection application with the Department of Public Works. All applicants discharging over 500 gallons per day, as determined by New Hampshire Administrative Rules Section Env-Wq 1008.03, Table 1008-1, are required to file for a wastewater discharge permit. All property owners are subject to a reserve capacity assessment fee as listed in § **200-33**, Wastewater Rate and Fee Schedule, for all existing and projected future usage. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**
- (b) If it is determined that insufficient capacity exists for the projected flows, the applicant shall be responsible for all costs for upgrading and improving the sewers necessary to serve the project.
- (2) Proposed multifamily dwellings, new subdivisions, and commercial, industrial or business structures outside sewer service area or expansion of such structures.
- (a) Applicants must investigate all possible means to obtain City sewer. If it is determined that a feasible means of providing City sewer service is possible, the property owner or applicant shall file a sewer connection application with the Department of Public Works. All applicants discharging over 500 gallons per day shall file for a wastewater discharge permit. All property owners are subject to a reserve capacity assessment fee as listed in § **200-33**, Wastewater Rate and Fee Schedule, for all existing and projected future usage.
- (b) If it is determined that insufficient capacity exists for the projected flows, the applicant shall be responsible for all costs for upgrading and improving the sewers necessary to serve the project.
- (3) The City Manager may waive the reserve capacity assessment if deemed in the best interests of the City.

**§ 200-8 Sewer only meters.**

**[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**

- A. Sewer only properties may be metered via the private water supply line. A common meter will be provided for rented units or lots. All meters will be maintained by the Department of Public Works, but the customer will be charged for any damage to meters caused by abnormal conditions, i.e., freezing, fire, tampering, etc. The Department of Public Works will set only one meter for any one service and the owner of the premises shall be liable for the entire amount of wastewater generated on the premises irrespective of leases of individual customers.
- B. Meters are installed for measurement of all water used by the consumer. Customers shall provide a clean, dry, warm, safe, and accessible place (always free from debris) for installation of a meter. The location shall be easily accessible by a person in the upright position for reading, maintaining, and changing.
- C. All customers billed for wastewater must keep their own fixtures, and service pipes within their property lines, in good repair and fully protected from injury by frost, and all such pipes and connections shall conform to the Rochester Plumbing Code.

**§ 200-9 Sewer deduct meter.**

**[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**

Upon application and approval by the Department of Public Works, a customer may install a meter to measure water that will not be disposed of in the City's sewer system. The purpose of the meter would be to

meter uses including, but not limited to, in-ground sprinkler systems, outside spigots, and commercial air-conditioning systems. The cost of the meter, inspection, and installation by the City is entirely the responsibility of the customer. The meter will fully meet the requirements of § **200-8** of this article.

**§ 200-10 Meter repairs.**

**[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**

- A. All meters shall be kept in repair by the Department of Public Works except when damaged by the customer or by his/her negligence, including freezing. In case of any such damage, the cost of repairs shall be charged to the owner of the premises.
- B. If the reader is out of repair or fails to register, the customer will be charged at the average daily consumption as shown by the reader when in order or the flat rate structure, whichever is less. Subsequently, if the actual amount of water metered is determined to be different than the amount previously estimated, the charge will be on the subsequent billing by the difference between the two.
- C. If a customer, after being so notified, does not allow the Department of Public Works access in order to test and/or correct a faulty meter or reader, the customer's subsequent bill will be 1.5 times the average daily consumption as historically shown on the meter.
- D. No person, except the duly authorized agent of the Department of Public Works, shall be allowed to reset, take off, or repair a meter.

**§ 200-11 Meter testing.**

**[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**

- A. Only the Department of Public Works shall replace or remove and test all meters. No meter shall be placed in service or permitted to remain in service if the error of registration exceeds 2% or as established by the latest American Water Works Association (AWWA) meter standards, whichever is less.
- B. The Department of Public Works may test a meter for accuracy in registration upon complaint of the sewer consumer. There shall be a minimum service charge for any complaint-driven service call. The minimum service charge shall be as listed in § **200-33**, Wastewater Rate and Fee Schedule. Any meter found to be accurate in accordance with this article will not be replaced by the Department of Public Works due to a complaint.
- C. Should the meter in question be found to be within the accuracy limits established by the latest AWWA meter standards, all applicable fees associated with testing shall be paid by the customer. If the meter in question is found to be inaccurate, all fees will be waived.
- D. The percent of error of registration shall be taken as the average of the error at the intermediate and maximum rates of test flow. Any determination of charges shall be based on this average error.

**§ 200-12 Sealing of meter.**

**[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**

Upon completion of adjustment and test of any meter under the provisions of these rules, the Department of Public Works shall affix thereto a suitable seal in such a manner that the adjustment of registration of the meter cannot be tampered with without breaking the seal. Disruption of the seal will be cause for

discontinuance of service.

**§ 200-13 Tampering with meter.**

**[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**

- A. No customer or his/her agent shall perform a tampering event with regard to a meter without having first received written consent and authorization of the Commissioner of Public Works or his/her designee to take such action. In the event that the Commissioner of Public Works and/or his/her designee shall determine that a customer and/or his/her agent has performed a tampering event with respect to a meter, such customer shall be subject to the following charges:
- (1) A charge in an amount based upon the actual metered usage to such meter prior to the tampering event, if determinable.
  - (2) A charge in an amount based upon twice the estimated usage for the premises serviced by the meter in question during the preceding billing period(s) or the corresponding billing period(s) during the year immediately preceding such tampering event, whichever is greater.
  - (3) A charge for all costs associated with the repair and/or replacement of such meter.
  - (4) A reconnection fee as listed in § **200-33**, Wastewater Rate and Fee Schedule.
- B. Anything in Subsection A above to the contrary notwithstanding, should a customer or his/her agent, as a result of an emergency or other circumstances beyond his/her control, perform a tampering event with respect to a meter, without having received the prior written consent and authorization of the Commissioner of Public Works or his/her designee, such customer may, upon appeal to the Utility Advisory Board in accordance with the provisions of § **200-30** and within its discretion, be relieved of any and all of the charges listed in Subsection A(1) through (4) above, provided that such customer shall have notified the Department of Public Works, in writing, of the tampering event in question within three business days of the occurrence of such event.

**§ 200-14 Outside reader.**

**[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**

All customers shall be required to have an outside reader with radio read capability for their meter. The outside reader shall be installed at a place on the premises acceptable to the City and according to the specifications available at the Department of Public Works. The customer shall be responsible for repairs or replacement of damaged outside readers and associated wiring when damage is due to abuse, neglect, and/or negligence of the customer. The City shall render a bill for labor, equipment, and materials for all such repairs or replacement. The outside reader and appurtenances shall be the property of the City. The customer shall be responsible for providing safe access to City personnel for reading. The customer shall remove potential hazards and nuisances such as snow, ice, vegetation, and dogs from the outside reader's access. Exceptions may be granted by the Commissioner of Public Works, in which case reasonable access shall be granted to Department of Public Works personnel for the purposes of reading and maintenance. If satisfactory access is not provided, the City reserves the right to produce an estimated bill.

**§ 200-15 Inspections.**

**[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**

The Department of Public Works employees or its agents shall be allowed access to the customer's premises

between the hours of 8:00 a.m. and 6:00 p.m. for examination of pipes, fixtures, connections, the quality of water used, and manner of use.

§ 200-16 **Illicit connection to public sewers.**

- A. No person(s) shall discharge or cause to be discharged any unpolluted waters such as stormwater, groundwater, roof runoff, subsurface drainage, or cooling water to any sewer.
- B. Stormwater and unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers or a natural outlet approved by the Commissioner. Industrial cooling water or process waters require an NPDES permit prior to discharge to a storm sewer or natural outlet. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**
- C. No person(s) shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:
  - (1) Any gasoline, benzene, naptha, fuel oil, or other flammable or explosive liquid, solid, or gas, including, but not limited to, waste streams with a closed-cup flashpoint of less than 140° F. or 60° C. using the test methods specified in 40 CFR 261.21.
  - (2) Any waters containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any waste treatment processes, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the wastewater treatment plant.
  - (3) Any waters or wastes having a pH lower than 5.5 or higher than 9.0 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the wastewater works.
  - (4) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers or other interference with the proper operation of the wastewater facilities, such as, but not limited to, ashes, bones, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails, and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.
  - (5) Any pollutant(s) released in a discharge at a flow rate or pollutant concentration which will cause pass-through or interference.
  - (6) Wastewater containing petroleum oil, non-biodegradable cutting oils, or products of mineral oil in concentrations of more than 25 milligrams per liter or in such other amounts that will cause interference or pass-through.
  - (7) Wastewater sufficiently hot to inhibit biological activity in the POTW resulting in interference or to cause the influent at the wastewater treatment facilities to exceed 104° F. (40° C.), unless the EPA Regional Administrator, at the request of the Commissioner, approves alternate temperature limits.
  - (8) Any waters or wastes containing fats, wax, grease or oils, whether emulsified or not, in excess of 100 milligrams per liter, or containing substances which may solidify or become viscous at temperatures between 0° C. (32° F.) and 16° C. (60° F.).

- (9) If the person is a significant industrial user, wastewater containing any pollutant specified in Schedule A, annexed hereto and incorporated herein by reference, in excess of the limitations for each of said pollutants as specified in Schedule A (Local Discharge Limitations). These limitations may be applied on a mass basis to allow for a reduction in water use.

**Commented [1]:** Editor's Note: Schedule A is included as an attachment to this chapter.

- (10) Any trucked or hauled wastes, except at discharge points designated by the POTW.

- (11) Any medical wastes except as specifically authorized in a discharge permit.

D. The following described substances, materials, waters, or wastes shall be limited in discharges to municipal systems to concentrations or quantities which will not harm either the sewers, wastewater treatment process or equipment, will not have an adverse effect on the receiving stream, or will not otherwise endanger lives, limb, or public property, or constitute a nuisance. The Commissioner may set limitations lower than the limitations established in the regulations below if in his/her opinion such more severe limitations are necessary to meet the above objectives. In forming his/her opinion as to the acceptability, the Commissioner will give consideration to such factors as the quantity of subject waste in relation to flows and velocities in the sewers, materials of construction of the sewers, the wastewater treatment process employed, capacity of the wastewater treatment plant, degree of treatability of the waste in the wastewater plant, and other pertinent factors. The limitations or restrictions on materials or characteristics of waste or wastewater discharged to the sanitary sewer which shall not be violated without approval of the Commissioner are as follows:

- (1) Any garbage that has not been properly shredded. Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments, or similar places where garbage originates from the preparation of food in kitchens for the purpose of consumption on the premises or when served by caterers.
  - (2) Any waters or wastes containing heavy metals, solvents, and similar objectionable or toxic substances to such degree that any such material discharged to the public sewer exceeds the limits established by the Commissioner, the New Hampshire DES or EPA for such materials.
  - (3) Any waters or wastes containing odor-producing substances exceeding limits which may be established by the Commissioner.
  - (4) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Commissioner in compliance with applicable state or federal regulations.
  - (5) Quantities of flow, concentrations, or both which constitute a "slug" as defined herein.
  - (6) Any waters or wastes which, by interaction with other waters or wastes in the public sewer system, release obnoxious gases, form suspended solids which interfere with the collection system, or create a condition deleterious to structures and treatment processes.
- E. If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Subsection D, and which in the judgment of the Commissioner may have a deleterious effect upon the wastewater facilities, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public



nuisance, the Commissioner may:

- (1) Reject the wastes;
  - (2) Require pretreatment to an acceptable condition for discharge to the public sewers;
  - (3) Require control over the quantities and rates for discharge; and/or
  - (4) Require payment to cover added cost of handling and treating the wastes.
- F. If the City permits the pretreatment or equalization of waste flows, the design and installation of the pretreatment facilities shall be subject to the review and approval of the City and New Hampshire DES and subject to the requirements of all applicable codes, ordinances and laws. Such facilities shall not be connected until said approval is obtained in writing.
- G. Plans and specifications for a proposed treatment facility shall be the result of the design of a professional engineer. Such approval shall not relieve the owner of the responsibility of discharging treated waste meeting the requirements of this article.
- H. Grease, oil, and sand interceptors shall be provided when, in the opinion of the Commissioner, they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients, except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Commissioner and shall be located as to be readily and easily accessible for cleaning and inspection. In maintaining these interceptors, the owner shall be responsible for the proper removal and disposal by appropriate means of the captured material and shall maintain records of the dates and means of disposal which are subject to review by the Commissioner. Any removal and hauling of the collected materials not performed by the owner's personnel must be performed by currently licensed waste disposal firms.
- I. All industrial waste shall be pretreated in accordance with federal and state regulations and this article to the extent required by applicable National Categorical Pretreatment Standards, National Pretreatment Standards or pretreatment standards established by the New Hampshire DES or by the Commissioner, whichever is more stringent. The National Categorical Pretreatment Standards, found in 40 CFR Chapter 1, Subchapter N, Parts 405 to 471, are hereby incorporated into this article by reference. Where pretreatment or flow-equalizing facilities are provided or required for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner(s) at his/her expense.
- J. When required by the Commissioner, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable structure together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes.
- (1) Such structure, when required, shall be accessible and safely located and shall be constructed in accordance with plans approved by the Commissioner. The structure shall be installed by the owner at his/her expense and shall be maintained by him/her so as to be safe and accessible at all times.
  - (2) All industrial users discharging into a public sewer shall perform such monitoring as the Commissioner

or duly authorized employees of the City may reasonably require, including installation, use and maintenance of monitoring equipment, keeping records and reporting the results of such monitoring to the Commissioner.

- (3) Such records shall be made available upon request by the Commissioner. Such records shall be made available upon request of the Commissioner to other agencies having jurisdiction over discharges to the receiving waters.

K. The Commissioner may require an industrial user of sewer services to provide information needed to determine compliance with this article. These requirements may include:

- (1) Wastewater discharge peak rate and volume over a specified time period.
- (2) Chemical analyses of wastewaters.
- (3) Information on raw materials, processes, and products affecting wastewater volume and quantity.
- (4) Quantity and disposition of specific liquid, sludge, oil, solvent, or other materials important to sewer use control.
- (5) A plot plan of sewers on the user's property showing sewer and pretreatment facility location.
- (6) Details of wastewater pretreatment facilities.
- (7) Details of systems to prevent and control the losses of materials through spills to the municipal sewer.

L. The Commissioner may require any significant industrial user to develop a plan to control slug discharges. If the Commissioner determines that such a plan is needed the plan shall include at a minimum:

- (1) A description of discharge practices, including non-routine batch discharges;
- (2) A description of stored chemicals;
- (3) Procedures for notifying the POTW of slug discharges; and
- (4) If necessary, procedures to prevent adverse impact from accidental spills.

M. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this article shall be determined in accordance with the EPA-approved methods published in the Code of Federal Regulations, Title 40, Part 136 (40 CFR 136), or alternate test procedures approved by EPA. Sampling methods, location, times, durations, and frequencies are to be determined on an individual basis subject to approval by the Commissioner.

N. No statement contained in this chapter shall be construed as preventing any special agreement or arrangements between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, provided that such agreements do not contravene any requirements of existing federal or state laws and/or regulations promulgated thereunder,

are compatible with any user charge system in effect, and do not waive applicable pretreatment standards and requirements, including local limits and National Categorical Pretreatment Standards.

- O. Septic tank waste (septage) will be accepted into the sewer system at a designated receiving structure within the treatment plant area, provided that such wastes do not contain toxic pollutants or materials, and provided that such discharge does not violate any other special requirements established by the City. Permits to use such facilities shall be under the jurisdiction of the Commissioner or his/her duly authorized representatives. The discharge of industrial wastes as "industrial septage" requires prior approval of the New Hampshire DES. Fees for dumping septage will be established as part of the user charge system. The sewage treatment plant operator acting in behalf of the City and its Commissioner shall have authority to limit the disposal of such wastes, if such disposal would interfere with the treatment plant operation. Procedures for the disposal of such wastes shall be in conformance with the operating policy of the City's sewage treatment plant supervisor unless specifically permitted otherwise.
- P. It shall be illegal to meet requirements of this article by diluting wastes in lieu of proper pretreatment.
- Q. A dental practice or any other similar practice or business that handles or manages dental amalgams shall install and maintain an amalgam separator and institute a management program in accordance with federal and state regulations. **[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**

**§ 200-17 Industrial pretreatment rules.**

- A. Applicability. All industrial users shall comply with applicable requirements of federal and state industrial pretreatment regulations (as amended), in addition to the requirements of these industrial pretreatment rules.
- B. Industrial discharge agreement (IDA).
  - (1) IDA required. Effective 180 calendar days after this provision is adopted by the City, the discharge of any industrial process waste to the City's wastewater works or to a public or private sewer connected to the City's wastewater works is prohibited without a valid industrial discharge agreement (IDA).
  - (2) IDA application. Within 60 days after the effective date of these industrial pretreatment rules, industrial users subject to these rules shall submit an application for an IDA containing information required under applicable federal and state industrial pretreatment reporting regulations. Such information, as a minimum, shall include:
    - (a) The name and address of the facility, including the name of the operators and owners.
    - (b) A list of all environmental permits held by or for the facility.
    - (c) A brief description of the nature, average rate of production, and Standard Industrial Classification of the operations carried out at such facility.
    - (d) An identification of the categorical pretreatment standards applicable to each regulated process.
    - (e) An analysis identifying the nature and concentration of pollutants in the discharge.

- (f) Information showing the measured average daily and maximum daily flow, in gallons per day, to the public sewer from regulated process streams and from other streams.
  - (g) A schedule of actions to be taken to comply with discharge limitations.
  - (h) Additional information as determined by the City may also be required.
- (3) Provisions. The IDA issued by the City to each industrial user will outline the general and specific conditions under which the industrial process waste is accepted for treatment at the City's wastewater treatment plant. Specifically included in the agreement are the following:
- (a) Pretreatment and self-monitoring facilities required.
  - (b) Type and number of samples and sampling frequency required.
  - (c) Effluent limitation on the industrial process waste.
  - (d) Reporting requirements.
- [1] Periodic reports. Industrial users shall submit periodic reports as required indicating the nature and concentration of pollutants in the discharge from the regulated processes governed by pretreatment standards and the average and maximum daily flow for these process units. The reports shall be certified by a qualified professional and shall state whether the applicable categorical pretreatment standards and effluent limitations are being met on a consistent basis and, if not, what additional operation and maintenance practices and/or pretreatment is necessary. Additional requirements for such reports may be imposed by the City.
- [2] Notification of violation/resampling. If sampling performed by an industrial user indicates a violation of any National Pretreatment Standard, National Categorical Pretreatment Standard, or any pretreatment standard established by the Commissioner, the industrial user shall notify the City within 24 hours of becoming aware of the violation and shall repeat the sampling and analysis and submit the results of the report analysis to the City within 30 days of becoming aware of the violation.
- [3] Notification of discharge of hazardous wastes. Industrial users shall notify the City, the EPA Regional Waste Management Division Director and the state hazardous waste authorities in writing of any discharge into the POTW of a substance which, if otherwise disposed, would be a hazardous waste under 40 CFR Part 261.
- [4] Signature for reports. Reports submitted under this section shall be signed by an authorized representative. An authorized representative may be:
- [a] A principal executive officer of at least the level of vice president, if the industrial user is a corporation;
  - [b] A general partner or the proprietor, if the industrial user is a partnership or sole proprietorship; or
  - [c] A duly authorized representative of either of the individuals designated above, if such representative is responsible for the overall operation of the subject facility.

- (e) Monitoring records.
  - [1] Industrial users subject to the reporting requirements under this section shall maintain records of information resulting from monitoring activities required to prepare such reports. Such records include for each sample:
    - [a] The date, exact place, method and time of sampling and the name of the person or persons taking the sample.
    - [b] The dates analyses were performed.
    - [c] The laboratory performing the analyses.
    - [d] The analytical techniques and methods used.
    - [e] The results of such analyses.
  - [2] Such records shall be maintained for a minimum of five years and shall be made available for inspection and copying by the City. This period shall be extended during the course of any unresolved litigation, or upon request by the EPA or the Commissioner.
- (f) Additional conditions.
  - [1] The agreement will be in effect for five years. At the expiration of the five-year period, the industrial user must apply for and be issued a new IDA.
  - [2] The agreement may not be transferred without the written consent of the Commissioner and may be revoked by the City for noncompliance or modified so as to conform to discharge limitation requirements that are enacted by federal or state rules and/or regulations.
  - [3] An industrial user proposing a new discharge or a change in volume or character of its existing discharge must submit a completed IDA application to the City at least 60 days prior to the commencement of such discharge. The submitted application must include plans and engineering drawings, stamped by a registered professional engineer, of the proposed pretreatment facilities. Upon approval of the application by the City, a discharge permit request is submitted by the community to the New Hampshire DES on behalf of the industry. Upon approval of the discharge permit request by the DES, the City will issue to the industrial user a new or amended IDA in accordance with the procedure outlined in this section.
- (g) Annual fee. Each industrial user shall be assessed a fee to cover the administration costs of the Industrial Pretreatment Program (IPP), plus the costs of sample collection and laboratory analysis. The fee will be billed on a quarterly basis and assessed as follows:
  - [1] All costs associated with self-monitoring shall be borne directly by each industrial user.
  - [2] All costs associated with municipal monitoring of each industrial user (sample collection and laboratory analysis) shall be billed directly to that industrial user.

- [3] All administrative costs associated with operation of the IPP (labor costs for City staff, equipment purchase and maintenance, consulting fees, etc.) shall be paid by the industrial users on a pro rata basis.
- (h) Penalties and cost of enforcement. Any industrial user which violates any provision of this article or any National Pretreatment Standard, National Categorical Pretreatment Standard, or any pretreatment standard established by the Commissioner shall be subject to applicable civil and/or criminal penalties as set forth in said IDA and shall pay all costs incurred by the City in enforcing or assuring compliance with such provision or standard and in responding to or investigating such violation **in accordance with 40 C.F.R 403.8 (f)(1)(iii)(B)(5).**
- C. Local discharge limitation. Significant industrial users shall be prohibited from discharging wastewater containing any pollutant specified in Schedule A , annexed hereto and incorporated herein by reference, in excess of the limitations for each of said pollutants as specified in Schedule A (Local Discharge Limitations). **Compliance with these limitations shall be assessed on the basis of samples of the industrial user's process wastewater discharge, not to include sanitary or any other dilution wastewater flows. If a National Categorical Pretreatment Standard, a National Pretreatment Standard, or the New Hampshire Department of Environmental Services establishes limitations for industrial users in a particular industrial subcategory which are more stringent than the limitations specified in Schedule A, those more stringent limitations shall immediately apply to those industrial users subject to such limitations. [Amended 10-4-2005; 5-6-2008; at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**
- D. National Categorical Pretreatment Standards.
- (1) Notification. The City shall provide timely notification to appropriate industries of applicable categorical pretreatment standards.
- (2) Compliance date for categorical standards. Compliance with categorical pretreatment standards shall be achieved within three years of the date such standards are effective, unless a shorter compliance time is specified in the standards. The National Categorical Pretreatment Standards, found in 40 CFR Chapter 1, Subchapter N, Parts 405 to 471, are hereby incorporated into this article by reference.
- (3) Amendment to IDA required. An industrial user subject to categorical pretreatment standards shall not discharge wastewater directly or indirectly to City wastewater works after the compliance date of such standards unless an amendment to its IDA has been issued by the City.
- (4) Application for IDA amendment. Within 120 days after the effective date of a categorical pretreatment standard, an industrial user subject to such standards shall submit an application for IDA amendment. The application shall contain the information noted under Subsection **B(2)** of this section.
- (5) Baseline monitoring report. Within 180 days after the effective date of a categorical pretreatment standard, existing industrial users shall submit to the City a report setting forth the information required in 40 CFR 403.12(b). At least 90 days prior to the commencement of discharge, new sources or sources that become industrial users subsequent to the promulgation of an applicable categorical standard shall submit to the City a report setting forth the information required in 40 CFR 403.12(b).
- (6) Categorical compliance report. Within 90 days following the date for final compliance with an

**Commented [2]:** Editor's Note: Schedule A is included as an attachment to this chapter.

applicable categorical pretreatment standard or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, any industrial user subject to National Categorical Pretreatment Standards shall submit a report on compliance with categorical pretreatment standards deadlines in accordance with 40 CFR 403.12(d). If a compliance schedule is established, the City may require compliance schedule progress reports in accordance with 40 CFR 403.12(c).

- (7) Compliance determination. Compliance with National Categorical Pretreatment Standards shall be assessed in accordance with the requirements set forth at 40 CFR 403.12(b)(5). **[Amended 5-6-2008]**
- (8) Periodic compliance reports. Any industrial user subject to National Categorical Pretreatment Standards shall submit to the City, during the months of June and December, unless required more frequently by the pretreatment standard or by the City, periodic compliance reports in accordance with 40 CFR 403.12(e).
- (9) The City may authorize an Industrial User (IU) or Significant Industrial User (SIU) subject to a categorical Pretreatment Standard to forgo sampling of a pollutant by a categorical Pretreatment Standard if the Industrial User has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the Discharge, or is present only at background levels from intake water and without any increase in the pollutant due to activities of the Industrial User. **[See 40 C.F.R. 403.8 (f)(1)(iii)(B)(4) and 40 C.F.R. 403.12 (e)(2)].**

E. Slug discharge notification and control plan.

- (1) Industrial users shall immediately notify the City of any discharges that could cause problems to the POTW, including any slug, as defined under § **200-1**, of process waste discharged by such user to the City system. **[Amended 5-6-2008]**
- (2) The Commissioner may require any user to develop and implement an accidental discharge/slug control plan. The Commissioner shall evaluate whether each significant industrial user needs such a plan during the initial permit application or during permit renewal. Any user required to develop and implement an accidental discharge/slug control plan shall submit a plan which addresses, at a minimum, the following:
  - (a) Description of discharge practices, including non-routine batch discharges;
  - (b) Description of stored chemicals;
  - (c) Procedures for immediately notifying the POTW of any accidental or slug discharge; and
  - (d) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include but are not limited to inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.

F. Imminent endangerment. The City may, after informal notice to the industry discharging wastewater to the public sewer, immediately halt or prevent any such discharge reasonably appearing to present an imminent endangerment to the health and welfare of person, or any discharge presenting, or which may

present, an endangerment to the environment, or which threatens to interfere with operation of the public sewer or wastewater treatment facilities. Actions which may be taken by the City include ex parte temporary judicial injunctive relief, entry on private property to halt such discharge, blockage of a public sewer to halt such discharge, or demand of specific action by the industry.

- G. Monitoring and surveillance. The City shall as necessary sample and analyze the wastewater discharges of contributing industrial users and conduct surveillance and inspection activities to identify, independently of information supplied by such industries, occasional and continuing noncompliance with industrial pretreatment standards. All industries discharging to the City system shall allow unrestricted access to City, DES, and EPA personnel for the purposes of investigating and sampling discharges from the industries. Each industry will be billed directly for costs incurred for analysis of its wastewater. **[Amended 5-6-2008]**
- H. Investigations. The City shall investigate instances of noncompliance with industrial pretreatment standards and requirements.
- I. Public information. Information and data submitted to the City under this section relating to wastewater discharge characteristics shall be available to the public without restriction. Other such information shall be available to the public at least to the extent provided by 40 CFR 2.302. The City shall comply with the maintenance and records requirements of ~~40 CFR 2~~ **40 C.F.R 2.302 and 40 C.F.R 403.14.**  
**[Amended 5-6-2008; 3-5-2019]**
- J. Public participation. The City shall comply with the public participation requirements of 40 CFR Part 25 in the enforcement of industrial pretreatment standards and requirements, which shall include annual public notification, in the largest daily newspaper published in the City, of all industrial users which were in significant noncompliance with applicable pretreatment requirements.

**K. Bypass**

**(1) For the purpose of this Section:**

**(a) Bypass means the intentional diversion of wastestreams from any portion of a User's treatment facility.**

**(b) Server property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean an economic loss caused by delays in production.**

**(2) A User may allow any bypass to occur which does not cause Pretreatment Standards, Local Limits or Requirements to be violated, but only if it is also essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs C. and D. of this Section.**

**(3) Bypass Notifications**

**(a) If the User knows in advance of the need for a bypass, it shall submit prior notice to the Commissioner, at least 5 days before the date of bypass, if possible.**



(b) A User shall submit oral notice to the Commissioner of any unanticipated bypass that exceeds applicable Pretreatment Standards, Local Limits or Requirements within twenty four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the User becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause, the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue, and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The Commissioner may waive the written report on a case-by-case basis if the oral report has been received within twenty four (24) hours.

#### (4) Bypass

(a) Bypass is prohibited and the Commissioner may take enforcement action against a User for a bypass, unless:

(i) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(ii) There was no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(iii) The User submitted notices as required under paragraph C. of this Section.

(b) The Commissioner may approve an anticipated bypass, after considering its adverse effects, if the Commissioner determines that it will meet the three conditions listed in paragraph D (1) of this Section.

#### § 200-18 Arrest provision.

No person(s) shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance or equipment which is a part of the wastewater facilities. Any person(s) violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

#### § 200-19 Powers and authority of inspectors.

- A. The Commissioner and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing pertinent to discharge to the community system in accordance with the provisions of this article.
- B. The Commissioner and other duly authorized employees are authorized to obtain information concerning industrial processes which have a bearing on the kind and source of discharge to the public sewer. The industrial user may request that the Commissioner withhold from public disclosure any information deemed confidential in accordance with 40 CFR 403.14. The industrial user must establish that the revelation to the public of the information in question might result in an advantage to competitors.
- C. While performing the necessary work on private properties referred to in Subsection A, the

Commissioner or duly authorized employees of the City shall observe all safety rules applicable to the premises established by the company, and the company shall be held harmless for injury or death to the City employees, and the City shall indemnify the company against loss or damage to its property by the City employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in § ~~200-16J~~. [Amended 6-26-2007]

- D. The Commissioner and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the wastewater facilities lying within said easement. All entry and subsequent work, if any, on said easement shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

§ 200-20 **Violations and penalties.**

- A. Any person found to be violating any provisions of this article except § ~~200-18~~, Arrest provision, including any National Pretreatment Standard, National Categorical Pretreatment Standard, or other pretreatment requirement shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. Violation of more than one standard or requirement shall be deemed a separate violation for each standard or requirement. The offender shall, within the period of time stated in such notice, permanently cease all violations. The City may, after informal notice to the person discharging wastewater to the public sewer, immediately halt or prevent any such discharge reasonably appearing to present an imminent endangerment to the health and welfare of person, or any discharge presenting, or that may present, an endangerment to the environment, or which threatens to interfere with the operation of the public sewer or wastewater treatment facilities. Actions which may be taken by the City include ex parte temporary judicial injunctive relief, entry on private property to halt such discharge, blockage of a public sewer to halt such discharge, or demand of specific action by the person. In addition, the City may terminate the sewer service and/or revoke the industrial discharge agreement of any person who violates any provision of this article, in accordance with 40 C.F.R 403.8 (f)(1)(iii)(B)(5).

(1) A User who willfully or negligently violates any provisions of this Ordinance, an individual wastewater discharge permit, or issued hereunder, any other Pretreatment Standard or Requirement shall, upon conviction, be guilty of a misdemeanor, punishable up to the maximum fine and/or imprisonment allowable under Local, State, and/or Federal law, per violation, per day.

(2) A User who willfully or negligently introduces any substance into the POTW which cause personal injury or property damage shall, upon conviction, be guilty of a misdemeanor, punishable up to the maximum fine and/or imprisonment allowable under Local, State, and/or Federal law, per violation, per day. This penalty shall be in addition to any other cause of action for personal injury or property damage available under Local, State, and/or Federal law, per violation, per day.

(3) A User who knowingly makes any false statements, representations, or certifications in any application, record, report, plan or other documentation filed, or required to be maintained, pursuant to this Ordinance, individual wastewater discharge permit, or order issued herein, or who falsifies, tampers with, or knowingly renders inaccurate monitoring device or method required under this

Ordinance shall, upon conviction, be guilty of a misdemeanor, punishable up to the maximum fine and/or imprisonment allowable under Local, State, and/or Federal law, per violation, per day.

- B. Any person who violates any provision of this article, including any National Pretreatment Standard, National Categorical Pretreatment Standard, or other pretreatment requirement, may be fined in an amount not to exceed one thousand dollars (\$1,000.) for each violation, even if he/she corrects such violation within the time period set forth in the notice issued pursuant to Subsection A. Each day in which any such violation shall continue shall be deemed a separate offense. Reference: RSA 31:39, I(f); RSA 47:17; RSA 149-I:6.
- C. In addition to the foregoing, any person who violates any provisions of this article which results in an increase in costs to the wastewater facility or wastewater treatment works, or which interferes with or harms treatment plant personnel, equipment, processes, or operation, shall be liable to the City in an amount equal to the additional costs incurred by the City as a result of such violation, including but not limited to court costs, attorneys' fees and fees related to sampling and analysis to assure compliance with applicable limitations. Such liability exists even if the person corrects such violation within the time set forth in the notice issued pursuant to Subsection A.

§ 200-21 **Repealer; severability.**

- A. All ordinances or parts of ordinances in conflict herewith are hereby repealed.
- B. The invalidity of any section, clause, sentence, or provision of this article shall not affect the validity of any other part of this article which can be given effect without such invalid part or parts.

§ 200-22 **When effective.**

This article shall be in full force and effect from and after its passage, approval, recording and publication as provided by law.

## Article II Rates and Charges

§ 200-23 **Establishment of wastewater rates and fees.**

- A. Process. Wastewater rates and fees shall be reviewed and updated periodically by the City Council. Such wastewater rates shall be computed based on the total amount budgeted for the Department of Public Works, Division of Sewage and Waste Treatment Works, operations and maintenance, plus any debt service and capital outlays determined by the City Council, and projections of estimated sewer consumption, number of accounts, and/or other such factors. Wastewater rates shall be recommended to the City Council by the Utility Advisory Board and/or the City Manager and shall be established to provide sufficient revenue to at least pay the expenses of operating and maintaining the wastewater treatment works, collection system, and appurtenant facilities. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**
- B. Exemptions. The City Council may authorize elderly exemptions for users qualifying for property tax exemptions in the City, but such exemptions shall not result in charges lower than those necessary to recover operation and maintenance costs. Only the portion of the wastewater rates that recovers the debt service or capital outlays may be exempted.
- C. Implementation of new wastewater rates and fees. Before new rates and/or fees are effective, there shall

be two readings before the City Council. In addition, a public hearing shall be held between the first and the second readings. The public hearing shall be held at least 10 calendar days before the rates and fees are effective.

**§ 200-24 Rates, charges and fees.**  
**[Amended 5-6-2008]**

A separate listing of all deposits, wastewater rates, charges, and violation fees can be obtained from the Department of Public Works or the Business Office. Wastewater user charges shall be assessed as follows:

- A. Metered water customers. All customers that are supplied by the City of Rochester water system shall be charged based upon water usage. The rate shall be listed in § **200-33**, Wastewater Rate and Fee Schedule.
- B. Unmetered residential customers. All unmetered residential wastewater customers shall pay a flat rate quarterly wastewater user charge. The rate shall be as listed in § **200-33**, Wastewater Rate and Fee Schedule. Each unit of a multi-unit dwelling or mobile home park shall be considered a residential customer. The property owner shall be billed for each dwelling unit even if the property has only one service (i.e., the owner of a ten-unit apartment building shall be billed the residential flat rate times 10).  
**[Amended 6-6-2017]**
- C. Unmetered industrial customers. Any industrial wastewater customers not connected to the City of Rochester water system shall install an appropriate meter to measure discharges into the City sewer system. The rate charged shall be as listed in § **200-33**, Wastewater Rate and Fee Schedule.
- D. Minimum fee. Notwithstanding the provisions of Subsection A, any metered industrial/commercial or residential wastewater user shall pay a minimum quarterly wastewater user's charge as listed in § **200-33**, Wastewater Rate and Fee Schedule.
- E. TKN surcharge. Total Kjeldahl Nitrogen (TKN) is a pollutant found in most wastewater and is subject to a surcharge where discharges exceed a ceiling limit, as listed in § **200-33**. Where an individual user discharges greater than the ceiling limit, then the user shall be assessed a fee for every pound in excess of the ceiling limit. The total pounds of TKN discharged will be determined quarterly and be based on continuous flow records maintained by the user and the quarterly water quality testing conducted by the City. Supplemental water quality data, in addition to that collected for industrial pretreatment monitoring, can be provided by the user at no cost to the City and may be used in calculating the surcharge fee, as approved by the Commissioner. The surcharge fee is in addition to the wastewater rate and fee for commercial and industrial customers.

**§ 200-25 Billing and payment.**

- A. Wastewater bills shall be rendered to all customers at least quarterly and may be rendered more frequently at the discretion of the Business Office with the approval of the City Manager.
- B. Wastewater bills are due and payable upon presentation and shall become delinquent after 30 days after the date of issuance. Interest shall accrue on bills not paid when due at the same rate charged by the City for overdue property tax bills.
- C. Checks shall be made payable to the City of Rochester and submitted to the Tax Collector. When bills

are overdue, the customer will be sent a notice. Bills not paid when due become a lien on the property by New Hampshire statutes. **[Amended 9-4-2007]**

- D. The failure of a customer to receive wastewater bills does not relieve the customer of responsibility for making prompt payment. **[Amended 5-6-2008]**
- E. The Department of Public Works in collecting and treating wastewater, doing work, or furnishing materials shall deal with only the customer and the premises, and such customer shall keep the Business Office advised of the address to which bills, notices, and communications may be forwarded. Although the payment for service may be assumed by an agent or tenant, the owner of the premises will be held personally responsible for the same. A change in ownership will not relieve the premises from payment of back bills.

**§ 200-26 Appeals.**

Users aggrieved of bills rendered under this article have the following rights of appeal:

- A. Notification. The aggrieved user shall notify the Business Office in writing that said bill is contested before the next billing for this wastewater service. The notification shall explain why the bill is contested and provide the information necessary to determine the validity of the claim. The Finance Director may require the use of forms to expedite the appeals process. **[Amended 3-5-2019]**
- B. Resolution. Upon receipt of a notification under Subsection A, the Finance Director shall submit the claim to the Utility Advisory Board with a recommendation on the validity of the claim. The Utility Advisory Board shall act on all appeals received at a regularly scheduled meeting. The determination of the Utility Advisory Board shall be final, except that the City Manager shall have the authority to veto or modify any action of the Utility Advisory Board. Aggrieved parties shall be allowed only one appeal per claim. **[Amended 3-5-2019]**
- C. Disposition of appeals. For appeals found to be valid, the date of the billing shall be revised to the date of the Utility Advisory Board's decision. Revised charges shall become due and payable as specified in **§ 200-25**. For appeals not found to be valid, the date of the billing shall be as originally issued, and charges and interest shall be as computed as specified in **§ 200-25**.

**§ 200-27 Agreements.**

An agreement between the City Finance Director and the customer may be signed, on a form provided in the Business Office, if the customer is unable to satisfy his/her wastewater bill in full at the due date. An agreement procedure shall be established by the Finance Director and approved by the City Manager.

**§ 200-28 Miscellaneous bills.**

**[Amended 9-4-2007]**

Charges for labor and material, including installation costs, shall be billed upon completion of the work which the bill covers. If such bills are not paid within 30 days or a payment agreement has not been made with the Business Office, a lien may be placed on the property. All late payments shall include interest charges. Collection procedures will be taken and any costs will be charged to the customer.

**§ 200-29 Sale or transfer of property.**

On sale or transfer of property, the customer must give notification of such sale or transfer to the Business Office in order that a final meter reading can be taken and proper charges made to the proper owner. A minimum of 24 hours' notice is required.

**§ 200-30 Utility Advisory Board.**  
**[Amended 3-5-2019]**

- A. The Utility Advisory Board shall periodically make recommendations to the City Council on the level of wastewater rates to be established under this article, but such recommendations are not binding on the City Council. The Utility Advisory Board shall rule on appeals of user and other charges and fees and perform other such duties that may be assigned by City Council.
- B. The membership and terms of the Utility Advisory Board shall be as provided in § **260-28** of the City Code.

**§ 200-31 Construction/extension of public sewers for new development.**

- A. Applications for the construction/extension of public sewers shall be in the form of a petition addressed to the Commissioner of Public Works in compliance with the rules established by the Department of Public Works.
- B. The Commissioner may require that an applicant file with the City Clerk such rights-of-way, releases, performance surety, or any other instruments reasonably consistent for any such construction, and the City of Rochester shall be grantee, guaranteed insured, or payee of any such instrument.
- C. The applicant shall pay full costs for any such construction and installation of public sewers, as well as all costs associated with extensions of existing public sewers in existing public rights-of-way. Full title to the same shall, upon acceptance, be the property of the City of Rochester. All construction of public sewers shall be under the direct supervision of the Department of Public Works.

**§ 200-32 Extension of existing public sewers in accepted roadways.**

- A. Upon petition by citizens of the City or when deemed necessary or desirable for the protection and well-being of the City, the extension of existing public sewers in accepted roadways may be approved by a vote of the City Council.
- B. Where the construction and installation of public sewers is to be made in and upon existing streets and roads, and the public good requires it and/or undue hardships would result if cash payment were made, then and in such case the City may finance the construction through issuance of bonds or other financing method and pay the full costs. The proportionate share of each abutter along the line of construction and installation based on the actual cost of construction per running foot or other equitable distribution of cost when petition, application, or late petition is made and granted shall become a lien on such abutting property as real estate taxes until payment of said proportionate share of full costs, including financing, is made.
- C. Payment may be as follows:
  - (1) The affected party may pay its proportionate share in cash for the full amount, at the time the obligation is incurred.
  - (2) The affected party may enter into an agreement with the City that said proportionate share of all costs may be paid in equal installments over a period of time equal to the term of the bond or a lesser period. Such agreement is to be recorded with the Strafford County Register of Deeds at the expense of the affected party. In the event property is conveyed, the new owner(s) will be responsible for all unpaid

bills and liens.

- (3) All funds relating to public sewer extensions under these provisions may be placed in a special fund for payment of bonds, interest, and charges pertaining thereto.
- D. Any affected party dissatisfied with the determination of his/her proportionate share of costs may appeal said assessment as outlined in § **200-26**.

§ 200-33 **Wastewater Rate and Fee Schedule.**

[Amended 7-1-2000; 6-26-2007; 2-5-2008; 5-6-2008; 6-10-2008; 6-16-2009; 8-18-2009; 6-21-2011; 11-20-2012; 11-1-2016; 2-6-2018; 3-5-2019]

- A. Quarterly wastewater rates.
  - (1) Residential customers without exemption: six dollars and seventy-five cents (\$6.75) per 100 cubic feet of water use.
  - (2) Residential customers with exemption: four dollars and forty-nine cents (\$4.49) per 100 cubic feet of water use.
  - (3) Commercial and industrial customers: six dollars and seventy-five cents (\$6.75) per 100 cubic feet of water use.
  - (4) High-volume customers (i.e., customers using more than 5,000 units\*\* monthly): six dollars and eight cents (\$6.08) per 100 cubic feet of water use. \*\*Note: For purposes of this section the word "unit" shall mean 100 cubic feet or 748 gallons of water use.
  - (5) Unmetered residential customers:
    - (a) Per quarter per unit without exemption: two hundred fifteen dollars and ninety-one cents (\$215.91).
    - (b) Per quarter per unit with exemption: one hundred seven dollars and ninety-four cents (\$107.94).
  - (6) Sewer metered customers: six dollars and seventy-five cents (\$6.75) per 100 cubic feet.
  - (7) Minimum fee:
    - (a) Per quarter per unit without exemption: thirty-two dollars and twenty-eight cents (\$32.28).
    - (b) Per quarter per unit with exemption: twenty-five dollars and seventy cents (\$25.70).
- B. Septage discharge: fifty-two dollars (\$52.) per 500 gallons or portion thereof.
- C. RV septage discharge: fifteen dollars (\$15.) flat fee.
- D. Graywater disposal: twenty-eight dollars (\$28.) per 2,000 gallons or portion thereof.
- E. TKN surcharge:

- (1) Ceiling limit: 60 pounds per day TKN.
- (2) Surcharge fee: one dollar and eighteen cents (\$1.18) per pound of TKN.

F. Fees.

- (1) Permit and inspection fee: fifty dollars (\$50.).
- (2) Wastewater discharge permit fee: fifty dollars (\$50.).
- (3) Reserve capacity assessment: two dollars (\$2.) per gallon.

G. Installation fees.

- (1) Installation by City: three hundred dollars (\$300.) minimum or estimated cost of installation in advance.
- (2) Charge for road maintenance for service installed between December 1 and March 31: two hundred dollars (\$200.) minimum or estimated cost of road maintenance in advance.
- (3) Installation and repair license: one hundred dollars (\$100.) per year.
- (4) Meter repair or testing: minimum charge of thirty dollars (\$30.) for the first half hour per visit plus cost of transportation of meter to testing facility and cost of testing.
- (5) Meter damage: fifty dollars (\$50.).

H. Temporary service. See installation fees; wastewater charges will be billed at above rates.

I. Backflow prevention devices. All costs associated with installation, repair or inspection to be paid by owner. Inspection costs shall be not less than minimum service charge.

J. Violations: All costs associated with investigation, enforcement and correction of violations to be paid by owner.

K. Bad check: twenty-five dollars (\$25.) plus all associated fees.

**Attachments:**

[Attachment 1 - Schedule A, Local Discharge Limitations](#)

**The effective date of these amendments shall be upon passage.**