

**Regular City Council Meeting  
January 8, 2019  
Council Chambers  
7:00 PM**

**COUNCILORS PRESENT**

Councilor Abbott  
Councilor Bogan  
Councilor Gray  
Councilor Hamann  
Councilor Hutchinson  
Councilor Keans  
Councilor Lachapelle  
Councilor Lauterborn  
Councilor Varney  
Councilor Walker  
Mayor McCarley

**OTHERS PRESENT**

Blaine Cox, City Manager  
City Attorney Terence O'Rourke

**MEMBERS EXCUSED**

Councilor Gates  
Councilor Torr

**Minutes**

**1. Call to Order**

Mayor McCarley called the Regular City Council meeting to order at 7:00 PM.

**2. Opening Prayer**

Mayor McCarley requested a moment of silence.

**3. Presentation of the Colors**

Mayor McCarley led the Pledge of Allegiance.

**4. Roll Call**

Kelly Walters, City Clerk, took the roll call. All Councilors were present except for Councilors Gates and Torr, who had been excused. Councilor Keans

arrived at 7:07 PM.

## **5. Acceptance of Minutes**

### **5.1 Regular City Council Meeting: December 4, 2018** ***consideration for approval***

Councilor Lachapelle **MOVED** to **ACCEPT** the Regular City Council meeting minutes of December 4, 2018. Councilor Bogan seconded the motion. Councilor Walker made the following correction to the minutes:

Councilor Walker **MOVED** to **APPROVE** the request to place a sidewalk ~~on the south side of Chesley Hill Road across the street,~~ as approved by the Planning Board. Councilor Lauterborn seconded the motion. The **MOTION CARRIED** by a majority voice vote. Mayor McCarley called for the vote on the motion as amended the **MOTION CARRIED** by a unanimous voice vote.

### **5.2 Special City Council Meeting: December 18, 2018** ***consideration for approval***

Councilor Walker **MOVED** to **ACCEPT** the Special City Council meeting minutes of December 18, 2018. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

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

### **6.1 Employee of the Month Award**

City Manager Cox invited Brandon Turcotte, Department of Public Works – Waste Water Treatment Facility and Commissioner Nourse to come forward. City Manager Cox read the nomination letter written about Mr. Turcotte. He announced that Mr. Turcotte has been selected as the Employee of the Month for January, 2019.

### **6.2 City Manager's Report**

City Manager Cox referred to the following report found in the City Council Packet:

Contracts and Documents:

- City Manager
  - Connectivity Point Contract – Server Upgrade Project

- Council Chambers Rental Agreement – Arts Rochester DBA Sole City Dance
- Department of Public Works
  - Aubert – Portland Street – Snow Dump Agreement
  - DOT – Strafford Square Amendment
  - Hoyle, Tanner – Wallace Street Engineering Contract
  - Land Protection Grant Program – GTBY Resource Protection Partnership
  - Millers Farm Warranty Deed
  - Notice of Award – Portland Street Sidewalk Replacement Project – SUR Construction
  - Notice to Proceed – Agreement Signature
  - Tree City USA Recertification
  - Wallace Street – Brownfields Revolving Loan Cleanup Grant
  - Warranty Deeds – Smoke Street and Laredo Lane
- Economic & Community Development
  - Job Loan Discharges – SWD Property Management and Country Tire
  - NH Listens – Lead Safety Technical Assistance Project – Letter of Interest
  - CDBG Environmental Review – Cap Weatherization Program – single family home
  - CDBG Environmental Review – Cap Weatherization Program – full weatherization
  - CDBG Environmental Review – Cap Weatherization Program – furnace and flue replacement
  - CDBG Environmental Review – Cap Weatherization Program – boiler replacement
- Finance
  - Clean Water SRF Loan Application Authorization – Colonial Pines Sewer Extension Project – Phase 2
- IT
  - Office 365 Configuration – Systems Engineering
  - SHI - Office 365 Pilot
- Legal Department
  - The Ridge Phase I – Development Agreement Addendum
- Planning
  - Drainage Agreement – Chesley Hill Subdivision

Other Documents:

- Computer Leases

- Aucoin, J – PD
  - Knox, N – PD
- Tuition Reim
  - Libby, J – BZLS
  - Parker-Wright, K – Library
- Other Docs
  - NH Department of Transportation – Safety Improvements Letter
  - NH Department of Transportation – Safety Improvements – Horizontal Curve Signs

Standard Reports:

- City Council Request & Inquiry Report - none
- Monthly Overnight Travel Summary - none
- Permission & Permits Issued
- Personnel Action Report Summary

**7. Communications from the Mayor**

Mayor McCarley invited the Council members to forward her any “focus” ideas for the City Council to address in the coming year.

Mayor McCarley requested that if any members of the City Council had concerns/question about the codification project (Schedule – A), they should submit those questions in writing to the City Clerk’s office no later than February 6, 2019.

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

**8.1. Presentation: Wastewater Treatment Plant Permitting Process Update**

Mayor McCarley invited Attorney Young to come forward and address the City Council.

Attorney Young, from Rath, Young and Pignatelli provided a presentation on the status of pending Environmental Protection Agency’s National Pollution Discharge Elimination System (NPDES) permit for the Waste Water Treatment Facility. After the presentation had been given, she noted that further discussion (confidential) would take place during the Non-meeting Session of this agenda.

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

### 9.1 **Appointment:** Jonathan Shapleigh – Chair of the Rochester Economic Development Commission

Mayor McCarley appointed Jonathan Shapleigh as the Chair of the Rochester Economic Development Commission.

## 10. Reports of Committees

### 10.1. Appointments Committee

#### 10.1.1 **Re-appointment:** Steven Maimes – Library Trustee Ward 2, Term to Expire 1/2/2022

Councilor Keans reviewed the Committee's recommendation to re-appoint Steven Maimes to the Library Trustee (Ward 2). Mayor McCarley nominated Steven Maimes to serve on the Library Trustee for Ward Two with a term to expire on January 2, 2022. Councilor Lachapelle seconded the nomination. Councilor Walker **MOVED** that nominations cease and that the Clerk cast one ballot for Mr. Maimes. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

#### 10.1.2 **Appointment:** Brett Johnson – Trustees of the Trust Fund and Utility Advisory Board, Term to Expire 1/2/2022 (Trustees) and 1/2/2020 (UAB)

Councilor Keans reviewed the Committee's recommendation to appoint Brett Johnson as a Regular member of the Trustees of the Trust Fund. Mayor McCarley nominated Brett Johnson as a Regular member of the Trustees of the Trust Fund with a term to expire on January 2, 2022. Councilor Lachapelle seconded the nomination. Councilor Walker **MOVED** that nominations cease and that the Clerk cast one ballot for Mr. Johnson. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Keans reviewed the Committee's recommendation to appoint Brett Johnson as a Regular member of the Trustees of the Trust Fund. Mayor McCarley nominated Brett Johnson as a Regular member of the Utility Advisory Board with a term to expire on January 2, 2020. Councilor Lachapelle seconded the nomination. Councilor Walker **MOVED** that nominations cease

and that the Clerk cast one ballot for Mr. Johnson. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

### **10.1.3 Re-appointment: Robert Brown – Recreation & Arena Commission, Term to Expire 1/2/2022**

Councilor Keans reviewed the Committee's recommendation to re-appoint Robert Brown as a Regular Member to the Recreation and Arena Commission. Mayor McCarley nominated Mr. Brown to serve as a regular member of the Recreation and Arena Commission with a term to expire on January 2, 2022. Councilor Lachapelle seconded the nomination. Councilor Walker **MOVED** that nominations cease and that the Clerk cast one ballot for Mr. Brown. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Keans requested that all department heads be reminded to ensure their relative Boards/Commission members be notified of any terms to expire.

## **10.2. Community Development**

Councilor Lauterborn reviewed the Committees recommendation to support the Rochester Museum of Fine Arts – Public Sculpture Project and to support the funding of this project, which is \$4,000. The funding has been set aside within the Economic Development Department's budget. She said the proposal is to erect the artwork (metal sculpture) on city owned land, along Route 125, which is one of the City's gateways.

Councilor Lauterborn **MOVED** to approve the project as stated above and support the cost of the project, which is \$4,000. Councilor Bogan seconded the motion.

Councilor Hamann asked if the City would be purchasing this artwork. Councilor Lauterborn replied yes, there is an artist from Barrington, NH, who sells this type of artwork.

Jenn Murphy-Aubin, Economic Development, said each year the City chooses a different art project to be on display throughout the City. This year's project is the placement of a metal sculpture along Route 125 in Rochester. Councilor Hamann questioned why and how this artist has been selected. He question if anyone could have approached the City to sell their own artwork. It was clarified by Ms. Murphy Aubin, that each year the City approves an Art Project, which enhances the downtown area. This has been a successful

program, which draws many folks, including, neighboring communities into the downtown area of the City of Rochester. This is a program supported by the Economic Development Department, Rochester Main Street, and the Rochester Museum of Fine Art. The Arts and Culture Commission is tasked with making recommendations to the City. Anyone can make a proposal to submit or partake in the yearly art project. The proposed projects are vetted through the Commission and brought to the Economic Development Committee with a final recommendation for the City Council to vote upon.

Councilor Varney questioned when the City approved this purchase. Ms. Murphy Aubin confirmed that there are no commitments to purchase this art. This project has been reviewed by the City Manager's office and through the Community Development Committee. The City Council has final say on whether or not this project can be approved or not.

She provided photos of the proposed location for the artwork along with additional photos of similar artwork in other communities. Councilor Varney asked which line item this falls under in the Economic Development Department's budget. City Manager Cox replied that it is not an individual line item; however, there is funding in place for this year's art project. Councilor Keans expressed her support for the yearly art displays. She recalled the "shoe" art project, which generated a lot of interest for the City of Rochester. Normally, these projects are displayed for about four to five months; however, in this case, it seems the City will end up with a permanent public art sculpture.

Councilor Walker voiced his support of the past art projects, which only lasted for about four to five months. He expressed concerns that the art work would be permanently placed on Route 125. Councilor Lauterborn noted that once the summer project ends the public display could be moved to a new, more fitting location, if necessary. Mayor McCarley called for a vote on the motion. The **MOTION CARRIED** BY a 7 to 4 show-of-hands vote.

Councilor Lauterborn gave information about the Farmer's Market. The original founders of the Farmer's Market made a three-year commitment, which is now ended. The City needs to come up with a new plan, if it intends to keep the Farmer's Market to continue. The Committee will be discussing if the City can be involved in some way in order to keep this program going. She encouraged the Council to come up with some ideas and/or attend the next Community Development Committee meeting to discuss this issue.

Councilor Varney questioned what costs would be involved with having this program continue. Councilor Lauterborn said the original Farmers Market

had been volunteer-based; however, since the three-year commitment has ended it is likely that someone will need to manage the program moving forward. She added that the Farmer's Market "pays for itself"; however, there will be an additional cost if the City hires a manager for the Farmers Market.

Mayor McCarley expressed her support of keeping the Farmers Market. Councilor Lauterborn mentioned that the location of the Farmers Market shall also be discussed at the next Committee meeting.

### **10.3. Finance Committee**

Mayor McCarley reviewed the Finance Committee report and the following action items:

**10.3.1 Committee Recommendation (*motion carried by a 4 to 2 show-of-hands Committee vote*): To approve the City Sponsoring the 4<sup>th</sup> of July fireworks in 2019 *consideration for approval***

Mayor McCarley reviewed the Finance Committee report and said that there is only one action item remaining, which is the City sponsoring the 4<sup>th</sup> of July fireworks. Mayor McCarley **MOVED** to **APPROVE** the Committee's recommendation to approve the City sponsoring the 4<sup>th</sup> of July fireworks display in 2019. Councilor Walker seconded the motion. The **MOTION CARRIED** by a 7 to 4 show of hands vote.

### **10.4. Public Safety**

**10.2.1 Committee Recommendation (*motion carried by a unanimous Committee vote*): To Paint markings on the pavement at the Wakefield/Union Street Intersection, including the word "yield," the "shark tooth," triangle symbols, and dashed lines *consideration for approval***

Councilor Walker said there seems to be a problem with some residents not yielding at the Wakefield Street/Union Street Intersection. This is to further delineate the required to yield.

Councilor Walker **MOVED** to **APPROVE** the Committee's recommendation to paint markings on the pavement at the Wakefield/Union Street Intersection, including the word "yield", the "shark tooth" triangle



symbols, and dashed lines. Councilor Hamann seconded the motion.

Councilor Keans asked if there is a sign in place. Councilor Walker replied yes; however, this would enhance what is already in place. Councilor Varney asked Commissioner Nourse if this would fulfill the standard safety requirements. Commissioner Nourse replied this would be an enhancement to what is already there. The **MOTION CARRIED** by a unanimous voice vote. It was noted that the paint would not be completed until the spring-time.

## **10.5. Public Works**

### **10.5.1. Committee Recommendation: Adoption of the paving list *motion to adopt***

Councilor Varney **MOVED** to **APPROVE** the proposed paving list, which has been recommended by the Public Works Committee. Councilor Walker seconded the motion. Mayor McCarley questioned if the proposed paving list had been uploaded to the City's website. City Manager Walker replied that it was not yet available online; however, once the paving list is approved it can be posted on the City's website.

Councilor Gray questioned if Academy Street was on the paving list. It was indicated that it was not on the list; however, the Department of Public Works did place an over-lay (pavement) on Academy Street earlier this summer. The **MOTION CARRIED** by a unanimous voice vote.

### **10.5.2. Committee Recommendation: Work with Roger Allen Park Association to bring a proposal back to Council for Discussion in regards to the Right of Way *consideration for approval***

Councilor Varney **MOVED** to **APPROVE** the Committee's recommendation to work with Roger Allen Park Association to bring a proposal back to the City Council for discussion in regards to developing a proposed "exit" road, which is beyond the property for the new Department of Public Works facility; however, the condition would be that the road not interrupt or detract in any way with the new DPW facility. Councilor Walker seconded the motion. The **MOTION CARRIED** by a majority voice vote.

## **10.6. Tri-City Mayors' Task Force on Homelessness**

Councilor Hutchinson gave a report on the Tri-City Mayors' Task Force.

Councilor Hutchinson noted that the Mayor should fill one vacancy on the Task Force previously held by TJ Jean. Mayor McCarley indicated that she is aware of the vacancy and is working to fill it soon.

Councilor Hutchinson said the Task Force is in the final development stages of the Master Plan. He noted that the next meeting is scheduled for January 17, 2019, at the Rochester Community Center. Once the plan is completed, the next step will be to send the proposed plan to the respectful Legal Departments and schedule a meeting for public input.

## **11. Old Business**

### **11.1. Planning Board Recommendation:**

#### **11.1.1. Amendment to Chapter 42 of the General Ordinances of the City of Rochester Regarding Conservation Overlay Districts *second reading and refer to a public hearing***

Councilor Lachapelle **MOVED** to read the Amendment for a second time by title only and to refer the matter to a public hearing. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Mayor McCarley read the Amendment by title only as follows:

#### **Amendment to Chapter 42 of the General Ordinances of the City of Rochester Regarding Conservation Overlay Districts**

### **THE CITY OF ROCHESTER ORDAINS:**

That Chapter 42 of the General Ordinances of the City of Rochester and currently before the Rochester City Council, be amended as follows):

#### **42.12 Conservation Overlay District**

##### **(d) Delineation Process.**

The edge of wet of these wetlands shall be determined by the delineation process set forth in the *Corps of Engineers Wetlands Delineation Manual, 1987*, on file with this ordinance with the City Clerk. When there is a dispute in the boundary the landowner may appeal the decision to the Planning Board with written recommendations by the Conservation Commission.

**Revised**(d) Delineation Process.

The edge of wet of these wetlands shall be determined by the delineation process set forth in the *Corps of Engineers Wetlands Delineation Manual, 1987* **and the most recent version of the Regional Supplement to the Corp of Engineers Wetland Delineation Manual: Northcentral and Northeast Region**, ~~on file with this ordinance with the City Clerk.~~ When there is a dispute in the boundary the landowner may appeal the decision to the Planning Board with written recommendations by the Conservation Commission.

(f) Definitions.

- (1) The term "wetland" as defined by *National Food Security Act Manual (Soil Conservation Service, 1994)* and the *Corps of Engineers Wetlands Delineation Manual (Environment Laboratory, 1987)* as amended, will mean those areas that are surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for a life in saturated soil conditions. Wetlands include, but are not limited to, swamps, marshes, bogs and similar areas.

**Revised**

- (1) The term "wetland" as defined by *National Food Security Act Manual (Soil Conservation Service, 1994)* and the *Corps of Engineers Wetlands Delineation Manual (Environment Laboratory, 1987)* **and the most recent version of the Regional Supplement to the Corp of Engineers Wetland Delineation Manual: Northcentral and Northeast Region as amended**, will mean those areas that are surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for a life in saturated soil conditions. Wetlands include, but are not limited to, swamps, marshes, bogs and similar areas.

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

**11.1.2. Amendment to Chapter 42 of the General Ordinances of the City of Rochester Regarding the Location and Boundaries of Zoning Districts (*petition submitted by landowners of two parcels*) *consideration for a first reading and refer to a Public Hearing***

Councilor Lachapelle **MOVED** to read the Amendment for a first time by title only and to refer the matter to a public hearing. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Mayor McCarley read the Amendment by title only as follows:

**Amendment to Chapter 42 of the General Ordinances of the City of Rochester Regarding the Location and Boundaries of Zoning Districts**

**THE CITY OF ROCHESTER ORDAINS:**

**WHEREAS**, Chapter 42.1, Section J establishes that the location and boundaries of zoning districts within the City of Rochester are established as shown on a map titled, "City of Rochester Zoning Map."

**WHEREAS**, Chapter 42.1, Section J further declares that the City of Rochester Zoning Map is incorporated by reference as party of Chapter 42 of the General Ordinances of Rochester regarding zoning.

**WHEREAS**, the Mayor and City Council of Rochester desire to amend the City of Rochester Zoning Map to change the zoning for the property located at 287 Rochester Hill Road from Agricultural to Office/Commercial.

**THEREFORE**, the Mayor and City Council of Rochester ordain that the zoning of the property located at 287 Rochester Hill Road in the City of Rochester shall be changed in accordance with the Attached Exhibit. (Exhibit A).

**FURTHER**, the City of Rochester Zoning Map shall be amended and updated to reflect that the above shown property are included in the Office/Commercial Zone and are removed from the Agricultural Zone. **The effective date of these amendments shall be upon passage.**

**11.2. Resolution for Supplemental Appropriation and Authorizing Borrowing Authority Pursuant to**

**RSA 33:9 to the Department of Public Works  
Capital Improvements Plan Fund for the Granite  
Ridge II in an Amount not to Exceed \$2,430,000  
*consideration for a second reading and  
adoption***

Councilor Lachapelle **MOVED** to read the Resolution for a second time by title only. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Mayor McCarley read the Resolution by title only as follows:

**Resolution for Supplemental Appropriation and Authorizing  
Borrowing Authority Pursuant to RSA 33:9 to the Department of  
Public Works (DPW) Capital Improvements Plan (CIP) Fund for  
Granite Ridge Phase II in an amount not to exceed \$2,430,000.00**

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

That the Mayor and City Council of the City of Rochester hereby appropriate an amount not to exceed Two Million Four Hundred Thirty Thousand Dollars (\$2,430,000.00) for the purpose of building the public infrastructure associated with Granite Ridge Phase II and further;

In accordance with the provisions of RSA 33:9, the City Treasurer, with the approval of the City Manager, be, and hereby are authorized to borrow the sum of Two Million Four Hundred Thirty Thousand Dollars (\$2,430,000.00) through the issuance of bonds and/or notes, and/or through other legal form(s), such borrowing to be on such terms and conditions as the said Treasurer and City Manager may deem to be in the best interest of the City of Rochester. Such borrowing is authorized subject to compliance with the provisions of RSA 33:9 and Section 45 of the Rochester City Charter to the extent required, necessary and/or appropriate

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 Lachapelle **MOVED** to **ADOPT** the resolution. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

**11.3. Resolution for Supplemental Appropriation and Authorizing Borrowing Authority Pursuant to RSA 33:9 to the Granite State Business Park (GSBP) Tax Increment Financing (TIF) District Capital Improvements Plan (CIP) Fund for the Water Main Extension Project in an Amount not to Exceed \$1,400,000 *consideration for a second reading and adoption***

Councilor Lachapelle **MOVED** to read the resolution for a second time by title only. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Mayor McCarley read the resolution for the second time by title only as follows:

**Resolution for Supplemental Appropriation and Authorizing Borrowing Authority Pursuant to RSA 33:9 to the Granite State Business Park (GSPB) Tax Increment Financing (TIF) District Capital Improvements Plan (CIP) Fund for the Water Main Extension Project in an amount not to exceed \$1,400,000.00**

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

That the Mayor and City Council of the City of Rochester hereby appropriate an amount not to exceed One Million Four Hundred Thousand Dollars (\$1,400,000.00) for the purpose of paying the costs associated with the GSBP Water Line Extension Project.

In accordance with the provisions of RSA 33:9, the City Treasurer, with the approval of the City Manager, be, and hereby are authorized to borrow the sum of Eight Hundred Thousand Dollars (\$800,000.00) through the issuance of bonds and/or notes, and/or through other legal form(s), such borrowing to be on such terms and conditions as the said Treasurer and City Manager may deem to be in the best interest of the City of Rochester. Such borrowing is authorized subject to compliance with the provisions of RSA 33:9 and Section 45 of the Rochester City Charter to the extent required, necessary and/or appropriate.

Further, that the funds for this appropriation shall be derived as follows: Eight Hundred Thousand Dollars (\$800,000.00) from the GSBP TIF District bond issuance and Six Hundred Thousand Dollars (\$600,000.00) from the General Fund Unassigned Fund Balance.

Still Further, that the General Fund shall be reimbursed from any sales of City owned properties in the GSBP TIF District in an amount up to Six Hundred Thousand Dollars (\$600,000.00).

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 Lachapelle **MOVED** to **ADOPT** the resolution. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

## **12. Consent Calendar**

### **12.1. Resolution Deauthorizing \$4.76 in Funding Relative to a Certified Local Government Travel Grant *first reading, consideration for second reading and adoption***

Councilor Lauterborn **MOVED** to **ACCEPT** the Consent Calendar. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

#### **Resolution Deauthorizing \$4.76 in funding related to a Certified Local Government Travel Grant**

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

That the amount of Four and 76/100 Dollars (\$4.76) appropriated as part of a Certified Local Government Travel Grant is hereby deauthorized and reimbursement shall be reduced by the aforementioned amount. .

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.

### **12.2. Resolution Deauthorizing \$873.30 in Funding from the Library's Capital Improvement Plan Fund Related to the Library Book Drop *first reading, consideration for second reading and adoption***

**Resolution Deauthorizing \$873.30 in funding from the Library's Capital Improvement Plan Fund related to the Library Book Drop Project**

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

That the amount of Eight Hundred Seventy Three and 30/100 Dollars (\$873.30) appropriated to the Library's Capital Improvement Plan Fund to fund the Library Book Drop Project is hereby deauthorized and shall be returned to 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 accounts and or account numbers as are necessary to implement the transactions contemplated in this Resolution.

**13. New Business**

**13.1. Resolution Accepting Donation from the St. Anselm's College to the Recreation and Arena Department and Supplemental Appropriation in the Amount of \$2,750 *first reading, consideration for second reading and adoption***

Councilor Lachapelle **MOVED** to read the resolution by title only for a first time. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Mayor McCarley read the resolution for a first time by title only as follows:

**Resolution Accepting Donation from St. Anselm's College to the Recreation and Arena Department and Approving a Supplemental Appropriation in the Amount of \$2,750.00**

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

That a donation in the amount of Two Thousand Seven Hundred Fifty Dollars (\$2,750.00) to the Recreation and Arena Department from the St. Anselm's College Road for Hope charity walk is hereby accepted.

Further, the Mayor and City Council authorize a supplemental appropriation to the Recreation and Arena Department Fiscal Year 2018-2019 operating budget in the amount of Two Thousand Seven Hundred Fifty Dollars (\$2,750.00). The



entire amount of the supplemental appropriation shall be derived from the donation from St. Anselm's College.

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 suspend the rules and read the resolution for a second time by title only. Councilor Walker seconded the motion. The **MOTION CARRIED** by a majority voice vote. Mayor McCarley read the resolution for a second time by title only.

Councilor Lachapelle **MOVED** to **ADOPT** the resolution. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

**13.2. Resolution Authorizing the Application for and Acceptance of a State of New Hampshire Services (NHDES) Clean Water State Revolving Fund (CWSRF) Loan in the Amount of \$6,300,000 *first reading, consideration for second reading and adoption***

Councilor Lachapelle **MOVED** to read the resolution by title only for a first time. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Mayor McCarley read the resolution for a first time by title only as follows:

**Resolution Authorizing the Application for and Acceptance of a State of New Hampshire Department of Environmental Services (NHDES) Clean Water State Revolving Fund (CWSRF) Loan in the Amount of \$6,300,000.00**

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

That the Mayor and City Council of the City of Rochester, by adoption of this Resolution, authorize the Department of Public Works to submit a grant application in the amount of Six Million Three Hundred Thousand Dollars (\$6,300,000.00) to the NHDES CWSRF Loan program in order to finance the Waste Water Treatment Plant Biosolids/Sludge Dewatering Facility and Carbon

Feed Systems Storage Facility Upgrade project.

It is further resolved that the Mayor and City Council of the City of Rochester, by adoption of this Resolution, accept the loan amount of Six Million Three Hundred Thousand Dollars (\$6,300,000.00) from the NHDES CWSRF Loan program.

Further, the Mayor and City Council of the City of Rochester, by adoption of this Resolution authorize the City Manager and/or the Finance Director to act as the City's representative(s) for the execution of all documents necessary to complete the application to the CWSRF.

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 and to establish special revenue, non-lapsing, multi-year fund account(s) as necessary to which said sums shall be recorded.

Councilor Walker **MOVED** to suspend the rules and read the resolution for a second time by title only. Councilor Walker seconded the motion. The **MOTION CARRIED** by a majority voice vote. Mayor McCarley read the resolution for a second time by title only.

Councilor Lachapelle **MOVED** to **ADOPT** the resolution. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

**13.3. An Ordinance of the City of Rochester City Council Adopting Amendments to Chapter 42 of the General Ordinances of the City of Rochester Regarding Zoning and Development Standards for the Development of Lands within the Downtown Commercial Zone District**  
*first reading and refer to a public hearing*

Councilor Lachapelle **MOVED** to read the Amendment for a first time by title only and to refer the matter to a Public Hearing. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Mayor McCarley read the resolution by title only for a first time.

See addendum A.

**13.4. Amendment to Chapter 42 of the General Ordinances of the City of Rochester Regarding Historic Overlay District**

**(HOD) *first reading and refer to a public hearing***

Councilor Lachapelle **MOVED** to read the Amendment for a first time by title only and to refer the matter to a Public Hearing. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Mayor McCarley read the resolution by title only for a first time as follows:

See addendum B.

**14. Non-Meeting/Non-Public Session**

**15. Other**

Councilor Keans recalled that the Building, Zoning, and Licensing Services Department was supposed to provide a list of recent complaints/citations.

Councilor Keans questioned if the City would have outdoor skating rinks this winter. It was noted that some of the larger cities are able to have the outdoor rinks because there is some type of refrigeration provided underneath the rink; however, it has not yet been cold enough this year for the City to provide the service as in years past.

**16. Adjournment**

Councilor Lachapelle **MOVED** to **ADJOURN** the Regular City Council meeting at 7:52 PM. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Respectfully submitted,

Kelly Walters, CMC  
City Clerk

**Ordinance No. \_\_\_, 2018**

**AN ORDINANCE OF THE CITY OF ROCHESTER CITY COUNCIL ADOPTING  
AMENDMENTS TO CHAPTER 42 OF THE GENERAL ORDINANCES OF THE CITY  
OF ROCHESTER REGARDING ZONING AND DEVELOPMENT STANDARDS FOR  
DEVELOPMENT OF LANDS WITHIN THE DOWNTOWN COMMERCIAL ZONE  
DISTRICT**

**Whereas**, The City of Rochester received a Municipal Technical Assistance Grant from Plan NH and Community Block Grant funds through the U.S. Department of Housing and Urban Development; and,

**Whereas**, such funding enabled the analysis of regulatory barriers to private-sector investment in Rochester's downtown properties; and,

**Whereas**, this ordinance seeks to lessen regulatory barriers and encourage residential, commercial, and mixed-use development within the Downtown Commercial Zone District; and,

**Whereas**, text to be stricken from the Chapter appear as ~~text to be stricken~~; text to be added to Chapter 42 appears as text to be added; and, scrivener's notes appear as [notes]; and,

**Whereas**, this ordinance supports the public interest and safeguards the health and welfare of the residents and businesses of the City of Rochester.

**Therefore; THE CITY OF ROCHESTER ORDAINS:**

That Chapter 42 of the General Ordinances of the City of Rochester and currently before the Rochester City Council, be amended as follows:

**Amendment 1:** Section 42.2.b, which section describes terms used within the Chapter, is amended to add two definitions as follows:

no changes to definitions 1 through 189]

**190. Parking Facility, Commercial:** A Parking Lot or Parking Garage used as an independent business venture for the short-term parking of automobiles on an hourly, daily, weekly, or monthly basis for a fee.

**191. Parking Facility, Public:** A Parking Lot or Parking Garage, owned by a municipal or public entity, used for the short-term parking of automobiles on an hourly, daily, weekly, or monthly basis, and which may require permitting or usage fees.

[Permanent Foundation renumbered to 192 and remaining definitions renumbered accordingly]

**Amendment 2:** Section 42.19.b.8, which section defines minimum lot size requirements for various areas within Rochester, is amended as follows:

8. Density Rings. The density rings are shown on the Official City of Rochester Zoning Map that is adopted as part of this Ordinance and only apply to multi-family dwellings/developments. The rings are defined as follows:

There is no minimum lot area per dwelling unit applicable within the Downtown Commercial (DC) Zone District. For areas outside of the DC Zone District, the minimum lot area per dwelling unit within a one (1) mile radius of the center of Rochester, shall be 5,000 square feet. The minimum lot are per dwelling unit outside of the one (1) mile radius of the center of Rochester, shall be 7,500 square feet.

The minimum lot area per dwelling unit within a one-half (½) mile radius of the center of Gonic and East Rochester, shall be 5,000 square feet. The minimum lot are per dwelling unit outside of the one-half (½) mile radius of the center of Gonic and East Rochester, shall be 7,500 square feet.

Any lot that is partially within the radius of a density ring shall be treated as if it were entirely within the radius of the density ring.

**Amendment 3:** Section 42.20.b.7, which section defines development standards for Lodging Facilities, is amended as follows:

7. ~~Lodging-Motel-Facility.~~ For a Lodging Facility, tThe minimum lot size shall be 30,000 square feet plus 1,000 square feet per unit. Minimum lot size for a Bed and Breakfast shall be the minimum lot size for a single-family home according to the applicable zone district. The minimum lot size for a Hotel in the Downtown Commercial (DC) Zone District shall be 7,500 square feet.

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**Amendment 4:** Section 42.20.b.11, which section defines standards for Multi-Family Dwellings/Development, is amended as follows:

11. Multifamily -Dwellings/Development. The- following- requirements- shall apply to multifamily dwellings/developments of 3 or more dwelling units:
- A. Buffers from Roads. Except for parcels within the Downtown Commercial (DC) Zone District, a 50--foot buffer shall be established from all neighboring roads, including roads from which access is taken. The Planning Board shall determine treatment of the buffer area, whether it is to be left undisturbed, to have supplemental plantings installed, to be designated part of the overall open space plan for the development, and/or to be part of an individual lot but protected from construction. No roofed structures may be erected in the buffer

area. This buffer shall not be required for parcels in the DC Zone District.

- B. Buffers from Single Family. Except for parcels within the Downtown Commercial (DC) Zone District, a 100-foot buffer shall be established adjacent to any existing single-family house or any vacant lots less than 3 acres that are zoned residential. This buffer shall not be required for parcels in the DC Zone District.
- C. Access. Any new multifamily development must take access from an existing collector or arterial road rather than an existing local road. The Planning Board may waive this requirement by conditional use upon a finding that it is preferable to take access from a local rather than a collector road and that taking access from the local road will have no significant adverse impact upon residents or property owners located on the local road.
- D. Commercial Districts. Within any commercial districts, multifamily is allowed only as a secondary use:
- i. it must be situated on the second floor or on higher floors of a commercial building or in a separate building behind the commercial building; and
  - ii. at no time may the area of the multifamily dwellings exceed 80% of the square footage of the on-site commercial space.
- E. Downtown Commercial District. Within the Downtown Commercial (DC) Zone District, multifamily is allowed with the following restrictions:
- i. Multifamily units are prohibited on the ground floor within parcels fronting any of the following Streets:
    - Union Street
    - North Main Street south of the North Main Street Bridge
    - South Main Street north of Columbus Avenue
    - Wakefield Street south of Columbus Avenue
    - Hanson Street
  - ii. Ancillary ground floor multifamily use, such as entryways, lobbies, utility areas and similar functional spaces shall be minimized to the extent practical. Remaining ground floor space within the first 50 feet of building depth shall be reserved for non-residential uses, as permitted in the DC Zone District. Applicants may apply for a Conditional Use Permit to locate these uses between 20 ft and 50 ft.
  - iii. DC Zone District parcels not fronting on the above-listed Streets may contain multifamily use and units on all floors without restriction.
- E.F. Sewer and Water. Any new multifamily dwellings/developments must connect to the City of Rochester's public sewer and water systems.

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**Amendment 5:** Section 42.20.b.14, which section defines development standards for Public Parking Facilities, is added as follows:

**14. Parking Facility, Public.** For a Public Parking Facility, the following standards shall apply:

- A. Sizing and capacity of the facility shall be based on current and forecasted use patterns and demand for publicly accessible parking.
- B. Frontages along a primary commercial street shall, to the extent practicable, incorporate commercial business as a means of minimizing extended expanses of blank walls.
- C. An operations plan shall define the basic functions of the facility including signage, offsite wayfinding, hours of operation, access and control points, payment systems, and lighting and landscape installation.
- D. Rate schedules shall be subject to establishment and change by the City of Rochester and shall not be required for approval or conditioned by the Notice of Decision.

[Small Wind Energy Systems renumbered to 15. Remaining items renumbered accordingly.]

**Amendment 6:** Section 42.21.d.7, which section defines conditional use standards for Lodging Facilities, is amended as follows:

7. ~~Lodging-Motel-Facility.~~ For a Lodging Facility, tThe minimum lot size shall be 30,000 square feet plus 1,000 square feet per unit. Minimum lot size for a Bed and Breakfast shall be the minimum lot size for a single-family home according to the applicable zone district. The minimum lot size for a Hotel in the Downtown Commercial (DC) Zone District shall be 7,500 square feet.

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**Amendment 7:** Section 42.21.d.10, which section defines conditional use standards for Parking Lots, is added as follows:

**10. Parking Lot.** For properties within the Downtown Commercial (DC) Zone District, Parking Lots shall be limited to twenty (20) parking spaces for any single tenant unless otherwise approved by the Planning Board pursuant to the standards below:

- A. The applicant demonstrates a unique commercial or market-based need for additional parking.
- B. There is a lack of publicly accessible parking in the immediate vicinity.
- C. Sharing parking with an adjacent use or property is impractical or not possible.

- D. Negative visual effects of a large parking lot are minimized to the extent practicable through site design, breaking-up large expanses of paving, shielding parking from direct public view, or placing parking to the side or behind buildings. Where possible, buildings in the DC District should front a primary street with parking placed to the side or rear.
- E. The Planning Board may impose operational parameters regarding signage, limiting access points, and may require specific lighting and landscaping installation.

**Amendment 8:** Section 42.21.d.11, which section defines conditional use standards for Commercial Parking Facilities, is added as follows:

- 11. Parking Facility, Commercial.** The Planning Board may approve a Commercial Parking Facility based on the following standards:
- A. Sizing and capacity of the facility is based on current and forecasted use patterns and demand for publicly accessible parking.
  - B. Frontages along a primary commercial street, to the extent practicable, incorporate commercial business on the ground floor as a means of providing pedestrian interest and minimizing extended expanses of blank walls.
  - C. An acceptable operations plan defines the basic functions of the facility including signage, offsite wayfinding, hours of operation, access and control points, payment systems, and lighting and landscape installation.
  - D. Rate schedules and changes thereto shall remain the prerogative of the owner and shall not be required for approval or conditioned by the Notice of Decision.

[Porkchop Subdivision renumbered to item 12 and remaining items renumbered accordingly.]

**Amendment 9:** Article III, Section 10, of the City of Rochester Site Plan Regulations, which section defines the number, placement, and other stipulations for required parking, is amended as follows:

[following page]



## **Chapter 42**

### **Zoning**

#### **SECTION ANALYSIS**

42.1	General Provisions P. 1
42.2	Definitions P. 6
42.3	Administration P. 36
42.4	ZBA & Building Code Board of Approval P. 43 Residential Zoning
42.5	Districts P. 48
42.6	Commercial Zoning Districts P. 52
42.7	Industrial Zoning District P. 61
42.8	Granite Ridge Development P. 63
42.9	Special Zoning Districts P. 69
42.10	Aquifer Protection Overlay P. 70
42.11	Aviation Overlay District P. 71
42.12	Conservation Overlay District P. 75
42.13	Flood Hazard Overlay District P. 85
42.14	Historical Overlay District P. 93
42.15	Special Downtown Overlay District P. 113
42.16	Reserved P. 115
42.17	Reserved P. 116
42.18	Use Regulations P. 117
	<i>Table A: Residential Uses P. 202</i>
	<i>Table B: Sales – Service – Office – Institutional Uses P. 203</i>
	<i>Table C: Food – Lodging – Public Recreation Uses P. 204</i>
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	<i>Table E: Agricultural – Animal Care – Land Oriented Uses P. 206</i>
42.19	Dimensional Regulations P. 119
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	<i>Table B: Dimensional Regulations – Commercial Districts P. 208</i>
	<i>Table C: Dimensional Regulations – Industrial Districts P. 209</i>
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42.20	Standards for Specific Permitted Uses P. 123
42.21	Conditional Uses P. 137
42.22	Special Exceptions P. 144
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42.24	Home Occupations P. 164
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42.29	Signs P. 184
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42.32	Reserved P. 193
42.33	Conservation Subdivisions P. 194

## **Chapter 42 Comprehensive Zoning [1]**

*Adopted by the City Council: 4-22-14*

*Certified by the Codes and Ordinances Committee: 8-7-14*

### **Amendments:**

[2] February 3, 2015, Chapter 42.2; 42.20; and 42.23

[3] June 16, 2015, Chapter 42.10

[4] June 16, 2015, Chapter 42.29

[5] July 7, 2015. Chapter 42.2; 42.20; and 42.27

[6] January 12, 2016 Chapter 42.6 Signage

[7] [date](#)

[TABLE 18-A RESIDENTIAL USES](#)

[TABLE 18-B SALES-SERVICE-OFFICE-INSTITUTIONAL USES](#)

[TABLE 18-C FOOD-LODGING-PUBLIC RECREATION USES](#)

[TABLE 18-D INDUSTRIAL-STORAGE-TRANSPORT-UTILITY USES](#)

[TABLE 19-B DIMENSIONAL STANDARDS - COMMERCIAL DISTRICTS](#)

**TABLE 18-A RESIDENTIAL USES 8/7/2014**

RESIDENTIAL USES	Residential Districts				Commercial Districts			Industrial Districts		Special		Criteria/Conditions
	R1	R2	AG	NMU	DC	OC	HC	GI	RI	HS	AS	Section Reference
Apartment, Accessory (accessory use)	E	P	P	P	P	P	P	-	-	-	-	Section 42.21 & 42.23
Apartment, Inlaw	P	P	P	P	P	P	P	-	-	-	-	
Apartment, Security	-	P	-	P	P	P	P	P	P	P	P	Sections 42.2 & 42.23
Assisted Living Facility	-	C	C	C	C	C	C	-	-	C	-	Section 42.21
Boarding House	-	-	-	-	E	-	-	-	-	-	-	
Community Residence - I	-	E	E	-	E	E	E	-	E	E	-	Section 42.22
Community Residence - II	-	-	E	-	-	E	-	-	E	E	-	Section 42.22
Conservation Subdivision	C	C	C	-	-	C	C	-	-	-	-	Sections 42.21 & 42.33I
Dwelling, Apartments (Apt/ Mixed Use Bldg)	-	-	-	P	P	C	P	-	-	-	-	Section 42.21
Dwelling, Multifamily Development	-	P	-	-	CP	-	P	-	-	-	-	Sections 42.20 & 42.22
Dwelling, Multifamily	-	P	-	-	CP	-	P	-	-	-	-	
Dwelling, Single Family	P	P	P	P	P <sub>-</sub>	P	P	-	-	P	-	
Dwelling, Three & Four Family	-	P	-	C	CP	C	P	-	-	-	-	Sections 42.21 & 42.33
Dwelling, Two Family	-	P	P	P	P <sub>-</sub>	P	P	-	-	-	-	Sections 42.21 & 42.33
Flag Lots	-	C	C		-	-	-	-	-	C	-	Section 42.21
Home Occupation - 1 (accessory use)	P	P	P	P	P	P	P	-	-	P	-	Section 42.24
Home Occupation - 2 (accessory use)	P	P	P	P	P	P	P	-	-	P	-	Sections 42.22 & 42.24
Home Occupation - 3 (accessory use)	-	E	E	P	P	P	P	-	-	E	-	Sections 42.22 & 42.24
Manufactured Housing Unit on own lot	-	-	P	-	-	-	-	-	-	-	-	Sections 42.20 & 42.21
Nursing Home	-	-	C	-	-	C	-	-	-	P	-	Sections 42.20 & 42.21
Outdoor Wood-Fired Hydronic Boiler	-	-	P	-	-	-	-	-	-	-	-	Section 42.20
Porkchop Subdivision	-	-	C	-	-	-	-	-	-	-	-	Section 42.21
Residential Facility	-	-	E	-	-	E	-	-	E	E	-	Section 42.22
Senior Housing	-	P	C	C	C	C	-	-	-	-	-	Section 42.21
Temporary Structure	P	P	P	P	P	P	P	P	P	P	P	Section 42.20
Zero Lot Line Development	C	C	C	-	-	C	C	-	-	-	-	Section 42.33

\*LEGEND. P = Permitted Use, C = Conditional Use, E = Use Allowed by Special Exception

TABLE 18-B SALES-SERVICE-OFFICE-INSTITUTIONAL USES 8/7/2014

Adopted by the City Council: 4-22-14  
 Certified by the Codes and Ordinances Committee: 8-7-14

SALES-SERVICE-OFFICE-INSTITUTIONAL USES	Residential Districts				Commercial Districts				Industrial Districts		Special		Criteria/Conditions
	R1	R2	NMU	AG	DC	OC	GR	HC	GI	RI	HS	AS	Section Reference
Adult Day Care Center	-	-	E	E	P	P	-	P	E	-	P	-	Section 42.22
Adult Day Care Home	-	E	E	E	P	P	-	P	-	-	P	-	Section 42.22
Adult Oriented Establishment	-	-	-	-	-	-	-	-	-	C	-	-	Section 42.22
Agricultural Building, Reuse of Existing	C	C	-	C	-	P	-	-	-	-	-	-	Section 42.22
Antique Shop	-	C	P	-	P	P	P	P	-	-	-	-	Section 42.21
Artist Studio	-	C	P	-	P	P	-	P	-	-	-	-	Section 42.21
Bank	-	-	C	-	P	P	P	P	-	-	-	-	Section 42.21
Convenience Store	-	C	P	-	P	E	P	P	-	-	-	-	Section 42.21
Day Care - 1 (Day Care Residence)	P	P	P	P	P	P	-	P	-	-	P	-	
Day Care - 2 (Day Care - Family)	-	E	P	E	P	P	-	P	-	-	P	-	Sections 42.20 & 42.21
Day Care - 3 (Day Care Center)	-	-	E	E	P	P	-	P	E	-	E	-	Section 42.22
Florist	-	-	P	-	P	-	P	P	-	-	-	-	
Funeral Home	-	-	C	-	P	P	-	P	-	-	P	-	
Gas Station	-	-	-	-	P	-	P	P	-	-	-	-	Sections 42.20 & 42.21
Grocery Store	-	-	-	-	P	-	P	P	-	-	-	-	
Hospital	-	-	-	-	P	P	-	P	-	-	P	-	
House of Worship	-	C	C	C	P	C	-	P	-	-	P	-	Section 42.21
Housing Unit Sales	-	-	-	-	-	-	-	P	P	-	-	-	
Laundry Establishment - 1	-	C	P	-	P	-	-	P	-	-	-	-	Section 42.21
Laundry Establishment - 2	-	-	P	-	P	-	-	P	-	-	-	-	
Library	-	C	P	C	P	P	-	P	-	-	-	-	Section 42.21
Marina	-	-	-	-	-	-	-	P	-	-	-	-	
Museum	-	C	P	C	P	P	P	P	-	-	-	-	Section 42.21
Office	-	-	P	-	P	P	P	P	P	P	-	-	
Office, Medical	-	-	C	-	P	P	P	P	C	-	P	P	Section 42.21
Office, Professional	-	-	P	-	P	P	P	P	P	-	-	-	
Personal Service Establishment	-	-	P	-	P	P	P	P	-	-	-	-	
Retail Sales (under 5,000 square feet)	-	-	P	-	P	E	P	P	-	-	-	-	
Retail Sales (5,000 - 30,000 square feet)	-	-	-	-	P	-	P	P	-	-	-	-	
Retail Sales (over 30,000 square feet)	-	-	-	-	-	-	P	P	-	-	-	-	
Retail Service	-	-	C	-	P	P	P	P	-	-	-	-	Section 42.21
School, K-12	C	C	C	C	C	P	-	C	-	-	-	-	Section 42.21
School, Other	-	C	C	C	P	P	-	P	C	-	-	-	Section 42.21
Second Hand Shop	-	C	P	-	P	P	-	P	-	-	-	-	Section 42.21
Service Establishment	-	-	C	-	C	-	P	C	P	-	-	-	Section 42.21
Shelter	-	-	-	-	E	E	-	P	E	E	E	-	
Small Wind Energy Systems	P	P	P	P	P	P	P	P	P	P	P	P	Section 42.20
Vehicle Sales, New	-	-	C	-	-	-	P	P	-	-	-	-	Sections 42.20 & 42.21
Vehicles Sales, Used	-	-	C	-	-	-	P	P	-	-	-	-	Section 42.20
Vehicle Service	-	-	-	-	P	-	P	P	P	-	-	-	
Yard Sale, Commercial	-	-	-	-	-	-	-	C	-	-	-	-	Sections 42.20 & 42.22

\*LEGEND. P = Permitted Use, C = Conditional Use, E = Use Allowed by Special Exception

TABLE 18-C FOOD-LODGING-PUBLIC RECREATION USES 8/7/2014

FOOD-LODGING-PUBLIC RECREATION USES	Residential Districts				Commercial Districts				Industrial Districts		Special		Criteria/Conditions Section Reference
	R1	R2	NMU	AG	DC	OC	GR	HC	GI	RI	HS	AS	
Café	-	-	P	C	P	P	P	P	-	-	-	P	Section 42.21
Campground	-	-	-	E	-	-	-	-	-	E	-	-	Section 42.22
Caterer	-	-	P	-	P	P	-	P	P	P	-	-	
Club	-	-	C	-	P	P	-	P	-	-	-	-	Section 42.21
Community Center	-	-	P	-	P	P	P	P	-	-	-	-	
Conference Center	-	-	C	-	P	P	P	P	-	-	P	P	Section 42.21
Country Club	-	-	-	C	-	-	P	E	-	C	-	-	Section 42.21
Foodstand	-	-	E	-	E	E	P	E	E	E	E	E	Section 42.22
Function hall	-	-	-	-	P	P	P	P	-	-	-	-	
Golf Course	-	-	-	P	-	-	P	-	-	P	-	-	Section 42.22
Health Club	-	-	C	C	P	P	P	P	-	-	-	-	Section 42.21
Lodging, Bed and Breakfast	-	C	P	-	P	P	-	P	-	-	-	-	Section 42.21
Lodging, Hotel	-	-	C	-	P	C	P	P	-	-	C	C	Section 42.21
Lodging, Motel	-	-	-	-	-	-	P	P	-	-	-	C	Sections 42.20 & 42.21
Nightclub	-	-	-	-	EP	-	P	P	-	-	-	-	
Recreation, Indoor	-	-	C	-	CP	C	P	P	-	C	-	-	Section 42.21
Recreation, Outdoor	-	-	-	C	-	C	P	P	-	C	-	-	Section 42.21
Recreation, Park	P	P	P	P	P	P	-	P		C	-	-	Section 42.21
Restaurant	-	-	P	-	P	C	P	P	-	-	-	P	Section 42.21
Restaurant, Drive-through	-	-	-	-	P	-	P	P	-	-	-	-	
Tavern	-	-	C	-	P	-	P	P	-	-	-	P	Section 42.21
Theater/Cinema (30,000 s.f. or less)	-	-	P	-	P	P	P	P	-	-	-	-	Section 42.21
Theater/Cinema (over 30,000 s.f.)	-	-	-	-	-	-	P	P		-	-	-	Section 42.21

\*LEGEND. P = Permitted Use, C = Conditional Use, E = Use Allowed by Special Exception

TABLE 18-D INDUSTRIAL-STORAGE-TRANSPORT-UTILITY USES 8/7/2014

INDUSTRIAL-STORAGE-TRANSPORT-UTILITY-USES	Residential Districts				Commercial Districts				Industrial Districts		Special		Criteria/Conditions
	R1	R2	NMU	AG	DC	OC	GR	HC	GI	RI	HS	AS	Section Reference
Airport	-	-	-	E	-	-	-	-	-	-	-	P	Section 42.21
Contractor's Storage Yard	-	-	-	E	-	-	-	E	P	P	-	-	Sections 42.20 & 42.22
Distribution Center	-	-	-	-	-	-	P	C	P	-	-	-	Section 42.21
Emergency Services Facility	-	-	-	-	C	C	-	C	C	-	P	-	Section 42.21
Fuel Storage	-	-	-	-	-	-	P	E	E	-	-	-	Section 42.21
Helipad (accessory use)	-	-	-	E	-	E	P	E	P	P	P	P	Section 42.21
Industry, Heavy	-	-	-	-	-	-	P	E	P	E	-	-	Section 42.21
Industry, Light	-	-	-	-	-C	-	P	P	P	-	-	-	Section 42.21
Industry, Recycling	-	-	-	-	-	-	-	-	-	P	-	-	Sections 42.20 & 42.22
Junkyard	-	-	-	-	-	-	-	E	E	P	-	-	Sections 42.20 & 42.22
Laundry Establishment - 3	-	-	-	-	-	-	-	P	P	-	-	-	Sections 42.20 & 42.21
Mini-Warehouse	-	-	-	-	-	-	P	C	P	-	-	-	Sections 42.20 & 42.21
Monument Production	-	-	C	-	-	C	-	P	P	P	-	-	Section 42.21
Parking Lot	-	C	C	C	C	C	-	P	C	P	C	P	Section 42.21
Public Parking Facility					P								
Commercial Parking Facility					C								
Printing Facility	-	-	C	-	-	P	P	P	P	-	-	-	
Recycling Facility	-	-	-	-	-	-	-	E	E	P	-	-	Sections 42.20 & 42.22
Research and Development	-	-	-	-	E	P	P	P	P	-	-	-	Section 42.21
Sawmill	-	-	-	-	-	-	-	-	E	-	-	-	Section 42.21
Sawmill, Temporary (accessory use)	-	-	-	P	-	P	-	P	P	P	-	P	Section 42.21
Solid Waste Facility	-	-	-	-	-	-	-	-	-	P	-	-	Sections 42.20 & 42.22
Tank Farm	-	-	-	-	-	-	P	C	P	-	-	-	
Trade Shop	-	-	C	-	C	C	P	P	P	P	-	-	Section 42.21
Transportation Service	-	-	C	-	C	-	P	P	C	C	-	-	Section 42.21
Truck Terminal	-	-	-	-	-	-	P	-	C	C	-	-	Section 42.21
Utility - Substation	E	E	E	E	E	C	E	P	P	P	E	E	Section 42.21
Utility - power generation	-	-	-	-	E	-	E	-	E	E	-	-	Section 42.21
Warehouse	-	-	C	-	C	C	P	P	P	C	-	C	Sections 42.20, 42.21 & 42.23
Wireless Communications Facility	-	-	-	E	E	E	P	E	P	P	E	E	Sections 42.20 & 42.22

\*LEGEND. P = Permitted Use, C = Conditional Use, E = Use Allowed by Special Exception

**TABLE 18-E AGRICULTURE-ANIMAL CARE-LAND ORIENTED USES 8/7/2014**

AGRICULTURE-ANIMAL CARE-LAND ORIENTED USES	Residential Districts				Commercial Districts				Industrial Districts		Special		Criteria/Conditions
	R1	R2	NMU	AG	DC	OC	GR	HC	GI	RI	HS	AS	Section Reference
Cemetery	-	-	-	E	-	E	-	-	-	-	P	-	Section 42.22
Earth, Sand and Gravel Excavation/Processing	-	-	-	E	-	E	E	C	-	E	-	-	Sections 42.20 & 42.22
Fair	-	-	-	-	-	-	-	-	-	-	-	-	Section 42.2
Farm	E	-	-	P	-	E	-	E	-	E	-	E	Sections 42.20 & 42.22
Farm, Crops	E	E	-	P	-	P	-	P	P	P	-	P	Sections 42.20 & 42.22
Farmer's Market (temporary)	-	-	P	-	P	P	P	P	P	P	P	P	Section 42.2
Kennel (commercial)	-	-	-	E	-	E	-	E	E	E	-	-	Section 42.22
Kennel (private)	-	-	-	E	-	-	-	-	-	-	-	-	Section 42.22
Landscaping Materials	-	-	-	C	C	-	-	C	P	C	-	-	
Plant Nursery	-	-	C	P	C	P	P	P	-	P	-	-	
Roadside Farm Stand	-	-	C	P	P	P	E	E	-	E	-	-	Section 42.22
Stable, Commercial	-	-	-	P	-	E	-	E		P	-	-	Sections 42.20 & 42.22
Veterinary Clinic	-	-	C	E	-	P	P	P	C	P	-	-	Sections 42.20 & 42.22

\*LEGEND. P = Permitted Use, C = Conditional Use, E = Use Allowed by Special Exception

**TABLE 19-A DIMENSIONAL STANDARDS - RESIDENTIAL DISTRICTS 8/7/2014**

RESIDENTIAL DISTRICTS	LOTS			SETBACKS				OTHER					STANDARDS, NOTES, AND REFERENCES	
	Minimum Lot Area (Square feet)	Minimum Frontage (Feet)	Minimum Lot Area/Dwelling Unit (Sq Ft)	Minimum Front (Feet)	Maximum Front (Feet)	Minimum Side (Feet)	Minimum Rear (Feet)	Maximum building footprint (%)	Maximum Lot Coverage (%)	Maximum number of stories	Minimum Building Height (Feet)	Maximum Building Height (Feet)	A "- " means there is no dimensional standard for this item.	
RESIDENTIAL-1 (R1)														
Single family	10,000	100	-	10		10	20	30	35			35	See Section 42.19 - Dimensional Standards	
All other uses	10,000	100	-	10		10	20	30	35			35		
RESIDENTIAL-2 (R2)														
Single family	6,000	60	-	10		8	20	30	35			35	See Section 42.19 - Dimensional Standards	
Two family	9,000	80	-	10		8	20	30	45			35	See Section 42.19 - Dimensional Standards	
Three & four family	12,000 & 15,000	80	-	15		10	25	30	60			35	See Section 42.19 - Dimensional Standards	
Multifamily	30,000	100	5000 or 7500	15		10	25	30	60			35	See Section 42.19 - Dimensional Standards	
All other uses	9,000	80	-	10		8	20	30	35			35		
NEIGHBORHOOD MIXED USE (NMU)														
All uses	6,000	60	- <sup>2</sup>	-	25	5 <sup>1</sup>	20		90	3	20	20	See Section 42.19 - Dimensional Standards	
AGRICULTURAL														
Single Family, Conventional Subdivision, municipal water & sewer	20,000	150	-	20		10	20	30	35			35	See Section 42.19 - Dimensional Standards	
Single Family, Conventional Subdivision, municipal water OR sewer	30,000	150	-	20		10	20	30	35			35	See Section 42.19 - Dimensional Standards	
Single Family, Conventional Subdivision, neither municipal water nor sewer	45,000	150	-	20		10	20	30	35			35	See Section 42.19 - Dimensional Standards	
Two Family	150% of single	150	-	20		10	20	30	40			-	See Section 42.19 - Dimensional Standards	
Single Family Dwelling - Conservation Subdivision	6,000	60	-	20		10	20		35			35	See Section 42.33 - Conservation Subdivisions	
All other uses	45,000	150	5000 or 7500	20		10	20		40			35		



TABLE 19-B DIMENSIONAL STANDARDS - COMMERCIAL DISTRICTS 8/7/2014

COMMERCIAL ZONING DISTRICTS	Lots				Setbacks				Standards				Notes, and References
	Minimum Lot Area (Square feet)	Minimum Frontage (feet)	Minimum Lot Area/ Dwelling Unit (Square feet)	Maximum Lot Coverage (%)	Minimum Front (Feet)	Maximum Front (Feet)	Minimum Side (Feet)	Minimum Rear (Feet)	Maximum Number of Stories	Minimum Number of Stories	Maximum Height (Feet)	Minimum Height (Feet)	
DOWNTOWN COMMERCIAL (DC)													
All Uses	4,000	40	500	-	10	40	- 1	15	5	2	-	20	See Section 42.19(B)(8) Density Rings
OFFICE COMMERCIAL													
All Uses	10,000	80	5000 <sup>2</sup>	75	10	-	10 <sup>1</sup>	25	3	-	-	-	See Section 42.19 - Dimensional Standards
HIGHWAY COMMERCIAL													
All Uses	20,000	100	5000/7500 <sup>2</sup>	85	20	-	10 <sup>1</sup>	25	3	-	-	-	See Section 42.19 - Dimensional Standards and 42.19(B) (8) Density Rings
GRANITE RIDGE													
All Uses	-	50	-	-	-	-	-	-	-	-	-	-	

Note 1: For lots that adjoin a residential district, the side setback on the side adjoining the residential district shall be the larger of the required side setback in the subject commercial zone or the adjoining residential zone.

Note 2: For lots without both water and sewer, 10,000 square feet of lot area is required per additional dwelling unit beyond one.

Note 3: For lots without City sewer, the New Hampshire Division of Environmental Services (NHDES) requires minimum lot sizes which may be larger than those shown here.

Note 4: See Setbacks for DTC Zone Section 42.6 C.3 B.

Commented [MM1]: Commercial see Section 42.6 C 3 B  
i  
Add to refer to note 4

**TABLE 19-C DIMENSIONAL STANDARDS - INDUSTRIAL DISTRICTS 8/7/2014**

INDUSTRIAL DISTRICTS	Lots			Setbacks			Height	Standards, Notes, and References
	Minimum Lot Area (Square Feet)	Minimum Frontage (Feet)	Maximum Lot Coverage (%)	Minimum Front (Feet)	Minimum Side (Feet)	Minimum Rear (Feet)	Maximum Height (Feet)	
GENERAL INDUSTRIAL (GI)								
See Below								See Section 42.19 - Dimensional Standards
RECYCLING INDUSTRIAL (RI)								
See Below								See Section 42.19 - Dimensional Standards
For GI and RI DISTRICTS								
All uses with <b>no</b> water or sewer	40,000	100	75	25	20 <sup>1</sup>	25	55	
All uses with water <b>or</b> sewer	30,000	100	75	25	20 <sup>1</sup>	25	55	
All uses with water <b>and</b> sewer	20,000	100	75	25	20 <sup>1</sup>	25	55	

**TABLE 19-D DIMENSIONAL STANDARDS - SPECIAL DISTRICTS 8/7/2014**

SPECIAL DISTRICTS	Lots			Setbacks		Standards, Notes, and References
	Minimum Lot Area (Square feet)	Minimum Frontage (Feet)	Maximum Lot Coverage (%)	Minimum to any Street	Minimum to any Lot Line	
A " - " means there is no dimensional standard for this item.						
HOSPITAL SPECIAL (HS)						
All uses (other than single family)	<u>none</u>	<u>none</u>	85	none	side-10 rear-25	
Single family	<u>none</u>	<u>none</u>	-	none	side-10 rear-25	
AIRPORT SPECIAL (AS)						
All uses	none	none	none	35	50	See Aviation Overlay District (AOD)

City of Rochester Downtown Density Update

Summary of Recommendations

Report Section	Topic	Report Recommendation	Code Section
2.04 Chapter 42	Density & Uses Process	<ul style="list-style-type: none"><li>•To promote 4 and 5 story mixed-use buildings, eliminate the “density limit.”</li></ul>	<ul style="list-style-type: none"><li>•Table 19B</li><li>•42.19.b.8</li></ul>
2.05 Chapter 42		<ul style="list-style-type: none"><li>•Eliminate single-family and duplex uses as a permitted use in the DC. Explore options for legalizing existing uses.</li></ul>	<ul style="list-style-type: none"><li>•Tables 18A-D</li><li>•42.22.a.8</li></ul>
2.05 Chapter 42		<ul style="list-style-type: none"><li>•Allow multi-family use (as a single use of the property) as a permitted use on DC properties which do not front a major commercial street.</li><li>•Define/depict applicable street frontages.</li></ul>	<ul style="list-style-type: none"><li>•42.20.b.11</li></ul>
2.05 Chapter 42		<ul style="list-style-type: none"><li>•To promote a hotel downtown, lower the lot size requirement and eliminate the parking requirement for a hotel fronting a major commercial street.</li><li>•Define/depict applicable street frontages.</li></ul>	<ul style="list-style-type: none"><li>•42.20.b.7</li><li>•42.21.d.7</li></ul>



## City of Rochester Formal Council Meeting

### AGENDA BILL

**NOTE: Agenda Bills are due by 10 AM on the Monday the week before the City Council Meeting.**

#### AGENDA SUBJECT

Amend Various Zoning Ordinance Chapters regarding zoning and development standards for development of lands within the Downtown Commercial Zone District.

COUNCIL ACTION ITEM ☒  
INFORMATION ONLY ☐

FUNDING REQUIRED? YES ☐ NO ☒  
\* IF YES ATTACH A FUNDING RESOLUTION FORM

RESOLUTION REQUIRED? YES ☒ NO ☐

FUNDING RESOLUTION FORM? YES ☐ NO ☒

AGENDA DATE	January 8, 2019		
DEPT. HEAD SIGNATURE			
DATE SUBMITTED	December 31, 2018		
ATTACHMENTS	YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	* IF YES, ENTER THE TOTAL NUMBER OF PAGES ATTACHED	15

#### COMMITTEE SIGN-OFF

COMMITTEE	Planning Board
CHAIR PERSON	Nel Sylvain

#### DEPARTMENT APPROVALS

DEPUTY CITY MANAGER	
CITY MANAGER	

#### FINANCE & BUDGET INFORMATION

FINANCE OFFICE APPROVAL	
SOURCE OF FUNDS	
ACCOUNT NUMBER	
AMOUNT	
APPROPRIATION REQUIRED	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>

#### LEGAL AUTHORITY

City Council

### **SUMMARY STATEMENT**

The Municipal Technical Assistance Grant grant award of \$10,000, made through Plan NH's Municipal Technical Assistance Grant program, has funded consultant BendonAdams to study the impact of the City of Rochester's current zoning ordinances on downtown development and how the current ordinances can be revised to increase density and assist with downtown redevelopment in the downtown.

Several recommended ordinance changes are proposed as a result of this study, public outreach, and Planning Board comment.

Please refer to the attached supporting documents and proposed amendments.

The Planning Board unanimously supports this proposed language.

42.2 (b); 42.19 (b) 8; 42.20(b) 7; 42.20 (b) 11; 42.20 (b) 14; 42.21 (d) 7; 42.21 (d) 10; 42.21 (d) 11

### **RECOMMENDED ACTION**

Support and adopt the amended language.

## **HISTORIC OVERLAY DISTRICT (HOD)**

Article XI of the City of Rochester Zoning Ordinance

***\*DRAFT\****

### **A. Table of contents**

<u>A. Table of contents</u>
<u>B. Purpose and intent</u>
<u>C. Applicability</u>
<u>D. Historic District Commission</u>
<u>E. Definitions</u>
<u>F. Designation of the Historic District</u>
<u>G. Identification of the Historic District</u>
<u>H. Delineation of the Historic District</u>
<u>I. Effect of inclusion in the Historic District</u>
<u>J. Development involving property within the Historic District</u>
<u>K. Historic District Demolition Permit</u>
<u>L. Historic District Relocation Permit</u>
<u>M. Determination of hardship</u>
<u>N. Demolition by neglect</u>
<u>O. Appeals</u>
<u>P. Enforcement</u>

### **B. Purpose and intent.** This ordinance is established by the Rochester City Council pursuant to and in accordance with NH RSA's 673:4 and 674:44a through 674:50. The purpose of the Rochester Historic Overlay District is to promote the general welfare of the community by:

1. Safeguarding the cultural, social, political, and economic heritage of the City;
2. Fostering the preservation, restoration, and rehabilitation of structures and places of historic, architectural, and community value;
3. Fostering civic pride in the beauty and noble accomplishments of the past;
4. Furthering the attractiveness of the City of Rochester to home buyers, tourists, visitors, and shoppers, thereby providing economic benefit to the City;
5. Conserving and improving the value of property in the District; and
6. Enhancing opportunities, where applicable, for financial benefits for owners of historic properties through grants, low interest loans, tax credits, and other tax benefits.

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New construction is an essential process in a vital community, representing the current phase of an evolution that has been ongoing since the settlement of Rochester. There are a number of ways of designing new buildings and additions that will meet the objectives of this Section. State of the art contemporary architecture is appropriate – and encouraged - provided that it is respectful of the historic fabric of the District.

~~b. Identification of the Historic District. A Zoning Map of the Rochester Historic District, as amended, which shows the Historic Overlay District, is hereby incorporated as part of this Section, and is on file with the City Clerk. The Zoning Map and all the notations, references, district boundaries, and other information shown thereon, shall be as much a part of this Section as if all were fully described therein. See the Appendix which lists properties in the district by Assessor's Map and Lot numbers.~~

~~e. Purview of Commission. The primary responsibility of the Commission is to review applications for Certificates of Approval for development within the Historic District (see subsection 42.4 g, 2 for full list of Commission responsibilities).~~

- ~~1. Intent. It is the intent of this Section to limit review primarily to the building itself and those elements of the building reasonably considered to be key to the architectural integrity of the building.~~
- ~~2. Building Permits. No building permits may be issued and no physical development activity nor significant ground disturbance may occur for activities subject to review herein until a Certificate of Approval has been issued by the Commission for the proposed activity.~~

~~In cases where an applicant seeks to do work: a) on the exterior of a building which is subject to review and b) on the interior of a building, a separate building permit may be issued for the interior work, thus allowing that work to proceed independently from review of the exterior work. A separate building permit, however, may not be issued for any interior work (such as changes to window sizes) which is integrally related to the design for the exterior work, which is subject to review.~~

- ~~3. Activity Subject to Review. Approval is required only when the subject activity or a portion of the subject activity would be visible from a public way. Approval from the Historic District Commission is required for the following activities:~~
  - ~~a. Any activity affecting the exterior architectural appearance of a building within the District that is not exempted by Subsection 4) Activity Exempt from Review. Activities subject to review include the erection of new buildings; additions to existing buildings; alterations to existing buildings; renovation or restoration of existing buildings; demolition of existing buildings or portions of existing buildings; reconstruction of damaged or destroyed buildings; and the relocation of any building into, out of, or within the District~~



~~b. Signage. The purpose of this review is to promote signage that is creative, distinctive, attractive, pedestrian oriented, reasonably low key, and harmonious with the character of the historic district. See Section 42.29 — Signage, of this ordinance for dimensional and other sign standards.~~

~~i. The following sign components are subject to review:~~

~~(a) Size~~

~~(b) Shape~~

~~(c) Location/placement~~

~~(d) Colors — see Section 42.14 d, K Color, herein, as a reference Illumination — see (iii), below~~

~~(f) Materials — see (iv), below~~

~~(g) Typefaces~~

~~ii. The following sign components are not subject to review:~~

~~(a) Text~~

~~(b) Logos~~

~~(c) Graphic messages~~

~~iii. Illumination.~~

~~(a) If the sign is to be illuminated, use of exterior illumination is strongly encouraged (with light that does not shine toward pedestrian or vehicular ways);~~

~~(b) Internal illumination is discouraged. If a sign is to be internally illuminated, the text should be light colored or white and the background/field should be a darker color.~~

~~(iv) Materials. Use of wood, urethane, other solid materials, or metal is preferred. Plastic signs are strongly discouraged.~~

~~C. Carts, wagons, trailers, and other vehicles that are intended for the sale of goods, products, or services and which are permanently or temporarily situated in place on the ground~~

~~For the purposes of this provision, “temporarily” means for more than three consecutive days or for more than five individual days in a calendar year.~~

~~D. Fences and walls. Use of chain link fencing is strongly discouraged. See Section 42.23 — Accessory Uses on fences, of this ordinance for other fence/wall standards.~~

~~E. Light fixtures attached to buildings (but light fixtures attached to single or two family houses are exempt from review).~~

~~F. Color of materials and paint and stain colors. However, color of materials, paint, and stain for single family houses and two family houses is exempt from review. See Section 42.14 d, K Color, herein, as a reference.~~

**C. Applicability.** This Chapter applies to all properties located within the boundaries of the Historic Overlay District.

#### **D. Historic District Commission**

##### **1. Membership**

**Commented [MM1]:** Moved from section G

- a. Composition. The Historic District Commission shall consist of seven (7) regular members and up to five (5) alternate members. Two (2) seats among the regular members are designated for one member of the City Council and one member of the Planning Board, respectively. Likewise, two (2) seats among the alternate members are designated to one member of the City Council and to one member of the Planning Board, respectively, which two (2) alternate members may only sit for the regular City Council and Planning Board members, respectively. All Commission members shall be appointed in accordance with the provisions of Section 74 of the Rochester City Charter.
- b. Qualifications. All members shall be residents of the City of Rochester. In reviewing the qualifications of a candidate for the Commission, the Council/Planning Board shall consider his/her demonstrated interest and experience in, and knowledge of, historic preservation and his/her ability to administer this Section consistent with its purpose and intent. To the extent that such persons are available the Council/ Planning Board shall seek members with backgrounds or interest in the fields of Architecture, Planning, Historic Preservation, History, Archaeology, Anthropology, Engineering, Construction, Real Estate, and Law. At least one member shall live or work in the Historic District.
- c. Appointments. The members of the Historic District Commission shall be appointed for terms of three years. Initial appointments shall be staggered so that subsequent terms will not be coterminous.

##### **2. Powers and Duties.** The Historic District Commission shall have the following powers and duties:

- a. Applications. Reviewing and approving, approving with conditions, or denying applications for Certificates of Approval.
- b. Consultation. Calling upon City staff, citizens, abutters to applicants, and professionals, as it sees fit, for input, consultation, and recommendations on matters before the Commission.
- c. Surveys. Conducting small area or community-wide surveys of historic, architectural, and cultural resources.
- d. National Register. Nominating structures and districts for listing in the National Register and reviewing all proposed National Register nominations within the City; keeping a record of all properties which are

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included in the local historic districts, listed in the National Register, and determined eligible for National Register listing.

- e. Planning. Preparing historic resources components of local master plans and insuring that historical resources are considered at every level of local decision-making.
- f. Advice and Advocacy. Advising other agencies of local, state, and federal government regarding, and advocating on behalf of, the identification, protection, and preservation of local historic, architectural, archaeological, and cultural resources.
- g. Liaison. Acting as a liaison between local government and individuals or organizations concerned with historic preservation.
- h. Other Applications. Commenting on applications for site plan/subdivision approval, zoning amendments, variances, special exceptions, and other approvals affecting property in the Historic District or other historic resources.
- i. Amendments. Investigating and recommending to the Planning Board and City Council amendments to this Section and appropriate areas for designation as historic districts.
- j. Education. Educating individual members of the Commission, municipal officials, property owners, and the public about the historic district and historic preservation.
- k. Signage and Recognition. Developing and administering a system of markers and monuments recognizing individual properties and the district and acknowledging special contributions toward historic preservation by members of the community.
- l. Budget. Developing and submitting an annual request for funds to the City Council if desired. Subject to the availability of funds, the Commission may retain consultants.
- m. Rules and Regulations. Adopting, and from time to time amending, Rules and Regulations which are consistent with the intent of this Section and appropriate state statutes.
- n. Other. Undertaking any other appropriate action or activity necessary to carry out its mission as embodied in this Section.

## **E. Definitions**

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**Commented [MM2]:** Moved from section F

The following definitions apply to this Section only.

**Building.** Any structure having a roof and intended for the shelter, housing, or enclosure of persons, animals, or personal property.

**Contributing property** (structure or site). Also known as a historic property. A property that contributes positively to the Historic Overlay District's architectural quality and integrity as a result of its location, design, history, condition, quality, age, materials, workmanship, feeling, and/or association.

**Exterior Architectural Appearance.** This encompasses the building itself and those individual elements which are integral to the building and are visible on the exterior. It includes colors, materials, texture, arrangement, architectural detailing and trim, the roof, windows, doors, foundation, steps, ramps, porches, decks, awnings, hardware, and light fixtures.

**Hardship.** A situation where denial of the applicant's request to perform particular work upon a specific property that is not in conformance with the standards of this Section would cause substantial difficulty for the applicant due to significant financial expense, loss of use of the property, diminution in the usability of the property, or impairment of the ability of an existing business to function effectively. *(Note that this definition is different from the concept of hardship used elsewhere in this Ordinance regarding applications for variances.)*

**Historic Overlay District.** Also known as Historic District and District. An overlay zone district as described in this Chapter.

**Massing.** The shapes, sizes, and arrangement of the three dimensional forms that compose a building.

**Noncontributing property.** A property which - due to its recent vintage (generally less than 50 years), incompatible design, incompatible and irretrievable alterations, or deteriorated condition - would not be considered to contribute to that character or quality of the District which the City seeks to preserve.

**Proportion.** The relation of one dimension to another, such as the height of a window compared to its width. Proportion affects visual order through coordination of such elements as height, width, depth, and spacing.

**Public Way.** A road, sidewalk, footpath, trail, park, or navigable waterway owned by the City of Rochester or another governmental agency and intended to be accessible to the public.

**Scale.** The perception of the size of a building or building element relative to the human body or other buildings or objects in the vicinity.

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Structure. Anything constructed or erected, the use of which requires location on the ground, or attachment to something having location on the ground. Examples include buildings, fences, walls, signs, and light fixtures.

Traditional. Sensitive to, evocative of, or harmonious with any particular style of architecture established prior to 1950 or the prevailing patterns, forms, or styles of architecture dating from the original settlement of the United States up to 1950.

#### **F. Designation of the Historic District**

Commented [MM3]: Moved from Section h

1. Procedures for Designation. The Rochester Historic District functions as a zoning overlay district. It is the role of the Historic District Commission to evaluate properties within the overlay district and to designate specific properties as contributing properties. -The District boundaries may be amended and new historic districts may be designated and delineated following the Amendment Procedure described in this Zoning Ordinance with the provision that:
  - a. The Historic District-Commission may initiate such amendments;
  - b. The Historic District-Commission shall have an opportunity to comment on any such proposed amendments prior to enactment by the Codes and Ordinances Commission and by City Council; and
  - c. The Historic District Commission designate individual lots or parcels of land may by itself be designated as a historic district upon determination of worthiness under this Section. within the overlay district as contributing property upon determination by the Historic District Commission that the criteria for designation within this section are met.
2. Criteria for Designation. Any building, group of buildings, site, property, group of properties, or area (collectively referred to herein as “site”) proposed for inclusion in the Rochester Historic District should generally (but not necessarily) be at least fifty (50) years old and possess one or more of the features listed below. These criteria should be considered when the Commission, Planning Board and/or City Council deliberate the enlargement or reduction of an existing district or the creation of a new district. In any district which contains multiple properties or structures, not every property or structure need meet these criteria; rather the district overall should embody a meaningful degree of continuity, cohesiveness, integrity, and a prevailing conformance with one or more of the criteria.
  - a. The site embodies distinguishing characteristics of, or high quality in, design, detailing, materials, craftsmanship, or a particular architectural style;

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- b. Its antique age, good condition, and special features make it worthy of preservation.
- c. Its unique location and characteristics make it an established and appreciated element or visual landmark for the community.
- d. The site is identified as the work of a master builder, designer, architect, engineer, or landscape architect whose individual work was influential in the development of the City of Rochester, region, state, or nation.
- e. The site contributes to the visual continuity of the District.
- f. One or more significant cultural, social, political, economic, or military events in the history of the City of Rochester, region, state, or nation occurred at the site.
- g. The site is identified with a person or persons of historic significance;

**G. Identification of the Historic District.** This district may be referred to as the Historic Overlay District, HOD, or Rochester Historic District. A Zoning Map of the Rochester Historic District, as amended, which shows the Historic Overlay District, is hereby incorporated as part of this Section, and is on file with the City Clerk. Within the District are contributing and noncontributing buildings as identified by the Historic District Commission and on file with the City of Rochester Planning Department. The Zoning Map and all the notations, references, district boundaries, and other information shown thereon, shall be as much a part of this Section as if all were fully described therein. See the Appendix which lists properties in the district by Assessor's Map and Lot numbers.

**Commented [MM4]:** Moved in document

Surveys, Maps and Historic Context Papers. The Planning Director or designee shall conduct or cause to be conducted such preliminary surveys, studies or investigations as deemed necessary or advisable to adequately inform Historic District Commission of those properties located within the City which represent Rochester's history. The Planning Director or designee shall memorialize the results of surveys, studies and investigations in a series of historic inventory forms, maps and/or historic context papers. Said inventory forms, maps, and context papers shall be maintained by the Planning Department and shall be made available for public inspection at all reasonable times.

These resources shall be referenced by the Historic District Commission when reviewing applications for changes or boundary adjustments within the Historic Overlay District.

**H. Delineation of the Historic District.** The Rochester Historic District is defined as that area made up of the lots listed below as delineated on the Rochester Tax Maps. Unless

**Commented [MM5]:** Moved from Appendix  
No changes to district boundaries

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otherwise noted or shown on the map, all of the land composing each lot shall be considered to lie within the District. The District also includes all City property necessary to make a contiguous District. (Note that in the case of discrepancy between the Zoning Map and this list of lots, the Zoning Map shall be determining.) Lots in the district include: Tax Map 116, Lots 156-162, and 201-204; Tax Map 120, Lots 322-324, 332-340, 342, 342-1, 343, 346, 347, 351, 352, 354, 355, 358-367, 379-381, 383-390, 392-408, and 419-422; Tax Map 121, Lots 9-18, 28, 29, 361-364, 366-368, 368-1, 369-400; and Tax Map 125, Lots 1, 181, 182, and 202-204.

## **I. Effect of inclusion in the Historic District.**

1. Approvals required. Any development involving properties included within the boundaries of the Historic Overlay District, unless determined exempt, requires the approval of a Certificate of No Negative Effect or a Certificate of Approval before a building permit or any other work authorization will be issued by the City.
2. Design Guidelines.
  - a. The Historic District Commission has adopted design guidelines, hereinafter referred to as “the guidelines.” These guidelines set forth the standards necessary to preserve and to maintain the historic and architectural character of the Historic Overlay District. The standards apply to the exterior features of properties within the District and are intended to offer assistance to property owners undertaking construction, rehabilitation, alterations, or other exterior changes. The guidelines will be periodically reviewed by the Historic District Commission and amended at a public hearing as needed.
  - b. The guidelines will be used in the review of requests of Certificate of no negative effect or Certificates of appropriateness. Conformance with applicable guidelines is strongly recommended for the approval of any proposed project.
  - c. The guidelines effectively replace the Architectural Regulations under the Site Plan Regulations for properties located within the Historic Overlay District. The Architectural Regulations and Site Plan Regulations and associated reviews do not apply.
3. Special Consideration for contributing and noncontributing buildings within the Historic District. To preserve and maintain the historic and architectural character of the District, the Historic District Commission or City Council may approve variations from the requirements set forth in the Land Use Code and may make recommendations to the Chief Building Official who has the authority to grant certain exceptions from the International Building Code (IBC) through the provisions of the International Existing Building Code (IEBC).

To the extent practicable and appropriate, as determined by City staff and the Commission, applicants may file applications for various permits - to the Planning Board, Zoning Board of Adjustment, Building Department, etc. – simultaneously, or in any appropriate order, in order to save time. This provision, however, shall not be construed in a manner which would prevent the Commission from conducting a thorough review, as it sees fit.

All City authorities, including the Historic District Commission and City Council, are authorized to grant economic and developmental benefits to historic properties within the Historic District.

In cases where the Historic District Commission has purview, the Planning Board shall not have jurisdiction over architectural design. The Architectural Regulations under the Site Plan Regulations shall not apply. Nonetheless, the Planning Board shall review all other elements of a site otherwise subject to its review.

4. Property owned by the City of Rochester shall be subject to review and approval by the Commission in like manner to all other property in the City situated within the district, provided, however, that a vote by 2/3 of the total membership of the Rochester City Council may override any vote of the Commission pertaining to land or property owned by the City of Rochester.

**J. Development involving a property within the Historic District.** No building, structure, significant ground disturbance or sign may be constructed, altered, repaired, relocated or otherwise improved within the boundaries of the Historic Overlay District until sufficient information is submitted to the City of Rochester Planning Office and approved in accordance with the procedures established within the Municipal Code.

1. Activity Exempt from Review *Exempt activity.* A Certificate of appropriateness or Certificate of no negative effect shall not be required for the following activities. A project may be subject to other requirements within the Zoning Ordinance.

Structures which are not buildings as defined in this Section (such as light poles and street furniture).

- a. Work completed on a single family or duplex building within the Historic Overlay District.
- b. Structures which are not buildings as defined in this Section (such as light poles, street furniture, and fences)
- c. Work performed on the interior of buildings that does not effect the exterior appearance.

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- d. Land uses. Land uses are not be regulated through this Section herein nor by the Commission. Permitted uses are set forth elsewhere in this Zoning Ordinance. However, in cases where the applicant is unable or unwilling to develop a design which conforms to the guidelines and requirements herein because of unusual constraints in the nature of the proposed use the Commission is by no means required to issue a Certificate of Approval simply to accommodate that permitted use. (Example: A gasoline station might be permitted in the historic district but if no design is presented for which the appearance of the canopy and the pump stations which meet the standards of this Section then the application should be denied, even though this specific permitted use may thereby be precluded.)
- e. Elements which are appurtenant to a building but which are not integral to the building including antennas, satellite dishes, flagpoles, mailboxes, window air conditioning units, and similar elements ~~on the rear portions of buildings or where they will be least noticeable from any public way.~~
- ~~e. Minor maintenance and repair which does not involve any significant change in materials, design, or the outward appearance of the building~~
- f Installation or removal of any plants.
- ~~g. G. Color of materials, paints and stains for single family houses and two family houses. Color of paint or stain of wood siding with the condition that the paint color or stain is from an approved historic paint color palette. Refer to the City of Rochester Planning Staff for approved historic paint color palettes.~~
- h. Installation of pavement or other impervious or semi-impervious material in an already established parking area. ~~or driveway area. However, the Commission has purview over the location and position of new construction and additions (which could affect other site conditions).~~
- i. Minimally intrusive work that does not adversely affect the historic character of the property or District as determined by Planning Staff.
- ~~I. Lighting treatment, i.e. wattage and types of bulbs and light fixtures attached to single and two family houses. However, light fixtures attached to buildings (other than single and two family houses) are subject to review.~~
- ~~J. Modifications to the site which do not affect buildings.~~
- ~~K. Any temporary emergency repairs provided that review and conformance with the guidelines of this Section will be required afterward. As part of that review, the HDC may impose appropriate requirements, including establishing a timeframe in which proper repairs must be completed.~~

~~L. Items which are not explicitly addressed in this subsection but for which the proposed work clearly:~~

- ~~i. would not have any meaningful negative impact;~~
- ~~ii. would be barely noticeable, if at all, from any public way; and~~
- ~~iii. would be consistent with the intent of this Section, all as reasonably determined by the Planning Department.~~

2. *Certificate of no negative effect.* An application for a Certificate of no negative effect may be made to the City of Rochester Planning Department for approval of work that has no adverse effect on the physical appearance or character defining features of a property located within the Historic Overlay District. An application for a Certificate of no negative effect may be approved by the Planning Director or designee with no further review if it meets the requirements set forth below:

a. The Planning Director or designee shall issue a Certificate of no negative effect within fourteen days after receipt of a complete application if:

- 1) It is determined that the activity is an eligible work item and meets the City Historic Preservation Design Guidelines; and,
- 2) Any modifications to the proposed work requested by the Planning Director or designee are agreed to by the owner/applicant; and,
- 3) The proposed work will not diminish, eliminate or adversely affect the significant historic and/or architectural character of the subject property or Historic District in which it is located.

b. An application for a Certificate of no negative effect shall include the following:

- 1) Elevations or drawings of plans not less than 1/8 inch showing the proposed work.
- 2) Photographs, building material samples and other exhibits, as needed, to accurately depict location, extent and design of proposed work.
- 3) Demonstrated compliance with applicable design guidelines.

c. The following work shall be considered for a Certificate of no negative effect:

- 1) Replacement of architectural features which creates no change to the exterior physical appearance of the building or structure.
- 2) Installation of awnings on historic properties.
- 3) Signs.
- 4) Alterations to noncontributing buildings within the Historic Districts that have no adverse effect on its historic or architectural character.

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- 5) Alterations to non-street facing facades on contributing buildings within the Historic District that have no adverse effect on its historic or architectural character.
- 6) Small structures or additions of 250 sf or less in size.
- 7) Installation of site improvements, such as walkways, patios, decks, or similar significant features.

d. In the event that the Planning Director or designee determines that the issuance of a Certificate of no negative effect is not appropriate or the design guidelines are not met, the owner may apply for a certificate of appropriateness from the HDC.

#### 5. Other Terms

~~A. A Certificate of Approval is required for all work within the purview of the Commission whether or not such work requires a building permit or any other permits issued by the City or other authorities. A Certificate of Approval shall not be required for any construction, alteration, or demolition of any structure or element of a structure which the Director of Building, Zoning, and Licensing Services, certifies as being required for public safety. However, the Director shall give the Commission an opportunity to comment upon any such action unless a time emergency precludes it.~~

~~B. A Certificate of Approval is only required for new activities which the property owner initiates/proposes after adoption of this ordinance. The Commission does not otherwise initiate any review except in response to such proposals/activities by the property owner. Thus, property owners are not required to bring any existing conditions into "conformity" with this ordinance, except in cases where improving certain existing conditions may be integrally related to a proposal presented by the applicant.~~

~~C. Property owned by the City of Rochester shall be subject to review and approval by the Commission in like manner to all other property in the City situated within the district, provided, however, that a vote by 2/3 of the total membership of the Rochester City Council may override any vote of the Commission pertaining to land or property owned by the City of Rochester.~~

~~D. The Commission may, after majority vote of the Commission, coordinate with, or defer to, other City boards, regarding review of items which might also be subject to review by those boards.~~

~~d. Guidelines for Review. The following guidelines shall be used by the Historic District Commission in reviewing applications for Certificates of Approval. Recognizing that every property, every proposal, and every situation is unique, the Commission shall utilize its reasonable judgment, and is granted a fair degree of flexibility, in applying these guidelines, consistent with other requirements and limitations of this Section.~~

~~1. General Principles. The following general principles are adapted from the U.S. Secretary of the Interior's Standards for Rehabilitation:~~

~~A. Every reasonable effort shall be made to minimize alteration of the significant features of the building.~~

~~B. The distinguishing original qualities or character of the building shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features shall be avoided where possible.~~

~~C. All buildings shall be recognized as products of their own time. Alterations that have no historical basis and that seek to create an earlier appearance shall be discouraged.~~

~~D. Changes that may have taken place in the course of time are evidence of the history and development of the building. These changes may have acquired significance in their own right, and this significance should be recognized and respected.~~

~~E. Distinctive stylistic features or examples of skilled craftsmanship that characterize a building should be treated with sensitivity.~~

~~F. Deteriorated architectural features should be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historic, physical, or pictorial evidence, rather than on conjectural designs or the availability of different architectural elements from other structures.~~

~~G. Contemporary design for alterations and additions to existing buildings should not be discouraged when such designs do not destroy significant historical, architectural, or cultural material, and when those designs are compatible with the size, scale, color, material, and character of the property, neighborhood, and environment.~~

~~H. Whenever possible, new additions or alterations to structures should be done in such a manner that if those additions or alterations were to be removed in the future, the essential form and integrity of the building would be unimpaired.~~

~~2. Elements of Design. The following principles also apply:~~

~~A. Harmony with surrounding buildings. Proposals should be harmonious with the existing building (in the case of additions and alterations) and with contributing neighboring buildings and other buildings within the District, as appropriate, in respect to:~~

~~i. mass;~~

~~ii. width;~~

~~iii. height;~~

- iv. proportion;
- v. spacing;
- vi. setback; and
- vii. all of the other elements of design discussed herein.

B. ~~Sitting of building.~~ Most buildings are oriented parallel or perpendicular to the street. Those in the downtown are traditionally placed very close to the street if not right up to the sidewalk. This pattern reinforces the streetscape. Buildings should not be oriented at odd angles to the street.

C. ~~Scale.~~ Every effort should be made to provide an appropriate scale to new buildings both in their overall size and in their details

- i. It is important in downtown areas for buildings to be multistory in order to reinforce the sense of enclosure of the street. Alternatively;
- ii. A single-story building should have a relatively steep roof or a high parapet.

D. ~~Proportion.~~ Buildings and their details should be well proportioned in accordance with commonly accepted design principles so as to create a sense of order and balance.

E. ~~Massing.~~ Large structures should be broken into smaller masses to provide human scale, variation, and depth. These smaller masses should have a strong relationship to one another and, ideally, each smaller mass will have an integrity of form.

F. ~~Roof.~~ As a design element the roof has a significant effect on the building's character. The lack of a roof often promotes a feeling of boxiness. The taller the building the less necessary is a pitched roof.

- i. ~~Multistory buildings in downtown rarely included a pitched roof. Extensive areas of visible roof should be broken up with:~~
  - \_\_\_\_\_ dormers;
  - \_\_\_\_\_ cross gables;
  - \_\_\_\_\_ cupolas;
  - \_\_\_\_\_ chimneys, parapets, balustrades, and
  - \_\_\_\_\_ towers.
- ii. ~~Where flat roofs are used there should be a distinct cornice and/or parapet to emphasize the top of the building.~~

G. ~~Building façade.~~ Much attention should be given to create an attractive building façade. Broad expanses of blank walls are inappropriate. Traditionally, the parts of a façade that might be embellished, or at least articulated in some fashion include:

i. the horizontal base where the building meets the ground (such as a different treatment for the foundation or a water table) ii. the horizontal top where the building meets the sky (such as a projecting cornice with brackets)

iii. a horizontal section in between (such as a belt course between stories)

iv. the vertical corners on the left and right sides (such as corner boards or quoins)

v. vertical articulation in the middle (such as pilasters)

vi. the area around the door/entry (such as a portico)

vii. the areas around the windows (such as window surrounds) In addition, depth may be created for the facade through use of porches, projecting or recessed sections, bay windows, or arcades.

H. Windows. Windows are an integral part of a building and should be incorporated on front facades, and preferably side facades to humanize the building. It is desirable that the windows along with the door establish a coherent, orderly pattern and rhythm.

i. Shape. It is preferable that windows be vertical (except for retail uses, below). Horizontally shaped windows are discouraged. Where horizontal windows are sought a series of contiguous vertical windows with mullions in between should be used arranged in a horizontal "band".

ii. In the downtown use of large picture type windows for retail uses on the first floor is strongly encouraged.

iii. Shutters. Shutters are generally not used traditionally on commercial buildings but, where appropriate, should be sized properly for the window opening (approximately one half the width of the opening).

iv. Preservation of original wood windows is strongly encouraged but not required. Where windows are replaced use of true divided light windows is encouraged but not required. Use of false mullions may be stipulated where appropriate.

I. Entrance. The entrance is an important element in defining a building. i. Articulation of the entrance is encouraged through use of:

- \_\_\_\_\_ a portico;
- \_\_\_\_\_ a canopy;
- \_\_\_\_\_ an awning;
- \_\_\_\_\_ sidelights;
- \_\_\_\_\_ a surround, or

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~~\_\_\_\_\_ another device.~~

~~ii. Generally, there should be an entrance, if not the primary entrance, located on the front facade.~~

~~J. Siding materials. Materials should be high quality and durable, especially in the core downtown areas, where masonry is preferred.~~

~~i. Use of the following natural materials is strongly encouraged:~~

~~\_\_\_\_\_ wood (clapboard and shakes);~~  
~~\_\_\_\_\_ brick;~~  
~~\_\_\_\_\_ stone;~~  
~~\_\_\_\_\_ fiber reinforced stucco;~~  
~~\_\_\_\_\_ textured block; and~~  
~~\_\_\_\_\_ terra cotta~~

~~However, fabricated materials which effectively imitate the character of these materials is acceptable.~~

~~i. Conventional vinyl siding is discouraged, especially on front facades. However, it is less of a concern on side or rear facades. Where used, it should be arranged in a horizontal pattern resembling wood clapboard.~~

~~iii. Use of the following materials is inappropriate:~~

~~\_\_\_\_\_ sheet plastic;~~  
~~\_\_\_\_\_ sheet fiberglass;~~  
~~\_\_\_\_\_ T-111 plywood;~~  
~~\_\_\_\_\_ flaky "fish shack style" wood shingles;~~  
~~\_\_\_\_\_ simulated brick;~~  
~~\_\_\_\_\_ "salvage style" brick with multiple colors;~~  
~~\_\_\_\_\_ highly reflective plastic or metal;~~  
~~\_\_\_\_\_ prefabricated metal wall panels;~~  
~~\_\_\_\_\_ undressed cinder block; and~~  
~~\_\_\_\_\_ other materials similar to these~~

~~K. Color. Appropriate color selection is guided by the following: i. Main building color/large areas and signage. The following color palettes are encouraged for the main building color/large areas and signage:~~

~~\_\_\_\_\_ nature~~  
~~\_\_\_\_\_ blending;~~  
~~\_\_\_\_\_ earth tone;~~  
~~\_\_\_\_\_ neutral; and~~  
~~\_\_\_\_\_ pastel~~

~~ii. Main building color/large areas. The following color palettes are discouraged for the main building color/large areas:~~

~~\_\_\_\_\_ bright colors;~~

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- ~~primary colors, and~~
  - ~~Metallic colors~~
- iii. ~~Building accent areas and signage. The following color palettes are acceptable for building accent areas and signage:~~
  - ~~bright colors,~~
  - ~~primary colors,~~
  - ~~metallic colors~~
- iv. ~~The following color palettes are prohibited:~~
  - \* ~~high intensity colors and~~
  - \* ~~fluorescent colors~~
- v. ~~For brick, use of deep, dark traditional reds is desirable and may be required.~~

## 2. ~~Other Principles~~

A. ~~New construction. Traditional style architecture is certainly desirable provided that it is skillfully designed in accordance with the objectives of this section.~~

B. ~~Visibility. Generally, the less visible or prominent a structure or facade the less stringent the standards/review.~~

C. ~~Demolition or Removal. Demolition or removal of structures may be denied at the discretion of the Commission.~~

i. ~~Contributing Structures. Demolition or removal from the District of a contributing structure is strongly discouraged. No such application should be approved until a detailed redevelopment plan for the site has been approved by the Commission and/or Planning Board, as appropriate.~~

ii. ~~Noncontributing Structures. In many cases, demolition or relocation of a noncontributing structure is entirely appropriate, if not desirable, depending upon how the site will be developed afterward.~~

D. ~~Relocation within the District. Relocation of a contributing structure from its site is discouraged. The Commission may approve such a relocation if it determines that there are compelling reasons to do so after conducting a rigorous review of the request.~~

E. ~~Noncontributing Buildings. Significantly less stringent review is in order for "noncontributing" buildings.~~

4. ~~References. The Commission may also use the following as references (all of these documents are available in the Planning Department for public review):~~

A. ~~The Secretary of the Interior's "Guidelines for Historic Preservation". (website: <http://www.nps.gov/history/hps/TPS/tax/rhb/>)~~

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- B. The National Register Nomination form for the Rochester Commercial and Industrial Historic District
- C. 1999 survey of Rochester conducted to assess impacts of the proposed Exit 10 project.
- D. Rochester Times series on architecture of Rochester (2002-2003).
- E. Any other appropriate general architectural manuals or manuals about Rochester.

3. Certificate of Approval. An application for a Certificate of Approval shall be submitted to the Rochester Historic District Commission through the Planning Department, no fewer than ten (10) days prior to a Commission meeting. However, upon an affirmative vote of at least four (4) members of the Commission this deadline may be reduced on a case by case basis for good cause.

a. Intent.

It is the intent of this Section to make the review process as simple and pleasant as practical. The applicant need only submit those materials which the Commission reasonably determines are necessary to conduct an appropriate review. On small or straightforward projects submission of the application, a letter of intent, a verbal description, and/or one or more sketches drawn by the applicant may suffice.

In the case of more elaborate proposals or those potentially having a significant impact upon sensitive properties any or all of the materials listed below may be required as the Commission sees fit. While the use of an architect is not required under this Section, there will be many situations where it will be difficult to provide appropriate drawings and to meet the objectives of this Section without the use of an architect, particularly where new construction or additions are involved.

Applicants are encouraged to speak with the Planning Department prior to preparing an application package to get a preliminary sense of which of the items below might not be needed.

b. Application requirements.

The application package may include any or all of the items listed below as stipulated by the Historic District Commission:

1. A completed application form as provided by the City shall include:

- a. the purpose of the proposed project
- b. the nature and scope of the work to be performed

2. Site plans drawn to scale clearly depicting existing conditions and proposed work.

3. Elevation drawings to scale of each affected facade of the building clearly depicting existing conditions and proposed work.

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4. Detail drawings of appropriate elements (such as the balustrade for a handicapped ramp).

5. Photographs of each impacted side of the building.

6. Sample, swatch, and/or manufacturer's cut sheet of materials to be used (such as a brick), as appropriate.

7. A written description of how the project meets the applicable design guidelines.

8. Any other items which the Commission may reasonably need to conduct its review.

9. No fees of any kind shall be charged for applications to the Commission or to cover any of the costs of reviewing the application.

c. Procedures for Review of the Application.

~~Application. An application for a Certificate of Approval shall be submitted to the Rochester Historic District Commission through the Planning Department, no fewer than nine (9) days (or 8 days if the deadline falls on a holiday) prior to a Commission meeting. However, at the discretion of the Chair this deadline may be reduced on a case-by-case basis for good cause. In no case shall the review be scheduled more than 30 days from the application filing date.~~

~~It is the intent of this Section to make the review process as simple and pleasant as practical. The applicant need only submit those materials which the Commission reasonably determines are necessary to conduct an appropriate review. On small or straightforward projects submission of the application, a letter of intent, a verbal description, and/or one or more sketches drawn by the applicant may suffice.~~

~~In the case of more elaborate proposals or those potentially having a significant impact upon sensitive properties any or all of the materials listed below may be required as the Commission sees fit. While the use of an architect is not required under this Section, there will be many situations where it will be difficult to provide appropriate drawings and to meet the objectives of this Section without the use of an architect, particularly where new construction or additions are involved.~~

Applicants are required to meet with the Chief Planner, or designee, prior to preparing an application package to get a preliminary sense of which of the items below will be needed. The application package may include any or all of the items listed below as stipulated by the Chief Planner and the Historic District Commission:

- A. A completed application form as provided by the City stating the purpose of the proposed project and identifying the nature and extent of the work to be performed.
- B. Site plans drawn to scale clearly depicting existing conditions and proposed work.
- C. Elevation drawings to scale of each affected facade of the building clearly depicting existing conditions and proposed work.
- D. Detail drawings of appropriate elements (such as the balustrade for a handicapped ramp).
- E. Photographs of each impacted side of the building.
- F. Sample, swatch, and/or manufacturer's cut sheet of materials to be used (such as a brick), as appropriate.
- G. Any other items which the Commission may reasonably need to conduct its review.
- H. There is no fee for the basic application review

## ~~2. Review of the Application~~

~~A. Appropriateness. In deliberating whether to grant (with or without conditions) or deny a Certificate of Approval the Historic District Commission shall make a determination as to whether or not the proposal conforms with the provisions of this Section.~~

~~B. Scheduling and Completeness. The Historic District Commission will consider all applications that were received by the application deadline at its next scheduled meeting. At that time a determination shall be made whether the application under consideration is complete in terms of the list of required items, above, such that the Commission can adequately review the application.~~

~~C. Public Meetings. Meetings of the Historic District Commission are not public hearings and notice need be made only for public meetings in accordance with RSA Chapter 91-A. The Commission may hold a public hearing on any application if it deems appropriate. All regular meetings shall be posted on the City's website.~~

~~D. Professional Advice. The Commission may seek advice from such professional, educational, cultural, or other resources as is deemed necessary.~~

### ~~E. Recommendations:~~

~~i. Applicants are encouraged to meet with the Commission prior to developing projects for an informal discussion about proposed plans.~~

~~ii.) The Commission may make non-binding recommendations to the applicant on elements outside of its purview such as on parking lot layout or planting materials.~~

~~F. Architectural Regulations and Planning Board review. In cases where the Historic District Commission has purview, the Planning Board shall not have jurisdiction over architectural design, i.e. the Architectural Regulations under the Site Plan Regulations shall not apply. Nonetheless, the Planning Board shall review all other elements of a site otherwise subject to its review.~~

## ~~3. Action on an Application~~

~~A. Recognizing that a lengthy approval process can be costly to landowners, developers, and business owners, the Commission shall seek to take final action at its earliest reasonable opportunity, which in many cases will be at the first regular meeting of the Commission at which the application is presented. To the extent practicable and appropriate, as determined by City staff and the Commission, applicants may file applications for various permits—to the Planning Board, Zoning Board of Adjustment, Building Department, etc.—simultaneously, or in any appropriate order, in order to save time. This provision, however, shall not be construed in a manner which would prevent the Commission from conducting a through review, as it sees fit. Final approval of any permits from other City departments, for projects under the Commission's purview, cannot precede the Certificate of Approval from this Commission.~~

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~~B. The Historic District Commission shall take action on—i.e. to approve, approve with conditions, or deny—all applications within forty five (45) days after the filing of a complete application for a certificate of approval. This time frame may be extended either by consent or request of the applicant or upon formal request from the Commission to, and written authorization from, the City Council for an additional period not to exceed forty five (45) calendar days.~~

~~C. The Commission shall notify the applicant of its decision within 72 hours. When an application is rejected as being incomplete or denied the reason(s) for the decision shall be conveyed to the applicant and clearly stated in the record of proceedings of the Commission.~~

~~D. Failure by the Commission to act within the period of time specified above (with or without extensions) shall be deemed to constitute approval of the application as submitted. A Certificate of Approval shall be effective for one year after the date of approval. The applicant must secure a building permit and substantially commence work within this one year timeframe or the Certificate shall lapse. Likewise, where no building permit is involved, the applicant must substantially commence work within this one year timeframe or the Certificate shall lapse. The Commission may grant extensions as it reasonably determines appropriate.~~

~~4. Hardship. Upon the request of an applicant, the Commission may approve an application, based upon hardship, even if it deems the proposed work does not meet the standards specified in this Section. Approval based on hardship requires, at a minimum, a determination by the Commission that all of the criteria below are met. The Commission may solicit any additional information necessary to make this determination.~~

~~A. Denial of the application or an element of the application would cause an undue hardship for the applicant as defined in this Section;~~

~~B. The hardship is unusual and peculiar to the applicant's property or situation;~~

~~C. The proposal would not have a significant adverse impact upon the Historic District;~~

~~D. Approval would not constitute a significant derogation of the intent and purpose of the ordinance;~~

~~E. There is no simple or inexpensive alternative approach which would be effective; and F. In the case of an application for demolition, severe deterioration of the property was not due to negligence or irresponsibility on the part of the owner.~~

~~5. Appeals. Any applicant, person, or organization aggrieved by a decision of the Historic District Commission may appeal the decision to the Rochester Zoning Board of Adjustment in accordance with RSA 674:33 and any appeal procedures specified in the City Ordinances. In its review of any appeals the Zoning Board shall be guided by the provisions of this Section and other applicable law.~~

~~6. Enforcement. This Section shall be enforced as provided for in the Rochester Zoning Ordinance.~~

~~7. Variances and Appeals. If any applications are submitted to the Zoning Board of Adjustment for variances or appeals under the Historic District Ordinance, the HDC shall be notified by the Planning Department of those applications at least ten days in advance of the meeting.~~

Recognizing that a lengthy approval process can be costly to landowners, developers, and business owners, the Commission shall seek to take final action at its earliest reasonable opportunity, which in many cases will be at the first regular meeting of the Commission at which the application is presented.

1. The Planning Director or designee shall review the application materials submitted for Certificate of appropriateness approval and request additional information as necessary.
2. Staff shall review the submittal material and prepare a report that analyzes the project's conformance with the design guidelines and other applicable Land Use Code sections. This report will be transmitted to the HDC with relevant information on the proposed project and a recommendation to continue, approve, disapprove or approve with conditions and the reasons for the recommendation. The HDC will review the application, the staff analysis report and the evidence presented at the hearing to determine the project's conformance with the design guidelines.
3. The Historic District Commission shall take action - i.e. to approve, approve with conditions, or deny - on all applications within sixty five (65) days of the meeting at which the Commission accepts the application as complete. This time frame may be extended either by consent or request of the applicant or upon formal request from the Commission to, and written authorization from, the City Manager for an additional period not to exceed sixty five (65) days.

Failure by the Commission to act within the period of time specified above (with or without extensions) shall be deemed to constitute approval of the application as submitted. A Certificate of Approval shall be effective for two years after the date of approval. If an applicant has not secured a building permit within that time frame, or has not substantially commenced work in cases where no building permit is required, the Certificate shall lapse. The Commission may grant extensions as it reasonably determines appropriate.

4. Meetings of the Historic District Commission are public meetings and may require notice to the public as specified in New Hampshire State

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Statute and the City of Rochester Municipal Code. The public is encouraged to attend. When notice is required the Planning Department shall process notices for public hearings.

5. The Commission may seek advice from such professional, educational, cultural, or other resources as is deemed necessary.

6. The HDC may approve, disapprove, approve with conditions or continue the application to obtain additional information necessary to make a decision to approve or deny. The Commission may make non-binding recommendations to the applicant on elements outside of its purview such as on paint color of wood, parking lot layout, or planting materials.

The Commission shall notify the applicant of its decision. When an application is rejected as being incomplete or denied the reason(s) for the decision shall be conveyed to the applicant and clearly stated in the record of proceedings of the Commission. Any steps recommended to remedy deficiencies or flaws in the proposal shall also be conveyed to the applicant.

7. A monitoring committee comprised of two representatives from the Commission shall be assigned to the approved project to oversee and approve amendments that may arise during construction.

4. Amendments. There are two processes for amending plans approved pursuant to a Certificate of appropriateness. All requests for amendments must be in writing and accompanied by drawing(s) and elevations as specified below.

a. Insubstantial amendments.

Insubstantial amendments are minor modifications to HDC approved plans that:

1. Address circumstances discovered in the course of construction that could not have been reasonably anticipated during the approval process, or;
2. Are necessary for conformance with building safety or accessibility codes and do not materially change the approved plans, or;



3. Approve specific building materials, finishes, design of ornamental trim and other such detail not provided in the HDC approved plans, or

4. Change the shape, location or material of a building element or feature but maintains the same quality and approximate appearance of that found in the approved plans.

The Planning Director or designee and the monitoring committee may authorize amendments to approved plans. Decisions of the Planning Director or designee or monitoring committee are binding.

b. Other amendments.

The Planning Director or designee or monitoring committee may determine that the proposed changes do not meet the design guidelines and remand the matter to the HDC for a decision by the Commission.

Approval of amendments by the Planning Director or designee and the monitoring committee shall be reported to the HDC at their regularly scheduled meetings.

**K. Historic District Demolition Permit.** It is the intent of this Chapter to preserve the historic and architectural resources that contribute to the history of Rochester. Consequently no demolition of any properties within the Historic Overlay District shall be permitted unless approved by the HDC in accordance with the standards set forth in this Section.

1. Exempt Activity.

a. Demolition of a single family or duplex building within the Historic Overlay District.

b. Demolition of structures which are not buildings as defined in this Section (such as light poles, street furniture, and fences)

c. Demolition work performed on the interior of buildings that does not effect the exterior appearance.

d. Demolition of elements which are appurtenant to a building but which are not integral to the building including antennas, satellite dishes, flagpoles, mailboxes, window air conditioning units, and similar non-historic elements.

2. Procedures for demolition of properties within the Historic Overlay District.

a. Application.

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An application for a historic district demolition permit for properties within a Historic District will be filed with or referred to the Planning Director or designee by the Director of Building, Zoning, Licensing, Services. The applicant will be provided a written response within fourteen (14) days of the request for a demolition permit describing the submittal materials needed for consideration. An application for demolition approval shall include:

1. Written documentation that the Director of Building, Zoning, Licensing, Services has determined the building an imminent hazard that cannot be repaired; or,
2. Narrative text, graphic illustrations or other exhibits that provide evidence that the building, structure or object is of no historic or architectural value or importance.
3. The staff shall review the submittal material and prepare a staff report that analyzes the request relative to the criteria for approval.

b. Review Procedures.

1. The HDC shall review the application, the staff report and hear evidence presented by the property owners and parties of interest to determine if the standards for demolition approval have been met. Demolition shall be approved if it is demonstrated that the application meets any one of the following criteria:

- a. The property has been determined by the City to be an imminent hazard to public safety and the owner/applicant is unable to make the needed repairs in a timely manner; or,
- b. The structure is not structurally sound despite evidence of the owner's efforts to properly maintain the structure; or,
- c. The structure cannot practically be moved to another appropriate location in Rochester; or,
- d. No documentation exists to support or demonstrate that the property has historic, architectural, archaeological, engineering or cultural significance.

Additionally, for approval to demolish and to grant a historic district demolition permit, all of the following criteria must be met:

- e. The structure does not contribute to the significance of the Historic Overlay District; and,
- f. The loss of the building, structure or object would not adversely affect the integrity of the Historic Overlay District or its historic, architectural or aesthetic relationship to adjacent historic properties; and,
- g. Demolition of the structure will be inconsequential to the historic preservation needs of the area.

2. The HDC shall approve, disapprove, approve with conditions or continue the application to obtain additional information necessary to consider the demolition request.

3. If the demolition request is denied because it does not meet the aforementioned standards, the applicant may request demolition approval based upon approval of a determination of hardship as set forth below.

4. Before a demolition permit will be issued, a Certificate of approval for the redevelopment as described above, must be approved. When a demolition permit must be issued because the building is an imminent hazard or because of the issuance of a determination of hardship, the permit may be received prior to the receipt of a Certificate of Approval.

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**L. Historic District Relocation Permit.**

The intent of this Chapter is to preserve historic properties in their original locations within the Historic Overlay District. However, it is recognized that occasionally the relocation of a property may be appropriate as it provides an alternative to demolition or because it only has a limited impact on the attributes that make it significant. All properties within the Historic Overlay District are subject to this Section.

1. Exempt Activity.

a. Relocation of a single family or duplex building.

b. Relocation of structures which are not buildings as defined in this Section (such as light poles, street furniture, and fences).

c. Relocation of elements which are appurtenant to a building but which are not integral to the building including antennas, satellite dishes, flagpoles, mailboxes, window air conditioning units, and similar non-historic elements.

2. Application.

An application for relocation shall include:

a. A written description and/or graphic illustrations of the building, structure or object proposed for relocation.

b. A written explanation of the type of relocation requested (temporary, on-site or off-site) and justification for the need for relocation.

c. A written report from a licensed engineer or architect regarding the soundness of the building, structure or object, its ability to withstand the physical move and its rehabilitation needs, once relocated.

d. A conceptual plan for the receiving site providing preliminary information on the property boundaries, existing improvements and site characteristics and the associated planned improvements.

e. If the applicant does not own the receiving site, proof from the site's property owner of the willingness to accept the relocated building, structure or object.

f. Evidence that the applicant has or is seeking the necessary approvals to place the building on the identified receiving site.

g. Evidence of the financial ability to undertake the safe relocation, preservation and repair of the building, structure or object; site preparation and construction of necessary infrastructure through the posting of bonds or other financial measures deemed appropriate.

h. Supplementary materials to provide an understanding of the larger context for the relocated property and its impact on adjacent properties, the neighborhood or streetscape.

i. Additional information may be requested by the Historic District Commission as needed to complete the review.

## 2. Procedures for the review of historic district relocation permit.

a. The Planning Director or designee shall review the application materials submitted for relocation approval. Upon determination of a complete application, the project shall be scheduled before the HDC.

b. Staff shall review the submittal material and prepare a report that analyzes the project's conformance with the standards for relocation approval set forth below, the City Historic Preservation Design Guidelines and other applicable Land Use Code sections. This report will be transmitted to the HDC with relevant information on the proposed project and a recommendation to continue, approve, disapprove or approve with conditions and the reasons for the recommendation. The HDC will review the application, the report and the evidence presented at the hearing to determine if the standards for relocation have been met.

c. The HDC shall approve, disapprove, approve with conditions or continue the application to obtain additional information necessary to make a decision to approve or deny.

## 3. Standards for relocation.

Relocation for a building will be approved if it is determined that it meets any one of the following standards:

- a. It does not contribute to the overall character of the historic district or parcel on which it is located and its relocation will not have an adverse impact on the Historic District or property; or
- b. The owner has obtained a Determination of hardship; or
- c. The relocation activity is demonstrated to be an acceptable preservation method given the character and integrity of the building and its move will not adversely affect the integrity of the Historic District in which it was originally located or diminish the historic, architectural or aesthetic relationships of adjacent designated properties; and

Additionally, for approval to relocate and to grant a historic district relocation permit all of the following criteria must be met:

- d. It has been determined that the building, structure or object is capable of withstanding the physical impacts of relocation;
- e. An appropriate receiving site has been identified; and
- f. An acceptable plan has been submitted providing for the safe relocation, repair and preservation of the building, structure or object including the provision of the necessary financial security.

#### **M. Determination of hardship.**

It is the policy of the City to respect private property rights. The City recognizes, therefore, that there may be some circumstances in which the operation of this Chapter could create an undue economic hardship. This provision is created to provide property owners with a means of demonstrating that such a hardship may exist and that they should be allowed to demolish a property within the historic overlay district because of that hardship. It is the intent of this provision to insure that no private property is taken without just compensation.

1. *Standard of review.* The standard of review for a determination of economic hardship will be whether refusing to allow the property owner to demolish the property would result in a violation of the prohibitions of the U.S. and New Hampshire Constitutions against taking of private property for public use without just compensation as those prohibitions are interpreted by the courts of New Hampshire and the United States. In applying the standards, the economic benefits of financial, developmental and technical assistance from the City and the utilization of any federal and state rehabilitation tax credit programs may be considered.
2. *Application Requirements.*
  - a) Upon receiving a request for a certificate of economic hardship, the Planning Director or designee shall provide a written response within fourteen (14) days as to the submittal materials required.

b) Within five (5) days after receipt of an application for a certificate of economic hardship, the Planning Director or designee shall determine whether the application is complete. If he or she determines that the application is not complete, the Director shall notify the applicant in writing of the deficiencies. The Director shall take no further steps to process the application until the deficiencies have been remedied.

c) The application fee shall be set to defray all costs of the review process, including the fees of an independent hearing officer.

### 3. Review process.

a) When the application is complete, the Planning Director or designee will refer the application to the Historic District Staff member and the City Attorney for review. The Historic District Staff member and City Attorney shall jointly prepare a report setting forth the City's response.

b) In the event the City response concludes that the application does not demonstrate a case of economic hardship, the application can apply for an Administrative Appeal before Zoning Board of Adjustment.

c) The Zoning Board of Adjustment will be contracted by the City to conduct an impartial quasi-judicial hearing on the question of economic hardship. If deemed necessary, the ZBA may hire, at the applicant's expense, a consulting professional(s) with sufficient legal and technical experience to conduct a fair hearing on the matter. The application, all support materials and the consultants/City's report shall be provided to the ZBA in advance of the hearing. At the hearing, the applicant will be provided with an opportunity to present their application and may be represented by counsel. The City position will be presented by the City Attorney/consultant.

4. Appeal. An applicant may appeal the decision of the hearing officer to District Court.

## **N. Demolition by neglect.**

It is the intent of this Section to address the range of circumstances that affect the preservation of the community's significant historic and architectural resources. It is further recognized that many historic buildings and structures are lost because of deterioration from lack of maintenance. Whether this occurs unintentionally or through deliberate decisions, the result is the same: the loss of community assets that cannot be replaced. Consequently, it is declared that the exterior features of any designated building or structure shall be preserved against decay and deterioration and kept free from structural defects. The designated structures shall receive reasonable care, maintenance and upkeep appropriate for their preservation, protection, perpetuation and use.

### 1. Standards for reasonable care and upkeep.

The owner or such other person who may have legal possession, custody and control thereof of a designated property shall, upon written request by the City, repair the following exterior features if they are found to be deteriorating or if their condition is contributing to deterioration such that it is likely to compromise the building's structural integrity or as to

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**Commented [MM7]:** This was changed from hearing officer at the PB.

create or permit the creation of any hazardous or unsafe condition to life, health or other property. These features include, but are not limited to:

- a. Deterioration of exterior walls, foundations or other vertical supports that causes leaning, sagging, splitting, listing or buckling.
- b. Deterioration of flooring or floor supports or other horizontal members that causes leaning, sagging, splitting, listing or buckling.
- c. Deterioration of external chimneys that cause leaning, sagging, splitting, listing or buckling.
- d. Deterioration or crumbling of exterior plasters or mortars.
- e. Ineffective waterproofing of exterior walls, roofs and foundations, including broken windows or doors.
- f. Defective protection or lack of weather protection for exterior wall and roof coverings, including lack of paint or weathering due to lack of paint or other protective covering.
- g. Rotting, holes and other forms of decay.
- h. Deterioration of exterior stairs, porches, handrails, window and door frames, cornices, entablatures, wall facings ornamental trim and other architectural details that cause delamination, instability, loss of shape and form or crumbling.

2. Enforcement procedures.

a. The HDC or Planning Director or designee may file a petition listing specific defects, in accordance with Section N.1 above, with the Director of Building, Zoning and Licensing, Services, requesting that the official act under the following procedures that require the correction of the defects or repairs to designated properties.

b. Whenever a petition is filed, Director of Building, Zoning, Licensing and Services shall attempt to make direct personal contact with the owner or other such persons having legal possession or custody and/or his representative. If personal contact cannot reasonably be accomplished, then written notification of the specific defects purported by the HDC and a request to inspect the property within ten (10) days will be mailed to the owner and other such persons having legal possession, custody and control and will be posted at a conspicuous location appropriate to the identified defects. In the written notification the Chief Building Official shall document the nature of the specific defects and the corrective action ordered.

c. After receiving agreement from the owner, his representatives or other such persons having legal possession, custody and control of the property for an inspection, the Chief Building Official and the HDC Officer shall within ten (10) working days conduct an investigation and prepare a written report determining whether the property requires work to address conditions set forth in Section N.1 above.

d. If the property is found to contain conditions needing correction, the owner, his representative or other such persons having legal possession, custody and control of the

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property will be served within fourteen (14) days with a complaint identifying the property deficiencies and providing notice that a hearing will be held the City Council within forty-five (45) days. The purpose of the hearing is to:

1. Receive evidence concerning the charge of deterioration and
2. Develop a plan and schedule for making the needed repairs in a timely fashion, such that the building is stabilized and the deterioration is arrested and
3. Ascertain whether the owner or other parties intend to make application for financial assistance from the City to correct the building defects.

e. Following such notice and hearing, City Council will make a determination if there are any corrections required pursuant to Section N.1 above and shall state in writing the findings of fact in support of that determination. If it is determined that the building or structure is undergoing deterioration or if its condition is contributing to deterioration, the owner or other parties of interest will be served an order to repair those defective elements of the structure within a reasonable specified time frame.

f. If the owner fails to make the necessary repairs within the identified time frame, the City may undertake the work to correct the deficiencies that create any hazardous and unsafe conditions to life, health and property. The expense of this work will be recorded as a lien on the property.

**O. Appeals.** Any applicant, person, or organization aggrieved by a decision of the Historic District Commission may appeal the decision to the Rochester Zoning Board of Adjustment in accordance with RSA 674:33 and any appeal procedures specified in the City Ordinances. In its review of any appeals the Zoning Board shall be guided by the provisions of this Section and other applicable law.

**P. Enforcement.** This Section shall be enforced as provided for in the Rochester Zoning Ordinance.