

**Regular City Council Meeting
January 5, 2021
Council Chambers
31 Wakefield Street
Remotely via Microsoft Teams
6:30 PM**

COUNCILORS PRESENT

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

OTHERS PRESENT

Blaine Cox, City Manager
Katie Ambrose, Deputy City Manager
Terence O'Rourke, City Attorney
Paul Toussaint, Chief of Police

Minutes

1. Call To Order

Mayor McCarley called the Regular City Council meeting to order at 6:30 PM and read the following preamble:

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

a.) **Public Input:** Due to the ongoing situation with COVID-19, the City of Rochester will be taking extra steps to allow for public input, while still

ensuring participant safety and social distancing. In lieu of attending the meeting, those wishing to share comments, when permitted, with the City Council (Public Hearing and/or Workshop settings) are encouraged to do so by the following methods:

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

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

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

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

Phone number: 857-444-0744

Conference code: 843095

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

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

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

2. Roll Call

Kelly Walters, City Clerk, called the roll. The following Councilors were connecting remotely and indicated that they were alone in the location from which they were attending: Councilors Abbott, Belken, Bogan, Gray, Hainey, Hamann, Hutchinson, Lachance, Lachapelle, Rice, Walker, Deputy Mayor Lauterborn, and Mayor McCarley.

3. Opening Prayer

In lieu of an opening prayer, Mayor McCarley requested a moment of silence for reflection and civility.

4. Pledge of Allegiance

Mayor McCarley led the Pledge of Allegiance.

5. Acceptance of Minutes

5.1 Regular City Council Meeting: December 1, 2020 *consideration for approval*

Councilor Lachapelle **MOVED** to **APPROVE** the December 1, 2020 Regular City Council meeting minutes. Councilor Walker seconded the motion. The **MOTION CARRIED** by a 13 to 0 roll call vote. Councilors Rice, Walker, Belken, Bogan, Lachapelle, Hamann, Lauterborn, Hainey, Abbott, Gray, Hutchinson, Lachance, and Mayor McCarley voted in favor of the motion.

5.2 Special City Council Meeting: December 15, 2020 *consideration for approval*

Councilor Lachapelle **MOVED** to **APPROVE** the December 15, 2020 Special City Council meeting minutes. Councilor Walker seconded the motion. The **MOTION CARRIED** by a 13 to 0 roll call vote. Councilors Lachapelle, Rice, Gray, Hainey, Abbott, Bogan, Hutchinson, Lachance, Hamann, Lauterborn, Walker, Belken, and Mayor McCarley voted in favor of the motion.

6. Communications from the City Manager

6.1 City Manager's Report

City Manager Cox reported that the City Hall Annex Building had been temporally closed due to a COVID-19 situation. The building has since been sanitized and is now open to the public.

City Manager Cox stated that his report is as follows:

Contracts and Documents Executed Since Last Month:

- **Department of Public Works**

- Proposal for selective harvesting of Hanson Pines
- Letter of Intent & Exclusivity Agreement – Revision Energy, Inc.
- Construction Estimate – SUR, Residuals Flowmeter manhole

- **Economic Development**

- CDBG Environmental Reviews – CAP Weatherization full heating system replacement
- CDBG Environmental Reviews – CAP Weatherization replacement of cracked heat exchanger and window
- CDBG – CAP Weatherization replacement of a heating system & window
- CDBG certifications - CDBG allocation of Round 3 CARES Act funds
- CDBG FY 2021-CV Round 3 Contract – HAVEN P. 50
- CDBG Environmental Review – CAP Weatherization retrofit, insulation, air sealing, and heating system replacement
- CDBG FY2021 -CV Round 3 Contracts – Community Action Partnership of Strafford County, Rochester Opera House, MY TURN, Easter Seals, COAST, My Friend's Place
- CDBG revised grant agreement & CARES Act CDBG grant agreement
- CDBG Environmental Reviews – CAP Weatherization insulation of a manufactured home

- **Police Department**

- Justice Assistance Grant authorization
- JAG Grant – Interlocal agreement
- Wrecker Services rotation

The following standard reports have been enclosed:

- Monthly Overnight Travel Summary - none
- Permission & Permits Issued -none
- Personnel Action Report Summary

7. Communications from the Mayor

Mayor McCarley announced that due to the extreme cold conditions, the Warming Center will be open to the public starting this coming Friday. The Warming Center will be open on Friday, Saturday, and Sunday evenings. The facility opens at 5:00 PM and closes by 9:00 AM the following mornings. Mayor McCarley said there is bus service available for both Friday and Saturdays; however, other accommodations are being made for transportation on Sunday's since there is no bus services available on that day.

Councilor Lachance asked what are the long-term goals and objectives for this facility. Mayor McCarley explained that the end goal is to purchase land/facility at the Strafford County complex, which would be a group effort on behalf of the tri-city mayors and the County. The idea would be to sell the current facility (owned by Dover) and to reach an agreement to purchase a piece of property at the complex. This would be an effort to establish a shelter, which includes resources/programs for those people in need of such services. There are no definitive plans as of yet. She said the ideal location would be somewhere at the County complex.

8. Presentation of Petitions and Council Correspondence

No Discussion.

9. Nominations, Appointments, Resignations, and Elections

9.1 Resignation: Susan Delemus, Zoning Board of Adjustments *consideration for approval*

Councilor Lachapelle **MOVED** to **ACCEPT** the resignation with regret. Councilor Walker seconded the motion. The **MOTION CARRIED** by a 13 to 0 roll call vote. Councilors Hamann, Walker, Hutchinson, Belken, Lachance, Abbott, Gray, Rice, Bogan, Hainey, Lachapelle Lauterborn, and Mayor McCarley voted in favor of the motion.

10. Reports of Committees

10.1 Codes and Ordinances

10.1.1 Committee Recommendation: to accept the amendments to Chapter 28 (Animals) of the City Ordinances as presented by City staff *consideration for approval*

Councilor Lachapelle **MOVED** to **ADOPT** the Amendment. Councilor

Walker seconded the motion. Councilor Lachapelle said most of the amendments under the Codes and Ordinances Committee are housekeeping items with no real substantial changes. The **MOTION CARRIED** by a 13 to 0 roll call vote. Councilors Belken, Gray, Hamann, Rice, Lauterborn, Hainey, Lachapelle, Hainey, Lachapelle, Hutchinson, Walker, Lachance, Abbott, Bogan, and Mayor McCarley voted in favor of the motion. The Amendment as adopted is as follows:

Amendment to Chapter 28 of the General Ordinances of the City of Rochester Regarding Sewers

THE CITY OF ROCHESTER ORDAINS:

That Chapter 28 of the General Ordinances of the City of Rochester and currently before the Rochester City Council, be amended as follows (deletions ~~struckout~~ additions in **RED**):

**Chapter 28
Animals**

[HISTORY: Adopted by the City of Rochester 6-6-1995 as § 28.3 and Ch. 29 of the 1995 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Parks, recreation and Arena — See Ch. **158**.

**§ 28-1 Animal Control Officer.
[Amended 8-5-1997]**

The Animal Control Officer shall be appointed by the City Manager in accordance with the provisions of Section 15 of the Rochester City Charter. The Animal Control Officer shall be sworn in by the Chief of Police as the Animal Control Officer. ~~The Animal Control Officer's salary shall be established by the Merit Plan adopted pursuant to Section 60 of the Rochester City Charter.~~

**§ 28-2 Powers and duties of Animal Control Officer.
[Amended 11-9-2004]**

The Animal Control Officer shall attend to all complaints pertaining to dogs and other animals, shall investigate and report on all damage caused by dogs and other animals, shall enforce the licensing laws, and shall enforce all other statutes which are violations, ordinances, and regulations pertaining to dogs

and other animals. The Animal Control Officer shall pick up and dispose of all dead **domestic** animals found upon public property. The Animal Control Officer shall have the power to issue complaints. ~~and make arrests in the performance of the Animal Control Officer's duties.~~

§ 28-3 Dogs running at large.

- A. No person shall permit any dog to run at large within the City of Rochester, except when such dog is engaged in hunting, herding, supervised competition and exhibition or training for such. This section shall apply to all public places and to all private property. Except as provided for herein, no person shall permit any dog to be out of doors off the owner's property unless said dog is on a leash held by a person able to control the dog.
- B. For the purposes of this section, the term "running at large" shall mean running without the property owned or otherwise controlled by the owner, while not on a leash held by a person able to control the dog.

**§ 28-4 Nuisances.
[Added 4-5-2011]**

- A. This section and any penalties established herein are adopted and/or imposed pursuant to the authority granted in RSA 466:39 and 47:17, II and XV.
- B. Under this section, an animal is considered to be a nuisance if: **[Amended 10-1-2019]**
 - (1) Any animal or bird causes noise for sustained periods of time more than 15 minutes, or during the night hours so as to disturb the peace and quiet of a neighborhood or area, not including a dog which is guarding, working, or herding livestock, as defined in RSA 21:34-a, II(a)(4).
- C. A person who is the owner, keeper, or person in control of an animal found to be a nuisance by reason of conduct contrary to the provisions of Subsection **B** above, and who fails to comply with an order to abate the nuisance caused by such animal, shall be guilty of a violation of this section and, after conviction, such person shall be subject to such penalties as are provided for in this chapter. **[Amended 3-5-2019]**

**§ 28-5 Removal of dog excrement.
[Amended 3-5-2019]**

It shall be unlawful for the owner or person in control of any dog to allow that dog to appear in any public place or upon the property of any other person unless said owner or person in control has in his/her possession a mechanical or other device for the removal of excrement, nor shall said owner or person in control fail to expeditiously remove any such excrement deposited by said dog in any such place. This section shall not apply to a blind person while walking his/her guide dog.

§ 28-6 Violations and penalties.
[Added 3-5-2019]

Unless otherwise provided, any person who violates any provision of this chapter shall be punished by a fine of not more than fifty dollars (\$50.)

10.1.2 Committee Recommendation: to accept the amendments to Chapter 149 (Nuisances) of the City Ordinances as presented by City staff *consideration for approval*

Councilor Gray requested that the Chair of the Committee summarize the proposed changes for the viewers at home listening. Councilor Lachapelle agreed to summarize the changes as much as possible. He noted that one change made at the committee level is not shown in the City Council packet. He said the fee of \$2 should have been deleted and he would make that correction as part of his motion. Councilor Lachapelle summarized the rest of the proposed changes, which are reflected below. He **MOVED** to **ADOPT** the Amendment as further amended by deleting the \$2 fee. Councilor Walker seconded the motion.

Councilor Gray said in Section 149-2 B the Police Department is specifically mentioned as "Law Enforcement"; however, the Fire Department is not mentioned at all. Councilor Gray asked if the ordinance should include language about the Fire Department and/or mutual aid. Attorney O'Rourke said if mutual aid is activated for any reason, those serving would be operating under the authority of the City's Fire Department. Attorney O'Rourke reiterated that the language was not needed for the Fire Department. The **MOTION CARRIED** by a 13 to 0 roll call vote. Councilors, Gray Walker, Belken, Bogan, Lachapelle, Hamann, Lauterborn, Hainey, Abbott, Rice, Hutchinson, Lachance, and Mayor McCarley voted in favor of the motion. The Amendment as adopted is as follows:

Amendment to Chapter 149 of the General Ordinances of the City of Rochester Regarding Nuisances

THE CITY OF ROCHESTER ORDAINS:

That Chapter 149 of the General Ordinances of the City of Rochester and currently before the Rochester City Council, be amended as follows (deletions ~~struckout~~ additions in RED):

Chapter 149 Nuisances

[HISTORY: Adopted by the City of Rochester 6-6-1995 as §§ 28.1, 28.2 and 28.4 of the 1995 Code. Amendments noted where applicable.]

§ 149-1 Burning of refuse and garbage.

The use of outdoor portable incinerators, drums, barrels or other containers for the burning of trash, garbage, or refuse is hereby prohibited within the limits of the City of Rochester. This section shall not be construed, nor is it intended, to exclude the use of outdoor fireplaces or portable charcoal cooking devices designed and used for cooking purposes.

§ 149-2 Noise; use of public address system.

- A. No person, partnership, association, or corporation shall use or operate or cause to be used or operated any mechanical device, machine, apparatus, or instrument for the reproduction, intensification or amplification of the human voice, music, or any sound or noise from any public or private place in such manner that the peace and good order of the neighborhood is disturbed or that persons owning, using or occupying property in the neighborhood are disturbed or annoyed.
- B. No person shall operate any sound or public address system upon the streets, lanes, alleys or sidewalks of the City without first securing a permit for the same from the Chief of Police. Such permit shall state the time, place, nature of the material to be broadcast, and such other details as the Chief of Police shall determine. ~~The fee for such permit shall be two dollars (\$2.).~~ This section shall not apply to law enforcement officers in performance of their duties.

§ 149-3 Violations and penalties.

Any person, partnership, association or corporation violating any of the provisions of this chapter shall be fined not more than one hundred dollars (\$100.) for each offense unless herein otherwise provided. (For state statute

relative to prevention and removal of nuisances, see RSA 147.)

10.1.3 Committee Recommendation: to accept the amendments to Chapter 167 (Peace and Good Order) of the City Ordinances as presented by City staff *consideration for approval*

Councilor Lachapelle summarized the changes as outlined in the proposed amendment below. Councilor Lachance asked for clarification about the deletion of **§ 167-1 Activities permissible on Sunday**. Councilor Walker said these were considered the old “Sunday blue laws”. Attorney O’Rourke agreed and said the language should be deleted, as such laws are outdated.

Councilor Lachapelle **MOVED** to **ADOPT** the Amendment. Councilor Walker seconded the motion. Councilors Lauterborn, Rice, Gray, Hainey, Abbott, Bogan, Hutchinson, Lachance, Hamann, Lachapelle, Walker, Belken, and Mayor McCarley voted in favor of the motion. The Amendment as adopted is as follows:

Amendment to Chapter 167 of the General Ordinances of the City of Rochester Regarding Sewers

THE CITY OF ROCHESTER ORDAINS:

That Chapter 167 of the General Ordinances of the City of Rochester and currently before the Rochester City Council, be amended as follows (deletions struckout additions in RED):

Chapter 167
Peace and Good Order

[HISTORY: Adopted by the City of Rochester 6-6-1995 as Ch. 24 of the 1995 Code. Amendments noted where applicable.]

Article I
Observances of Sundays

[Amended 2-7-2006]

~~**§ 167-1 Activities permissible on Sunday.**~~

~~It shall be lawful on Sunday to engage in play, games, sports, and exhibitions of physical skill, provided that peace and quiet are not unreasonably disturbed thereby. The City Council may regulate the time, manner and areas of such play, games and sports, to the end that no unreasonable disturbance of peace and quiet shall be caused thereby.~~

~~§ 167-2 License required.~~

~~No such play, game or sport shall be held without a license therefor from the City Licensing Board, if required.~~

~~§ 167-3 Motion pictures, lectures, concerts and theatricals.~~

~~It shall be lawful on Sunday to conduct motion pictures, lectures, concerts, theatricals and vaudeville performances, provided that no unreasonable disturbance of peace and quiet is caused thereby. The City Council may make regulations controlling such entertainments as do not now require to be licensed, to the end that nothing in this section shall be construed to permit without license any such entertainment now requiring a license.~~

~~§ 167-4 Retail establishments.~~

~~It shall be lawful on Sunday for any retail establishment to be open for business provided that no unreasonable disturbance of peace and quiet is caused thereby.~~

Article II

Miscellaneous Police Regulations

§ 167-5 Damaging streetlights.

No person shall willfully or mischievously injure in any way any lamppost or streetlight, and no person, except the authorized agents of the lighting company, the City Manager, Chief of Police, Fire Chief, and the persons acting under their authority, shall in any way interfere with any of said lights.

§ 167-6 Games and loitering on City parking lots.

No person, without the permission of the City Manager, shall throw, cast, catch, kick, play with, or strike any game ball whatsoever or engage in any sport, game or competition on any City-owned or -controlled parking lot, nor shall any person loiter in any City-owned or -controlled parking lot.

§ 167-7 Disturbing funeral processions.

No person shall willfully interrupt, interfere with, or in any way disturb a funeral assembly or procession.

§ 167-8 False alarms and tampering with fire alarm apparatus.

No person shall pull a false alarm, break a fire alarm key box glass or chain, or otherwise tamper with any fire alarm appurtenance or disfigure a fire alarm pole.

§ 167-9 Possession or consumption of liquor on City property.

A. No person shall consume any liquor or beverage or possess any open container thereof as defined by RSA 175:1 within the limits of any public land or public building owned or under the control of the City of Rochester except with the written permission of the City Manager, nor shall any person consume any liquor or beverage or possess any open container

thereof on any public street, highway, sidewalk, or municipal parking lot within the limits of the City of Rochester.

B. For state statute relative to alcoholic beverages, see RSA 176:11.

§ 167-10 Consumption of liquor on private property.

No person shall consume any liquor or beverage as defined by RSA 175:1 within the limits of any privately owned land or within the common area of any privately owned building without the permission of any owner or person in control thereof.

§ 167-11 Loitering on school property and Hanson Pines Recreation Area.

No person shall loiter on school property or the Hanson Pines Recreation Area before, during, or after school hours. For purposes of this section and other related sections of this Code, "loitering" shall be as defined in RSA 644:6 as presently enacted or amended in the future.

§ 167-12 Violations and penalties.

Any person, partnership, association or corporation violating any of the provisions of this article shall be fined not more than one hundred dollars (\$100.) for each offense unless herein otherwise provided.

**Article III
Use of Air Rifles**

§ 167-13 Use in compact part of City.

No person shall, within the compact part of the City of Rochester, fire or discharge an air rifle/pistol. The compact part of the City shall be that part of the City zoned other than agricultural.

§ 167-14 Violations and penalties.

Any person violating any provision of this article shall be punished by a fine not to exceed one hundred dollars (\$100.).

**Article IV
Overnight Parking or Camping on City-Owned Property**

[Added 3-6-2018 (Ch. 45 of the 1995 Code)]

§ 167-15 Authority.

In accordance with and under the authority of New Hampshire Revised Statutes Annotated 41:11, 41:11-a and 47:17, the City Council of the City of Rochester hereby adopts the following ordinance for the regulation of overnight parking or camping on all City-owned property.

§ 167-16 Purpose.

This purpose of this article is to protect the public peace, preserve public law and order, promote safety and welfare and ensure proper and decent conduct for the residents of the City of Rochester and the general public in the use of

City-owned properties.

§ 167-17 Acts prohibited.

From and after the effective date of this article it shall be unlawful for any person to camp, or to park, with occupancy by one or more persons, any vehicle or recreational vehicle, either overnight or for any two-hour period between dusk and dawn, on any City-owned lands within the City of Rochester.

§ 167-18 Definitions.

As used in this article, the following terms have the meanings indicated:

CAMP

Includes pitching a tent, placing or erecting any other camping device, or sleeping in or on the City-owned property.

CITY-OWNED PROPERTY

All properties owned by the City of Rochester.

RECREATIONAL VEHICLE

Any vehicle fitting the definition in RSA 216-I:1, VIII.

§ 167-19 Exceptions.

Restrictions in this article shall not apply:

- A. When permission has been granted by the Chief of Police or designee for official or emergency purposes.
- B. When permission has been granted by the City Manager or Chief of Police in conjunction with a performance at the Rochester Opera House or with a written special event permit.

§ 167-20 Responsibility.

All violations of parking restrictions and charges accompanied therewith shall be deemed the responsibility of the registered owner of said vehicle. Such registrations may be proven as set forth in RSA 261:60. Said registered owner shall be conclusively presumed to be in control of the vehicle at the time of the parking violation, and no evidence of actual control or culpability needs to be proven as an element of the offense in accordance with RSA 231:132-a.

§ 167-21 Removal of vehicle.

Any vehicle parked in violation of this article may be ordered towed by the Rochester Police Department at the expense of the owner or custodian of said vehicle.

§ 167-22 Violations and penalties.

- A. Any person who violates this article shall be guilty of a violation and shall be fined one hundred dollars (\$100.).
- B. Any duly appointed police officer for the City of Rochester may enforce this article by utilizing any process authorized by state law, including but not limited to a local ordinance citation pursuant to RSA 31:39-d and Chapter **54**, Citations, of the City of Rochester Code.
- C. All penalties collected for violations of this article shall be for the use of the City and deposited into the City's general fund.

§ 167-23 Severability.

The provisions of this article are declared to be severable, and if any section, subsection, sentence, clause or part thereof is, for any reason, held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of any remaining sections, subsections, sentences, clauses or parts of this article.

**Article V
Drop-off Bins**

[Added 10-1-2019]

§ 167-24 Definitions.

As used in this article, the following terms shall have the meanings indicated:

CODE OFFICIAL

The Director of Building, Zoning, and Licensing Services, the Code Compliance Officer or any duly authorized representative who is charged with the administration and enforcement of this chapter.

DROP-OFF BIN

Any receptacle or container located outside of an enclosed building and designed, intended or used for collection and temporary storage of donated items or materials, including, but not limited to, clothing, shoes, books, toys, furniture, household materials and other like items. Drop-off bins are also known as donation collection bins/boxes, charity bins/boxes, clothing bins/boxes, clothing donation containers, or any combination thereof.

OWNER

A person, association, corporation, partnership, or other legal entity having a legal or equitable title in real property.

PREMISES

A lot, plot or parcel of land, including any structures thereon.

STRUCTURE

That which is built or constructed or a portion thereof.

§ 167-25 Licenses and permits requirements.

Whether for the owner of the premises or the person who has obtained the written permission of the owner, the fee to obtain the initial license to own, install, operate, or use a drop-off bin is twenty-five dollars (\$25.), which must be tendered at the time of license application. Such license may be annually renewed on or before the anniversary date of the application for an annual renewal fee of twenty-five dollars (\$25.). Regardless of the number of drop-off bins owned, installed, operated, or used by a license applicant, the applicant shall only pay one annual license fee. The initial permit fee for a drop-off bin is ten dollars (\$10.) per bin, payable at the time of application for the license. The annual renewal fee for each drop-off bin permit is ten dollars (\$10.), payable on or before the anniversary date of the initial application. Each drop-off bin shall display its current permit at all times.

§ 167-26 Company type and bin labels.

To best inform the public and potential donors, bins shall be labeled according to company type as follows:

- A. Shall have a label or appended sign that states "PLEASE REPORT ANY OVERFLOW OF ITEMS, DAMAGE, OR MALFUNCTION TO [PERMIT HOLDER'S NAME] AT [PERMIT HOLDER'S TELEPHONE NUMBER] OR TO THE DIRECTOR OF BUILDING, ZONING, AND LICENSING SERVICES AT [TELEPHONE NUMBER DESIGNATED BY DIRECTOR]." Such label or appended sign shall be in lettering no less than three inches in height and no less than one-half inch in width; and
- B. If none of the proceeds from the sale of the items collected in the drop-off bin will be given to a "charitable organization," as that term is defined in RSA 72:23-I, there shall be a label or sign permanently attached to the drop-off bin which identifies the permit holder's name and address and states: "DONATIONS ARE NOT FOR CHARITABLE PURPOSES AND WILL BE SOLD FOR PROFIT. DONATIONS ARE NOT TAX DEDUCTIBLE." Said label or appended sign shall be prominently displayed on the receptacle in the largest lettering on the receptacle or appended sign, but said lettering shall be no less than three inches in height and no less than one-half inch in width; or
- C. If 100% of the items, or the proceeds from the sale of the items, collected in the drop-off bin will be used for the benefit of a "charitable organization," as that term is defined in RSA 72:23-I, there shall be a label or sign permanently attached to the drop-off bin that identifies, at least, the legal name of the charitable organization receiving the benefit of the donated items, as it appears on the certificate of registration issued to the

charitable organization by the New Hampshire Attorney General's Charitable Trust Unit in the largest lettering on the drop-off bin or appended sign, but said lettering shall be no less than three inches in height and no less than one-half inch in width; or

- D. If a professional solicitor owns, installs, operates, or uses a drop-off bin pursuant to a contractual arrangement with a charitable organization whereby the professional solicitor receives either a flat fee or a percentage of the proceeds from the sale of the donated items, have a label or sign permanently attached to the drop-off bin which states: "SOLICITATIONS FOR DONATIONS ARE MADE BY (NAME OF PROFESSIONAL SOLICITOR) ON BEHALF OF (NAME OF CHARITABLE ORGANIZATION). DONATIONS WILL BE SOLD FOR PROFIT BY (NAME OF PROFESSIONAL SOLICITOR)." Said label or appended sign shall be prominently displayed on the donation drop-off bin in the largest lettering thereon, but said lettering shall be no less than three inches in height and not less than one-half inch in width; and
- E. Shall be placed only on premises commercially used by an established business or on church property, and drop-off bins shall not be permitted in any Residential Zone or in the Downtown Commercial Zone.

§ 167-27 Application requirements: company licenses and bin permits.

Any party seeking to obtain the requisite license to operate drop-off bins and permits for each drop-off bin shall submit a written application to the Director of BZLS upon a form provided by the Director. The application shall require the following information:

- A. The name, physical address (no PO boxes), telephone number, and electronic mail address of the applicant; and
- B. A photograph of the drop-off bin and the proposed location for which a permit is sought. If the application is for more than one location, the applicant may submit a single application with a list of preferred locations and only one photograph of the type of drop-off bin to be used unless different types of bins will be used at different locations. In the event the applicant is using different types of bins at different locations, a photograph of each type of bin must be submitted; and
- C. Whether the applicant would prefer to receive notice and orders by regular mail or electronic mail; and
- D. The signature of the applicant; and
- E. The required license and permit fees; and

- F. If placed on property not owned or leased by the operator of the drop-off bin, a written agreement with the owner of each premises where a bin is to be located which evidences the agreement of the owner(s) to the placement of a drop-off bin on the property. The applicant shall also provide a certificate of liability insurance in an amount not less than \$500,000 showing each owner of the premises where a bin is located as an additional insured; and
- G. A maintenance agreement on the form provided from the Director wherein the applicant affirms that each drop-off bin location will be monitored on a daily basis, emptied no less than twice every calendar week, except in the event of a declared weather emergency by the National Weather Service or other natural disaster, and no overflow of items from the bin shall remain on the ground for more than 24 hours after actual or constructive notice of said overflow.
- H. The information supplied pursuant to this section shall be used for all notices, correspondence, or communications from the Director.
- I. Currently operated drop-off bins do not enjoy grandfathered status and must comply with all the requirements of this article.

§ 167-28 Bin placement.

- A. Drop-off bin(s) shall be located on a hard and durable surface such as asphalt, concrete, aggregate, crushed rock and the like, and all ingress and egress from each bin shall also be of a similar surface. In no event shall the placement of a drop-off bin or any means of ingress or egress be composed of sod, dirt, sand, or similar porous material. All drop-off bins shall be located on the designated premises so as not to interfere with sight triangles, on-site circulation of vehicular or pedestrian traffic, required setbacks, parking, landscaping, and all other applicable requirements imposed on the property as part of any governmental approval, including any zoning requirement;
- B. The placement of drop-off bins shall be restricted to an area within 75 feet from any wall of the largest permanent building on the premises or against a well-lit exterior wall of such building;
- C. A drop-off bin shall not be within a 1,000-foot radius of any other drop-off bin operated by the same licensee;
- D. Drop-off bins shall not be larger than six feet high by six feet wide by five feet deep;
- E. Drop-off bins shall be enclosed and operate by use of a securely locked

receiving door so that the contents of the bin may not be accessed by anyone other than those persons authorized by the licensee to collect the contents.

§ 167-29 Bin maintenance.

- A. The drop-off bin must be regularly emptied, no less than twice every calendar week, to prevent overflow of clothing or other items that may be strewn about the premises. No overflow of items from a bin shall remain on the ground for more than 24 hours after actual or constructive notice of said overflow;
- B. Any person found illegally dumping at a drop-off bin shall be guilty of a misdemeanor pursuant to RSA 163-B:3 and will be subject to the penalties set forth in RSA 163-B:4.
- C. Any graffiti placed on the drop-off bin must be removed within 72 hours following notice of its existence. However, within the 72 hours, the owner has the option to notify the Director in writing of the owner's intent to replace the drop-off bin within five days and along with said written notice submits a photograph of the new drop-off bin.
- D. If a drop-off bin is damaged to the extent the locking mechanism or receiving door has been compromised or one of its sides has been breached, it shall be repaired, replaced or removed within five days of receipt after notice of such damage from the Director unless the Director determines the damage is such that the drop-off bin constitutes a danger to persons or property, in which case it shall be made safe or removed within 24 hours of notice of said condition.

§ 167-30 Violations.

Any violation of the provisions of this article or any order of the Director or the Code Compliance Officer related thereto are subject to citation and the civil penalties set forth in RSA 47:17 and Code § 54-3.

10.1.4 Committee Recommendation: to accept the amendments to Chapter 254 (Vehicles & Traffic) of the City Ordinances as presented by City staff *consideration for approval*

Councilor Lachapelle summarized the changes as outlined in the proposed ordinance below. He indicated that currently, roller blades, roller skates, and skateboards are restricted from sidewalks in the downtown area; however, this amendment would prohibit such skates/boards from any sidewalks in the entire City. A discussion ensued about permitting skateboards on sidewalks and if it was an enforceable ordinance or not. Chief Toussaint

said that it is an existing ordinance for the downtown area and that it is, in fact, an enforceable law. This amendment would expand that restricted activity to include the rest of the City. He indicated that his Department was tasked with reviewing this portion of the ordinance to make appropriate recommendations. He felt this was a valid proposal; however, it is ultimately the decision of the City Council to accept the proposed changes. Councilor Hutchinson did not agree with having children ride their rollerblades, roller skates, or skateboards on the streets rather than the sidewalks. A discussion ensued about Segway's and other motorized recreational vehicles.

Councilor Lachance asked if motorized wheelchairs are restricted on sidewalks. Chief Toussaint replied no. A person operating a motorized wheelchair can travel wherever any handicapped person is able/permitted to travel.

A brief discussion ensued about Section § 254-27 Unattended vehicles and whether or not it was an enforceable law.

Councilor Lachapelle **MOVED** to **ADOPT** the ordinance amendment. Councilor Walker seconded the motion.

Councilor Gray **MOVED** to **DIVIDE** the question by removing the proposed amendment to § 254-7 Use of bicycles, roller blades, roller skates and skateboards. Councilor Lachance seconded the motion. Mayor McCarley called for a vote to divide the question. The **MOTION CARRIED** by a 12 to 1 roll call vote. Councilors Abbott, Walker, Hutchinson, Belken, Lachance, Hamann, Gray, Rice, Bogan, Hainey, Lauterborn, and Mayor McCarley voted in favor of the motion. Councilor Lachapelle voted against the motion.

Mayor McCarley stated that the proposed amendment to § 254-27 has been removed from the original amendment. She called for a vote on the question to adopt the rest of the proposed amendments as follows:

**Amendment to Chapter 254 of the General Ordinances
of the City of Rochester Regarding Vehicles and Traffic**

THE CITY OF ROCHESTER ORDAINS:

That Chapter 254 of the General Ordinances of the City of Rochester and currently before the Rochester City Council, be amended as follows (deletions ~~struckout~~ additions in **RED**):

Chapter 254

Vehicles and Traffic

[HISTORY: Adopted by the City of Rochester 6-6-1995 as Ch. 60 to Ch. 66 of the 1995 Code. Amendments noted where applicable.]

Article I Definitions

§ 254-1 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ABANDONED VEHICLE

For the purposes of this chapter only, an abandoned vehicle is one that is parked in violation of any provisions of this chapter for a period of time greater than 24 hours.

CROSSWALK

- A. That portion of the roadway ordinarily included within the prolongation or connection of the lateral lines of sidewalks at intersections.
- B. Any portion of the roadway distinctly indicated for pedestrian crossing by lines or other markings on the surface.

DISTRICTS

- A. **BUSINESS DISTRICT** The territory contiguous to a highway when 50% or more of the frontage thereon for a distance of 300 feet or more is mainly occupied by dwellings or by dwellings and buildings in use for business.
- B. **URBAN RESIDENCE DISTRICT** The territory contiguous to a highway not comprising a business district when the frontage on such highway for a distance of 300 feet or more is mainly occupied by dwellings or by dwellings and buildings in use for business.
- C. **RURAL RESIDENCE DISTRICT** The territory contiguous to a highway not comprising a business or urban residence district when the frontage on such highway for a distance of 1/2 mile or more is mainly occupied by dwellings or by dwellings and buildings in use for business on any one side.

FIRE LANE

The portion of a traveled way established on private property devoted to public use, where the parking of motor vehicles or other obstructions may interfere with the ingress and egress of Fire Department or other emergency vehicles for the protection of persons and property, such as at shopping centers, bowling lanes, theaters, hospitals, churches and similar

locations.

INTERSECTION

The area bounded by the prolongation of the lateral curblines or the lateral boundary lines of two highways.

OFFICIAL TIME

Time designated herein shall be standard or daylight, whichever shall be in force.

PERSON, DRIVER and PEDESTRIAN

- A. **PERSON** Every natural person, firm, partnership, association or corporation.
- B. **DRIVER** Every person who drives or is in physical control of a vehicle.
- C. **PEDESTRIAN** A person on foot.

POLICE OFFICER

An officer of the Municipal Police Department or any person authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

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

RAILROADS

- A. **RAILROAD** A carrier of persons or property upon cars operated upon stationary rails.
- B. **RAILROAD TRAIN** A steam engine, electric, diesel or other motor, with or without cars coupled thereto, operated upon rails.

RIGHT-OF-WAY

The privilege of the immediate use of the road.

SAFETY ZONE

The area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

TRAFFIC

Pedestrians, draft animals, cattle, sheep, goats, vehicles and other conveyances while using the street for the purpose of travel.

TRAFFIC CONTROL DEVICES

- A. All signs, signals, markings and devices not inconsistent with these regulations erected pursuant to competent authority for the purpose of regulating, warning or guiding traffic.
- B. Traffic signals, mechanically or electrically operated, by which traffic is alternatively directed to stop and proceed, erected pursuant to competent authority.

TRAFFIC MOVEMENTS

- A. **STOP** When required, means complete cessation of movement.
- B. **STOP or STOPPING** When prohibited, means any stopping of a vehicle except when necessary to avoid conflict with other traffic or in compliance with the direction of a police officer or traffic control sign or signal.
- C. **STANDING** Any stopped vehicle, whether occupied or not.
- D. **PARK** The standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading.
- E. **TURN**— The turning of a vehicle from its original direction to the opposite direction; the turning from one side of the street to the other for the purpose of parking.
- F. **YIELD RIGHT-OF-WAY** When required, means slowing down, stopping if necessary, to allow vehicles using the street being approached to have the right-of-way.

TRAVELED WAYS

- A. **STREET or HIGHWAY** The entire width between boundary lines of every way or place of whatever nature used by the members of the public for the purpose of vehicular traffic.
- B. **PRIVATE ROAD or DRIVEWAY** Every way or place in private ownership and used for vehicular traffic by the owner and those having express or implied permission from the owner.
- C. **ROADWAY** That portion of the street improved, designed or ordinarily used for vehicular traffic.
- D. **CURB** The lateral boundaries of that portion of the street improved, designed or ordinarily used for vehicular travel whether defined by a curbstone or not.

- E. **SIDEWALK** That portion of the street between the curblines and adjacent property lines intended for pedestrian use.
- F. **ALLEY** A public, narrow passage or way between buildings within the compact area of the City.
- G. **PARKING LOT** Every parking area in public or private ownership used for parking of motor vehicles by the owner and those having express or implied permission from the owner.

VEHICLES

- A. **VEHICLES** Every device in, upon or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively upon stationary rails or tracks.
- B. **MOTOR VEHICLE** Every vehicle that is self-propelled.
- C. **AUTHORIZED EMERGENCY VEHICLES** Fire and Police Department vehicles and such other vehicles as are designated as such by the Director of the Division of Motor Vehicles or the City Council of Rochester, New Hampshire.

WEEKDAY

For the purposes of Article **III** only, weekday shall mean Monday, Tuesday, Wednesday, Thursday, Friday and Saturday.

Article II Operation of Motor Vehicles

§ 254-2 One-way streets.

Vehicular traffic shall move only in the indicated direction when signs indicating the direction of traffic are erected and maintained at every intersection where movement in the opposite direction is prohibited.

§ 254-3 Driving through and passing processions.

No driver of a vehicle shall drive between the vehicles comprising a funeral or other procession in motion or pass any such procession unless so directed by a person in charge of said procession or a police officer.

§ 254-4 Funeral or other processions.

- A. A funeral composed of a procession of vehicles shall be identified as such by the display upon the outside of each vehicle of a pennant of a type approved by the Chief of Police.
- B. Each driver in a funeral or other procession shall drive as near to the right-

hand side of the roadway as practical and follow the vehicle ahead as close as is practical and safe.

- C. No person shall willfully interrupt, interfere, or in any way disturb a funeral assembly or procession.

§ 254-5 U-turn prohibited on designated streets.

The driver of a vehicle shall not make a U-turn upon any street when a sign is posted indicating no U-turn is allowed and shall not make a U-turn on any other street unless such movement can be made in safety and without interfering with other traffic.

§ 254-6 Limitations on backing and movement from parked position.

- A. The driver of a vehicle shall not back the same into an intersection.
- B. The driver of a vehicle shall not back over a crosswalk except where such crosswalk is immediately adjacent to authorized parking areas and then only when such movement can be made in safety and without interfering with pedestrian traffic.

§ 254-7 Use of bicycles, roller blades, roller skates and skateboards.

- A. All bicycles shall be ridden in accordance with the New Hampshire Revised Statutes Annotated.
- B. Roller blades, roller skates, and skateboards are prohibited on sidewalks, parks, and parking lots of the main downtown area and the central business districts of Gonic and East Rochester. The Chief of Police shall establish and publish the boundaries of each such central business district.

§ 254-8 Unnecessary noise.

No person shall operate any vehicle on any traveled way so as to make any loud, unusual or other unnecessary noise as hereinafter defined.

§ 254-9 Misuse of power.

No person shall operate any vehicle on any traveled way so as to misuse the power of that vehicle as hereinafter defined.

§ 254-10 Definitions.

The words "loud, unusual, or other unnecessary noise" or "misuse of power" whenever used in this article shall include any noise or misuse of power occasioned by any one or more of the following actions of the operator of any vehicle:

- A. Misuse of power: exceeding tire traction limits in acceleration, sometimes known as "laying down rubber," "peeling rubber" or "fishtailing";

- B. Misuse of braking power exceeding tire traction limits in deceleration where there is no emergency;
- C. Rapid acceleration by means of quick shifting of transmission gears with either a clutch and manual transmission or automatic transmission;
- D. Rapid deceleration by means of quick downshifting of transmission gears with either a clutch and manual transmission or automatic transmission;
- E. Racing of engines by manipulation of the accelerator, gas pedal, carburetor, or gear selector, whether the vehicle is either in motion or standing still; or
- F. The blowing of any horn except as a warning signal or the use of any siren or any other noise-making device, whether the vehicle is either in motion or standing still; provided, however, that the use of a siren or other device on an emergency vehicle shall not be construed as a violation of this chapter.

§ 254-11 Motor vehicles on park, recreation area and school property.

The use of all motor vehicles, including but not limited to motorcycles and off-road vehicles, is prohibited on City parks, recreation areas, and all school property except for designated parking lots unless special permission has been granted by the City Manager for organized activities.

§ 254-12 Commercial vehicle and truck travel restricted.

[Amended 4-7-1998]

When signs are erected giving notice thereof, including any applicable vehicle weight limitations and/or restrictions upon any classification of vehicles recognized by the State and/or Federal Department of Transportation or Interstate Commerce Commission, streets or parts of streets shall be restricted to vehicles complying with such vehicular weight limitations and/or restrictions; provided, however, that if signs are erected restricting a street, or part thereof, with a sign stating merely "No Through Truck Traffic," or similar designation, without further elaboration, then such street, or part of such street, shall be restricted to pleasure vehicles only with a gross vehicle weight under ~~6,000~~ 10,000 pounds. All commercial vehicles, including but not limited to trucks, failing to comply with such vehicular weight limitations or restrictions are expressly prohibited from using such streets. These restrictions shall not apply to vehicles making deliveries to residences or businesses on said streets, to City-owned vehicles, or to drivers traveling to their own residences on said street. Drivers traveling to their own residences shall not park said vehicles on any portion of the City street or right-of-way.

Article III
Stopping, Standing and Parking

§ 254-13 Parking prohibited in certain places.

No person shall park any vehicle upon a street or alley in such a manner or under such conditions as to leave available less than 12 feet of the width of the roadway for free movement of vehicular traffic.

§ 254-14 Winter all-night parking prohibited.
[Amended 12-6-2005]

- A. Between November 1 and May 1 no person shall park any vehicle in any municipal parking lot or on any public street when a snow emergency has been declared by the City of Rochester Commissioner of Public Works or his/her designee. In declaring a snow emergency, the City shall notify the local media and use other means that may be appropriate to alert the public not less than six hours prior to such emergency taking effect. When called, such emergency shall remain in force until such time as declared by the Commissioner or his/her designee.
- B. The Police Chief, after consultation with the Commissioner of Public Works, may grant specific exceptions to Subsection **A** above in designated areas of any municipal parking lot or on any particular public street when a snow emergency has been declared.

§ 254-15 City-owned parking lots.
[Amended 12-6-2005]

There shall be free parking in marked areas in all City-owned parking lots. Any vehicle left for a period of 24 hours or more shall be towed to a public garage for storage at the owner's risk and expense. It shall be unlawful to park or leave standing any motor vehicle in an unmarked area of any municipal parking lot for any purpose except loading or unloading.

§ 254-16 Parking prohibited during certain hours in designated places.
When signs are erected giving notice thereof, no person shall park a vehicle between the hours designated thereon, on any day, upon any street so marked by signs.

§ 254-17 Parking time limited in designated places.

- A. When signs are erected giving notice thereof, no person shall park a vehicle for longer than the time stated on such signs.

- B. The application of time restrictions as described in the foregoing subsection shall mean that no driver of a vehicle shall be permitted to park within any one limited area for more than the time allowed in that area, on any one day, whether such time is used in a single period of parking or accumulated in two or more periods.
- C. Exception. The Chief of Police may permit plumbers, electricians or other contractors to park or leave standing vehicles in front of buildings for a longer period of time than is provided for in this chapter provided it is essential for the work being carried on in said building.

§ 254-18 Bus and taxicab stands.

- A. The driver of a bus or taxicab shall not park upon any street at any place other than a bus stop or taxicab stand, respectively, for the purpose of inviting or soliciting business or while in the act of inviting or soliciting business.
- B. No person shall park a vehicle other than a bus in a bus stand, or other than a taxicab in a taxicab stand, when such stand has been officially designated.

§ 254-19 Unlawful parking.

No person shall park a vehicle upon any roadway for the principal purpose of:

- A. Displaying it for sale.
- B. Washing, greasing, or repairing such vehicle except repairs of an emergency nature.

§ 254-20 Using vehicles for primary purpose of advertising.

No person shall park on any street a vehicle for the primary purpose of advertising, except upon written permit from the Chief of Police.

§ 254-21 Emergency restrictions on parking.

The Chief of Police may restrict or prohibit parking or travel on any public street whenever the ordinary uses of the same become hazardous because of snow accumulation, existence of some emergency condition, or to facilitate the removal of snow or other hazards. Said restriction or prohibition shall be effective when suitable signs have been erected at intervals of not more than 100 feet.

§ 254-22 Fire lanes.

When signs are erected and the road surface is clearly marked giving notice

thereof, no person shall park a vehicle at any time upon any way marked as a fire lane.

§ 254-23 Loading zones.

The Chief of Police may establish loading and unloading zones which shall be marked by appropriate signs. It shall be unlawful for the owner of any vehicle or any person having custody of any vehicle to park said vehicle or permit the same to be parked in any zone designated as a loading zone unless actually engaged in loading or unloading.

§ 254-24 Parking within lines.

All parking of motor vehicles upon City streets or parking lots shall be within the marks placed upon the streets which indicate the place and manner for parking.

§ 254-25 Stopping, standing or parking prohibited in specified places.

Except when necessary to avoid conflict with other traffic, or in compliance with law or the directions of a police officer or official traffic control device, no person, except a person driving an emergency vehicle, shall:

A. Stop, stand or park a vehicle:

- (1) On a roadway side of any vehicle stopped or parked at the edge or curb of a street.
- (2) On a sidewalk.
- (3) Within an intersection.
- (4) On a crosswalk.
- (5) Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic.
- (6) Upon any bridge or other elevated structure upon a way or within a highway tunnel.
- (7) On any railroad tracks.
- (8) At any place where official signs prohibit stopping.
- (9) In any parking place, whether on public or private property, specially designated for a person with a walking disability by means of a sign as required by RSA 265:73-a stating that the space is reserved for a person with a walking disability or displaying the international accessibility symbol, unless that person has special number plates, decals, or a card issued pursuant to RSA 261:86, 261:87, or 261:88, or a similar license plate, decal, or card issued by another state or country displaying the international accessibility symbol and the person who qualifies for the plate, decal, or card is being transported to or from the parking place.
- (10) On any controlled access highway.
- (11) In the area between roadways of a divided highway, including crossovers.

B. Stand or park a vehicle, whether occupied or not, except momentarily to pick up or discharge a passenger or passengers:

- (1) In front of a public or private driveway.
- (2) Within 15 feet of a fire hydrant.
- (3) Within 30 feet upon the approach to any flashing signal, stop sign, or traffic control signal located at the side of a roadway.
- (4) Within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of said entrance when properly signposted.
- (5) At any place where official signs prohibit standing.

C. Park a vehicle, whether occupied or not, except temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers:

- (1) At any place where official signs prohibit parking. No person shall move a vehicle not lawfully under his/her control into any such prohibited area or away from a curb such a distance as is unlawful.

§ 254-26 Stopping, standing or parking outside business or residence districts.

A. Upon any way outside of a business or residence district no person shall stop, park or leave standing any vehicle, whether attended or unattended, upon the paved or main traveled part of the way when it is practicable to stop, park or leave such vehicle off such part of said way, but in every event an unobstructed width of the way opposite a standing vehicle shall be left for the free passage of other vehicles and clear view of such stopped vehicles shall be available from a distance of 200 feet in each direction upon such way.

B. This section shall not apply to the driver of any vehicle which is disabled while on the paved or main traveled portion of a way in such manner and to such extent that it is impossible to avoid stopping and temporarily leaving such disabled vehicle in such position.

§ 254-27 Unattended vehicle.

No person driving or in charge of a vehicle shall permit it to stand unattended without first stopping the engine, locking the ignition, removing the key, and effectively setting the brake thereon and, when standing upon any grade, turning the front wheels to the curb of the way. **Unless a vehicle has been started by remote control car starter, the doors shall remain locked until the operator is at the vehicle.**

§ 254-28 Additional parking regulations.

- A. Except as otherwise provided in this section, every vehicle stopped or parked upon a roadway where there are adjacent curbs shall be so stopped or parked with the right-hand wheels of such vehicle parallel to the right-hand curb, or, if upon a roadway where there are no curbs, said vehicle shall be so stopped or parked with the right-hand wheels of such vehicle parallel to the right-hand side of the traveled portion of the way.
- B. Except when otherwise provided by local ordinance, every vehicle stopped or parked upon a one-way roadway shall be so stopped or parked parallel to the curb or edge of the roadway, in the direction of authorized traffic movement, with its right-hand wheels within 12 inches of the right-hand curb or edge of the roadway, or its left-hand wheels within 12 inches of the left-hand curb or edge of the roadway.
- C. The City Council may by ordinance permit angle parking on any roadway, except that angle parking shall not be permitted on any federal aid or state way unless authorized by the Commissioner of Transportation.

§ 254-29 Free parking for disabled persons and for official purposes.

Any motor vehicle carrying special number plates issued to paraplegic, amputee, or blind war veterans pursuant to RSA 261:86 and 261:87, and any motor vehicle used for a purpose, or by a person, designated by a City Council or town meeting, shall be allowed free parking time in the City of Rochester so long as said motor vehicle is under the direct control of the owner. The provisions of this section shall apply to a veteran who suffers a disability incurred in or aggravated by such service, upon satisfactory proof that the veteran has been evaluated by the United States Veterans Administration to be permanently and totally disabled from such service-connected disability.

§ 254-30 Yeagley Way student parking.**[Amended 9-2-1997; 6-5-2001]**

Thirty-five marked parking spaces shall be designated for student parking only on Yeagley Way between Wakefield Street and the Technology Center. During normal school hours when school is in session, the Rochester School Department shall have full authority to control said 35 spaces which shall be subject to the requirements of the School Department's permit and enforcement system.

§ 254-31 Columbus Avenue parking lot permit parking.**[Amended 4-2-2002]**

The parking lot constructed along Columbus Avenue beginning near its intersection with Winter Street and extending to, and abutting, Lot 319 on

Rochester Tax Map 120 is intended, in part, to facilitate the effective use of Lot 1 on Rochester Tax Map 125. This lot, in whole or in part, as recommended by the Chief of Police and with the approval of the City Manager, shall be designated "Permit Parking Only" during certain designated hours and on certain designated days. When signs are erected giving notice thereof, no person without an authorized permit shall park in any parking space designated for "Permit Parking Only" during the hours and/or on the days indicated on such signs. Except with respect to spaces designated for "Permit Parking Only" the use of this parking lot shall be governed by the provisions of § **254-15** hereof.

Article IV **Rights and Duties of Pedestrians**

§ 254-32 Pedestrians crossing street in urban area.

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

Article V **Enforcement**

§ 254-33 Duty of Police Department.

It shall be the duty of the Police Department of this City to enforce the provisions of these regulations. Officers of the Police Department are hereby authorized to direct all traffic either in person or by means of visible or audible signals in conformance with these regulations, provided that in the event of fire or other emergency or to expedite traffic or safeguard pedestrians, officers of the Police Department may direct traffic, as conditions may require, notwithstanding the provisions of these regulations.

§ 254-34 Required obedience to traffic regulations.

It is a violation for any person to do any act forbidden or fail to perform any act required by these regulations.

§ 254-35 Obedience to police.

No person shall fail or refuse to comply with any lawful order or direction of a police officer.

§ 254-36 Public employees to obey traffic regulations.

The provisions of these regulations shall apply to the driver of any vehicle owned or used by the United States Government, the State of New Hampshire, or any political subdivision of said state and it shall be unlawful for any said driver to violate any of the provisions of these regulations, except as otherwise permitted by law or these regulations.

§ 254-37 Exemption of authorized emergency vehicles.

A. The provisions of these regulations governing the operation, parking and standing of a vehicle shall apply to authorized emergency vehicles as defined in these regulations except as follows: a driver when operating such vehicle in an emergency, except when otherwise directed by a police officer, may:

- (1) Park or stand notwithstanding the provisions of these regulations.
- (2) Proceed past a red stop signal or stop sign, but only after slowing down as may be necessary for safe operation.
- (3) Disregard regulations governing direction of movement or turning in specific directions so long as persons and property are not thereby endangered.

B. The foregoing exemptions shall not protect the driver of any such vehicle from the consequence of disregard for the safety of others.

§ 254-38 Persons subject to traffic regulations.

Every person propelling a push cart or riding a bicycle or any animal upon a roadway and every person driving an animal-drawn vehicle shall be subject to the provisions of these regulations whenever applicable.

**Article VI
Penalties**

§ 254-39 Violations and penalties.

[Amended 5-1-2007; 3-5-2019]

Except as otherwise provided herein, a person violating any provision of Articles **I** through **VIII** of this chapter shall be punished by a fine of not more than two hundred fifty dollars (\$250.) for each offense, except that the optional procedures set forth in § **254-42** may be used in lieu of court proceedings for violations of Article **III**.

§ 254-40 Owner responsibility for illegal parking.

A person shall not allow, permit or suffer a vehicle registered in his/her name to stand or park in violation of any of the ordinances of this City controlling the standing or parking of vehicles, and the owner or person in whose name such vehicle is registered shall be held as prima facie responsible for such violation.

§ 254-41 Notice of violation.

A police officer observing a violation of any of the provisions of Article **III** shall attach to the vehicle a notice to the operator or owner that the vehicle has been parked in violation of Article **III** and instructing the operator or owner to report at police headquarters. The notice shall contain:

- A. Location. The location where the vehicle is parked.
- B. Registration number of vehicle. The state registration number of such vehicle.
- C. Time of violation. The time at which such vehicle is parked in violation of any of the provisions of these ordinances.
- D. Any other facts. Any other facts, a knowledge of which is necessary to a thorough understanding of the circumstances attending such violation.

§ 254-42 Procedure in paying penalties.**[Amended 5-1-2007]**

- A. The operator or owner may, within 10 working days of the time when a notice of violation of Article **III** was attached to the vehicle, pay to the Police Department the sum of fifteen dollars (\$15.) as a penalty and in lieu of court proceedings. Failure by the operator or owner to make such payment within 10 working days may result in the issuance of a summons to the operator or owner to appear in court to answer to charges of violating Article **III**. The Chief of Police may authorize, at any time before a court summons has been issued, but after the expiration of the ten-working-day period, the acceptance of a voluntary payment of twenty-five dollars (\$25.) as a penalty in full satisfaction of the violation.
- B. Notwithstanding the provisions of Subsection **A** of this section, an operator or owner of a vehicle to which a notice of violation of the provisions of § **254-29** was attached may, within five working days of the time when the notice of violation of said § **254-29** was attached to the vehicle, pay to the Police Department the sum of two hundred fifty dollars (\$250.) as a penalty and in lieu of court proceedings. Failure by the operator or owner to make such payment within five working days may result in the issuance of a summons to the operator or owner to appear in court to answer to the charges of violation of § **254-29**. The Chief of Police may authorize at any time before a court summons has been issued, but after the expiration of the five-working-day period, the acceptance of a voluntary payment of two hundred sixty dollars (\$260.) as a penalty in full satisfaction of the violation.

§ 254-43 Towing vehicles.

The Police Department is authorized to remove and tow away or have removed and towed away by commercial towing service any abandoned vehicle, or

other vehicle illegally parked in a place where it creates or constitutes a traffic hazard, blocks the use of a fire hydrant, or obstructs or may obstruct snow removal operations or the movement of any emergency vehicle. Vehicles towed for illegal parking shall be stored in a safe place and shall be restored to the owner or operator upon payment of all fees for towing and storage.

Article VII Taxicabs

§ 254-44 Declaration of policy.

Every person owning or operating a motor vehicle who secures or accepts passengers for hire on the public streets, or in public places, shall be deemed to be operating a taxicab and shall be subject to City regulations in accordance with this article.

§ 254-45 Definitions.

As used in this article, the following terms shall have the meanings indicated:

DRIVER

The person in actual physical control of a taxicab.

OPERATOR

Any person owning, in charge of, or managing a taxicab business or company in the City.

TAXICAB

Any rubber-tired motor vehicle having a manufacturer's rated seating capacity of not more than seven persons, used in the call and demand transportation of passengers for compensation to or from points chosen or designated by the passengers and not operated on a fixed schedule between fixed termini, or any such vehicle leased or rented, or held for leasing or renting, with or without drivers or operators.

UNENGAGED TAXICAB

A taxicab in the charge of a driver and neither occupied by nor standing at the direction of a passenger nor responding to a call of a prospective passenger. A taxicab standing in a taxi stand shall be presumed to be unengaged.

§ 254-46 Taxicab operator permit and fee.

Every person engaged in the business of operating taxicabs, automobiles or other vehicles for the transportation of persons for hire shall make an application to the Director of the Building, Zoning, and Licensing Services

Department for an operator's permit on forms provided by the City for this purpose. The fee for such permit shall be one hundred dollars (\$100.) annually which shall be paid at the time the application is made, and on or before January 1 of each calendar year thereafter. Only one operator permit shall be required per business.

- A. Issuance of business operator's permit. All permits must be approved by the Licensing Board. Before any permit is issued, the Chief of Police shall conduct an investigation of the applicant, including, but not necessarily limited to, a criminal history records check to be conducted by the New Hampshire State Police, with any fees for the same to be paid by the applicant. Any conviction for violation of the laws of the State of New Hampshire, or any other state, may be cause for denial by the Licensing Board. **[Amended 8-1-2000]**
- B. Insurance. Before any permit is issued, the Director of the Building, Zoning, and Licensing Services Department shall ensure that the applicant has provided a certificate of insurance for each permitted taxi for the full time period of the permit. The personal injury coverage shall not be less than one hundred thousand dollars (\$100,000.) for injury to one person with a total coverage of not less than three hundred thousand dollars (\$300,000.) for each accident. The property damage coverage shall be not less than fifty thousand dollars (\$50,000.) per occurrence. It shall further be the responsibility of any insurance company or agent to notify the Director of the Building, Zoning, and Licensing Services Department 10 days prior to any cancellation of any such policy. **[Amended 9-4-2007]**
- C. Appeal of denial. When any such application is denied by the Licensing Board, the applicant may request such denial be reviewed by the City Council. Any such request for review shall be made to the Director of the Building, Zoning, and Licensing Services Department. The City Council may issue or deny the permit.
- D. Transfer prohibited. No taxicab operator permit may be transferred from one operator to another. Any operator who voluntarily discontinues doing business shall surrender his/her permit to the City of Rochester within 10 days of the time he/she discontinues operation.
- E. Display of permit certificate. It shall be the duty of operators of taxicabs to display their permit certificates in a conspicuous place within their place of business headquarters or have them readily available for inspection upon demand by authorized municipal officials at all times.

- F. Taxicab records. All taxicab operators and drivers shall keep such records of trips, fares, and destinations as may be required for examination by the Chief of Police and/or the Licensing Board; such records shall be kept for a period of six months.

§ 254-47 Taxicab permit and fee.

Every person engaged in the business of operating taxicabs, automobiles, or other vehicles for hire shall make application to the Director of the Building, Zoning, and Licensing Services Department for taxicab permits on forms provided by the City of Rochester for this purpose. The fee for such permits shall be thirty dollars (\$30.) for each vehicle which shall be paid at the time the application is made and on or before January 1 of each calendar year thereafter.

- A. Issuance of taxicab permits. Before any new taxicab permits are issued, the Director of the Building, Zoning, and Licensing Services Department shall refer all applications to the Chief of Police who shall inspect the condition of the vehicles proposed for permit and approve or disapprove the issuance of permits within 48 hours, Saturdays, Sundays, and holidays excluded. Vehicles not meeting the inspection requirements of the State of New Hampshire may be denied permits.
- (1) Issuance of temporary taxicab permit. Above requirements for a replacement vehicle may be waived only at the discretion of the Police Chief or his/her designee, with proper insurance binder, until such time as a proper permit may be issued within the prescribed 48 hours.
- B. Appeal of denial. When any such application is denied by the Chief of Police or the Director of the Building, Zoning, and Licensing Services Department, the applicant may request such denial be reviewed by the Licensing Board. A request for review shall be made to the Director of the Building, Zoning, and Licensing Services Department who shall convene the Licensing Board within 48 hours, excluding Saturdays, Sundays and holidays, at which time the Licensing Board shall either issue or deny the permit.
- C. Transfer of permits. Taxicab permits may be transferred from one vehicle to another by making an application for such transfer in the same manner as is required for original permits and making payment of five dollars (\$5.) to the Director of the Building, Zoning, and Licensing Services Department at the time of making an application for such transfer, together with proper forms as provided by the Licensing Board.

§ 254-48 Taxicab driver's license and fee.

Every person engaged in the driving of taxicabs, automobiles, or other vehicles for hire for the purpose of transporting persons shall have attained the age of 18 years, hold a valid New Hampshire operator's license, and shall make application to the Director of the Building, Zoning, and Licensing Services Department for a taxicab driver's license on forms provided by the City for this purpose. The fee for such license shall be ten dollars (\$10.) which shall be paid by the applicant at the time of making application and on or before January 1 of each calendar year thereafter.

- A. Issuance of taxicab driver's license. Before any taxicab driver's license is issued, the Director of the Building, Zoning, and Licensing Services Department shall refer all applications to the Chief of Police who shall conduct an investigation of the applicant, including, but not necessarily limited to, a criminal history records check to be conducted by the New Hampshire State Police, with any fees for the same to be paid by the applicant. The Chief of Police shall approve or disapprove the issuance of such license within 72 hours, Saturdays, Sundays, and holidays excluded, of the receipt of the results of such investigation. Any conviction for violation of the laws of the State of New Hampshire, or any other state, may be cause for denial. **[Amended 8-1-2000]**
- B. Appeal of denial. When any such application is denied by the Chief of Police or the Director of the Building, Zoning, and Licensing Services Department, the applicant may request such denial be reviewed by the Licensing Board. All such requests for review shall be made to the Director of the Building, Zoning, and Licensing Services Department who shall within 48 hours, Saturdays, Sundays, and holidays excluded, convene the Licensing Board. The Licensing Board shall either issue or deny the license.
- C. Identification. It shall be the responsibility of all taxicab drivers to display their taxicab driver's license in a conspicuous place within any taxicab being operated by them. It shall further be their responsibility, upon request of any passenger, to furnish their names.

§ 254-49 General requirements.

- A. Condition of taxicabs. It shall be the responsibility of all taxicab operators to ensure that all taxicabs shall be kept in a safe and sanitary operating condition at all times and shall at all times qualify with the standards for inspection of motor vehicles by the laws of the State of New Hampshire. Any officer observing a violation of this subsection may obtain the taxicab permit of the vehicle involved which shall be temporarily suspended and returned forthwith upon said violation being properly corrected to the satisfaction of the Chief of Police or his/her designee.

- B. Periodic inspection. The Chief of Police or his/her designee shall inspect each taxicab operating in the City of Rochester at least every six months. The purpose of periodic inspection shall be for the maintenance of safety and sanitary conditions of the vehicles. **[Amended 9-4-2007]**
- C. Parking limited. No operator or driver shall park or allow to be parked any taxicabs upon any street in any business district at other than an authorized taxicab stand except when actually engaged in taking on or leaving passengers.
- D. Taxicab stands. The Licensing Board may establish taxicab stands on such public streets and in such places and in such numbers as shall be determined to be of greatest benefit and convenience to the public and businesses, and every such taxicab stand shall be designated by appropriate markings. **[Amended 3-5-2019]**
- E. Limitation on use. No operator or driver of any taxicab shall:
 - (1) Accept any other passenger without the consent of the person or persons who have engaged the cab.
 - (2) In any case pick up any adults when children under the age of 16 years are alone in the cab, unless said juvenile is seated adjacent to the driver. **[Amended 3-5-2019]**
- F. Passengers limited. The operators or drivers of taxicabs shall not carry more passengers in their taxicabs than the seating capacity as listed in the manufacturer's vehicle specification.
- G. Service to be given on demand. It shall be the duty of every taxicab driver or operator of an unengaged taxicab, upon request, during his/her regular business hours, to transport any orderly person between two points within the City of Rochester.
- H. Property left in taxicab. All property of reasonable value left in taxicabs shall be returned to the owner forthwith or, after a diligent attempt has been made to return said property to the owner, it shall be delivered over to the Police Department by the driver of the taxicab.
- I. Records. Records and other privileged information will be made available only to the Police Department and the Licensing Board.
- J. Complaints. Whenever there is a complaint over fare or otherwise that cannot be agreeably resolved to all parties, the complainant may register

such a complaint in writing to the Director of the Building, Zoning, and Licensing Services Department who shall convene the Licensing Board for the purpose of conducting a hearing. Upon sustaining the complaint, the Licensing Board may suspend or revoke such permits as may be required.

- K. Rates. All taxicab operators will have on file with the Director of the Building, Zoning, and Licensing Services Department rates being charged and shall file new rates as they are changed before they are allowed to be in effect. Such rates shall be posted in a conspicuous place in each taxicab.
- L. Identification. All taxicabs shall be required to display outside identification.

§ 254-50 Suspension or revocation of permit or license.

- A. Whenever any operator shall be convicted in the Rochester District Court of a violation of any sections of these rules and regulations, he/she shall forthwith return his/her operator's permit to the Director of the Building, Zoning, and Licensing Services Department who shall retain such permit until application is made in the same manner as for an original permit, and a determination has been made by the Chief of Police and/or the Licensing Board as to the issuance of such permit.
- B. Any taxicab driver who shall be convicted of any violation of these rules and regulations, or of any law of the State of New Hampshire, shall forthwith return his/her taxicab driver's license to the Director of the Building, Zoning, and Licensing Services Department who shall retain said license until such time as an application has been filed in the same manner as for an original taxicab driver's license and a determination as to its issuance or denial shall have been made by the Chief of Police and/or the Licensing Board. **[Amended 3-5-2019]**
- C. The Licensing Board may suspend or revoke any operator's permit, taxicab permit, or taxicab driver's license at any time for just cause. Upon receipt of notice of such suspension or revocation, the operator or driver may request a hearing before the Licensing Board. All such requests shall be made to the Director of the Building, Zoning, and Licensing Services Department who shall within 48 hours, Saturdays, Sundays, and holidays excluded, convene the Licensing Board. A decision by the Licensing Board shall be made within 48 hours after the hearing is completed.
- D. A majority decision of the Licensing Board may be appealed through the Strafford County Superior Court, and upon receiving such notice of action from the Court, said suspension or revocation will be held in abeyance pending results of said ruling.

§ 254-51 Violations and penalties.

Any person, firm or corporation violating any provisions of this article shall be guilty of a violation and fined not in excess of one hundred dollars (\$100.); a separate offense shall be deemed committed upon each day, or part thereof, during or on which a violation occurs or continues.

**Article VIII
Towing Services**

[Added 1-7-1997 (Ch. 67 of the 1995 Code)]

§ 254-52 Purpose and intent.

[Amended 10-3-2006]

The purpose of this article is to establish a procedure for providing towing services to the City of Rochester. The intent is to have six individual towing services available 24 hours a day on a rotating basis.

§ 254-53 Application procedure.

Any business or individual desiring to provide towing services to the City of Rochester shall complete an application, which shall be available at the Rochester Police Department. Each interested applicant shall provide the information and/or documentation required to the Rochester Police Department along with a nonrefundable application fee of twenty-five dollars (\$25.).

§ 254-54 Qualifications.

The business or individual shall meet the following minimum qualifications:

- A. Be able to provide on-call service 24 hours per day, seven days per week.
- B. Be able to respond to any call within the City limits within 25 minutes of receiving a call.
- C. Be able to provide comprehensive general liability insurance with limits not less than five hundred thousand dollars (\$500,000.) per occurrence for property damage, subject to an annual aggregate limit of one million dollars (\$1,000,000.), with automobile liability insurance with limits of five hundred thousand dollars (\$500,000.) per person and one million dollars (\$1,000,000.) per occurrence for property damage, subject to an aggregate limit of one million dollars (\$1,000,000.), with the City of Rochester named as an additional insured.
- D. Be able to provide workers' compensation insurance as required by New Hampshire statutes.
- E. Be able to provide all the necessary equipment to handle the normal problems that arise in removing vehicles from an accident scene with at

least one of the vehicles being a slide back carrier.

- F. Be able to provide secure exterior and/or interior storage space within the City of Rochester for any towed vehicles.
- G. Have at least one year of experience in the towing business.

§ 254-55 Approval process.

[Amended 10-3-2006]

All applications shall be reviewed by the Chief of Police or his/her designee. All applications determined to meet the minimum qualifications shall be placed in a pool of eligible applicants. Six applicants shall be selected by random lottery conducted by the City Licensing Board to provide towing services to the City.

§ 254-56 Contract between City and towing service.

[Amended 10-3-2006]

The six applicants selected shall each enter into a two-year contract between the City, through its Licensing Board, and the individual towing service. The form and content of said contract shall be determined by the Licensing Board. Each towing service shall pay the City a fee of two hundred fifty dollars (\$250.) for the contract rights covering the two-year period; two hundred fifty dollars (\$250.) shall be paid upon execution of the contract. Any vacancy occurring during the two-year contract period shall be left unfilled with the remaining towing services equally dividing the rotation schedule.

§ 254-57 Services to be performed.

[Amended 10-3-2006; 5-1-2007]

During the contract term, the six vendors shall be on a rotating schedule and shall be referred all calls for towing which are due to accident and/or arrest which are police related. The City reserves the right to call any towing service designated by the owner/operator of a vehicle involved in an accident who requests the officer on the scene to call such towing service.

- A. The towing service shall also clean the road area and remove all glass and debris from an accident scene.
- B. The towing service shall provide free storage to all vehicles impounded by the police. Towing charges will be the responsibility of the owner of the impounded vehicle.
- C. The towing service shall, upon request of the City, tow any vehicles which have been abandoned as defined in RSA 262:32, which are obstructing access as defined in RSA 31:102 or which are in violation of private property restrictions as outlined in RSA 262:40-a. Towing and storage charges shall be as provided by law. **[Amended 3-5-2019]**
- D. Emergency repairs and towing shall be provided without charge by the

towing service to all Police Department vehicles. Any parts required shall be charged to the City at dealer cost.

- E. The towing service shall notify the City of Rochester of any change in its legal or storage site address at least 14 days prior to the effective date of such change.

§ 254-58 Rate structure.

All rates charged by the towing service may not exceed reasonable rates commonly charged in this area.

§ 254-59 Administration.

All issues relating to contractual matters relating to the towing service and the City shall be determined by the Chief of Police or his/her designee. ~~Failure to maintain the above listed qualification requirements, repeated reports of failure for response to service calls, repeated lack of secure storage, or failing to provide the described services, shall cause an immediate review of the contract by the Chief of Police or his/her designee. A negative review shall be forward to the Licensing Board for further action.~~ Any dispute or interpretation unable to be resolved between the Chief of Police and the towing service shall be referred to the City Licensing Board which shall make the final determination in any such matter.

The **MOTION CARRIED** by a 13 to 0 roll call vote. Councilors Lachance, Gray, Hamann, Rice, Lauterborn, Hainey, Lachapelle, Hainey, Lachapelle, Hutchinson, Walker, Belken, Abbott, Bogan, and Mayor McCarley voted in favor of the motion.

Councilor Lauterborn **MOVED** to **ADOPT** the removed section as follows:

254-7 Use of bicycles, roller blades, roller skates and skateboards.

- A. All bicycles shall be ridden in accordance with the New Hampshire Revised Statutes Annotated.
- B. Roller blades, roller skates, and skateboards are prohibited on ~~all City-owned sidewalks, parks, and parking lots of the main downtown area and the central business districts of Gonic and East Rochester. The Chief of Police shall establish and publish the boundaries of each such central business district.~~

Councilor Lachapelle seconded the motion. Several City Councilors reiterated their reasoning for objecting to this proposed amendment. Councilor Lauterborn thanked Councilor Gray for his explanation and requested to **WITHDRAW** her motion to adopt. Councilor Lachapelle **WITHDREW** his second to the motion.

10.1.5 Committee Recommendation: to accept the amendments to Chapter 158 (Parks, Recreation and Arena) of the City Ordinances as presented by City staff *consideration for approval*

Attorney O'Rourke stated that the correct version of the proposed Amendment did not actually make it into the packet; however, he agreed to share the correct version on his screen for the City Council to view (*the correct version is outlined below*). Attorney O'Rourke briefed the City Council about the changes. He said Chris Bowlen, Director of the Parks, Recreation, and Arena reviewed the Ordinance to make proposed changes to reflect current practices. Attorney O'Rourke said some sections of these ordinances still directed the reader to the City Council whereas those responsibilities had been transferred to the City Manager many years ago. Attorney O'Rourke reviewed other proposed changes including loitering during "normal" school hours, which can be varied depending upon where a child attends school or stays home for schooling.

A brief discussion took place about the proposed change to use of public restrooms and it was determined that the current language is inconsistent to the State law. Councilor Lachapelle **MOVED** to **ADOPT** the proposed ordinance. Councilor Walker seconded the motion. Councilor Lachance asked about the title and requested that it be grammatically corrected.

Councilor Lachance questioned if vaping is considered "smoking". Chief Toussaint said vaping is regulated at the State level whenever juveniles are concerned; however, it is not really addressed with adults. He suggested that e-cigarettes, vaping, and the like, should probably be included with the ordinance at some point. Mayor McCarley recommended that the City Council revisit that section again at some point so as not to hold up the vote this evening. She called for a vote on the motion to adopt. The **MOTION CARRIED** by a 13 to 0 roll call vote. Councilors Bogan, Rice, Gray, Hainey, Abbott, Lachance, Hutchinson, Lachapelle, Hamann, Lauterborn, Walker, Belken, and Mayor McCarley voted in favor of the motion. The Amendment as adopted is as follows:

Amendment to Chapter 158 of the General Ordinances of the City of Rochester Regarding Recreation, Arena, and Parks

THE CITY OF ROCHESTER ORDAINS:

That Chapter 158 of the General Ordinances of the City of Rochester and currently before the Rochester City Council, be amended as follows (deletions ~~struckout~~ additions in **RED**):

Chapter 158

~~Parks, Recreation, and Arena, and Parks~~

[HISTORY: Adopted by the City of Rochester 6-6-1995 as Ch. 21 of the 1995 Code. Amendments noted where applicable.]

§ 158-1 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

COMMISSION

The Rochester Recreation and Arena Commission. See § **158-3**.

[Amended 3-5-2019]

DIRECTOR

The Recreation and Arena Director. See § **158-4**.

[Amended 3-5-2019]

PARK

Includes all parks, playgrounds, athletic fields, tennis courts, swimming pools, band shells, music pavilions, recreation areas, parking lots, and structures under the jurisdiction of the Director now owned or hereafter acquired by the City of Rochester for park or recreation purposes.

[Amended 3-5-2019]

PERMIT

Any written authorization issued ~~by or under the authority of the Director permitting specified park privileges~~ **to an applicant through the City's permitting process.**

§ 158-2 Conduct prohibited in parks and Arena.

- A. Disturbing the peace. No person shall disturb the peace at ~~the Arena or in any park~~ **any Department facility or park** by any act.
- B. Immorality and indecency. No person shall do any obscene or indecent act at ~~the Arena or~~ **any Department facility or in** in any park; or display, expose or distribute any picture, banner, or other object suggestive of sex in a lewd, indecent, immoral way; ~~or enter a comfort station or toilet set apart for the use of the opposite sex;~~ nor shall any person dress or undress at ~~the Arena~~ **any Department facility** or in an any park except in dressing rooms provided for such persons.

- C. Solicitation. No person shall solicit money, subscriptions, or contributions for any purpose or attempt to sell any wares of any nature whatsoever at ~~the Arena~~ **any Department facility** or in any park unless authorized by a permit ~~of the Director.~~ **issued through the City's permitting process.**
- D. Improper admission. No person shall gain improper admission to, or use of, or attempted admission to any ~~Arena~~ **Department** event or any park facility, for which a charge is made, without paying the fixed charge or price of admission.
- E. Disobeying authorities and signs. No person shall, at ~~the Arena~~ **any Department facility** or in any park, disobey a proper order of a police officer or an employee of the ~~Arena~~ **Department** or any ~~park~~ employee designated by the Director to give orders, nor shall any person in any park disobey, disregard or fail to comply with any rule or regulation, warning, prohibition, instruction or direction, posted or displayed by sign, notice, bulletin, card, poster, or when notified or informed as to its existence by an employee of the **Department** ~~Arena or park~~ **or City** employee(s) or other authorized person. **[Amended 3-5-2019]**
- F. Defacing park property. No person shall cut, break, injure, deface, or disturb any tree, shrub, plant, rock, building, cage, pen, monument, fence, bench or other structure, apparatus or property or pluck, pull up or out, take or remove any shrub, bush, plant or flower or mark or write upon any building, monument, fence, bench or other structure, or injure, deface or remove any property, real or personal, or any natural growth, structure, equipment, animals, signs or other park or ~~Arena~~ **Department** property.
- G. Setting of fires. No fires shall be set at the Arena or in any park except in areas where fires are designated as permitted or except as authorized by permit issued under the authority of the Director, **the Licensing Board and the Fire Department.**
- H. ~~Discharging in bodies of water. No person shall throw, cast, lay, drop or discharge into or leave in any body of water in any park, or in any storm sewer, or drain flowing into said waters, or in any gutter, sewer or basin, any substance, matter or thing, whatsoever.~~
- I. Waste matter. No person shall deposit, drop or leave any papers, bottles,

debris or other waste matter or refuse of any kind in any park or part thereof except in such receptacles as may be provided for that purpose, nor shall any person urinate or defecate in or upon any part of the Arena or any park grounds.

- J. Drinking **and Illegal Drug Use**. No person shall enter ~~the Arena~~ **any Department facility** or any park in an intoxicated condition, nor shall any person drink any alcoholic beverages **or consume illegal drugs** of any kind or nature ~~at the Arena or~~ **within any Department facility or** in any park or on any park grounds, **including parking lots**; provided, however, that a temporary waiver from the prohibition **related to alcohol consumption** of this subsection may be granted to any Rochester-based nonprofit organization upon written application to, and approval by, the Licensing Board and the Rochester City **Manager** ~~Council~~, which application and approval shall specify the date and hours during which such waiver shall be effective. **[Amended 6-6-2006]**
- K. Dogs prohibited on the so-called Common. Dogs shall not be permitted within the confines of the municipal park known as the "Common," situate off South Main Street between Common Street and Grant Street. No person shall enter or remain upon said Common with a leashed dog, nor shall any person allow a dog to run at large within the confines of said Common at any time. **[Amended 5-7-2002; 3-5-2019]**
- L. Smoking on the Rochester Common. No person shall smoke on the portion of the so-called Rochester Common between northeasterly side of the path bisecting said Common, at the Civil War Memorial, and the northeasterly fence line surrounding said Common where it adjoins the South Main Street right-of-way, at any time. ~~;~~ ~~provided, however, that a temporary waiver from the prohibition of this subsection may be granted upon written application to, and approval by, the Licensing Board, which application and approval shall specify the date and hours during which such waiver shall be effective.~~ **[Amended 10-15-2013]**

§ 158-3 Recreation and Arena Commission.

- A. This Commission shall consist of 13 members to be nominated by the Mayor and elected by the Council, in accordance with the provisions of Section 74 of the Rochester City Charter, as follows: one member from the City Council, one member from the School Board, and 11 interested

citizens. Up to two members of the Commission may be a nonresident of the City of Rochester, provided that at the time of election of such individual to the Commission such individual is associated with communities or organizations utilizing the Rochester Arena facilities or has other specialized skills related to the provision of recreational services. **[Added at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**

- B. The terms of the City Council and School Board Commissioners shall be commensurate with their terms of service on their respective boards. Commencing January 2016, the 11 Commissioners shall be appointed for one-, two- and three-year terms as determined by the City Council. Thereafter, all appointments and reappointments shall be for a term of three years. The Mayor shall appoint the Chairperson and the Commission shall, from its own members, elect a Secretary and other necessary officers to serve for one year or until their successors are elected. **[Amended 9-4-2007]**

- C. The Commission shall:

- (1) Act as advisory body to the Director.
- (2) Aid, assist, and advise the Director in formulating plans for maintaining, equipping, operating, and regulating the recreational facilities, related programs and ~~the Arena facility~~ **Department facilities** and advise the City ~~Manager Council~~ in establishing a fee schedule for the use thereof.
- (3) Inform itself of ways and means by which its plans and programs for development and use of the **Department** recreational facilities and ~~Arena facility~~ may best be achieved and may advise the Director, the City Council, and public of the manner in which such objectives may best be accomplished.

§ 158-4 Recreation and Arena Director.
[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

The City Manager, in accordance with the provisions of Sections 15 and 18 of the Rochester City Charter, shall appoint the Recreation and Arena Director for the City of Rochester, who shall be the department head of the Rochester

Recreation and Arena Department. The Director shall be responsible for the direction of all phases of the City's recreation programs and parks owned or controlled by the City subject to the supervision of the City Manager. The Director shall be responsible for hiring and supervising all personnel as may be required to carry out Recreation and Arena Department programs. The Director, with the consent of the Commission, shall have the power to promulgate reasonable written rules and regulations to govern the use of the City's parks and equipment and to issue permits **consistent with this Code** for the use thereof as set forth in this chapter.

§ 158-5 ~~Use of Arena and parks.~~

~~The Arena and all~~ City parks are open for the general use of the public and in particular of the residents of the City of Rochester, subject to the following exceptions:

- A. No person shall conduct, operate, present or manage, at **any Department facility/grounds** ~~the Arena~~ or in any park, a parade, drill, public meeting, ceremony, speech, public contest, exhibit, or performance of any kind without a permit.
- B. All organized **events**, picnics or outings **or gatherings** for a group larger than 25 persons shall require a previously obtained permit **through the City's permitting process**.
- C. No person shall exhibit, sell, or offer for sale, hire, or lease any object, service, or merchandise of any sort whatsoever except under a previously obtained permit to do so **through the City's permitting process**.
- D. All parks shall be open during the hours of 12:01 a.m. to 12:00 midnight every day unless signs specifying more restrictive opening hours shall be prominently posted around such park(s). Buildings or structures within said park(s) shall be open in accordance with signs posted on said buildings or structures by the Director specifying hours during which such buildings and/or structures shall be open to the public. **[Amended 6-5-2001]**
- ~~E. No person under 18 years of age and over six years of age shall loiter in any City park during normal school hours on any day in which the Rochester public schools are in session unless accompanied by a parent, guardian or other suitable person.~~

§ 158-6 Appropriation; reports.

The City Council shall annually appropriate such sum of money as the Council may determine for recreation and parks, such sum, together with any moneys received by the Department from charges, donations, or other sources, to be paid to the City Treasurer and by him/her placed in the credit of the Department, subject to its expenditures therefrom for the purposes as set forth herein. Annually, on or before the first day of the budget, the Director shall make a detailed report in writing to the City Manager of his/her acts and proceedings, of the condition of the facilities under his/her jurisdiction, of the standing of his/her recreation and parks program, and of his/her receipts and expenditures, together with an estimate of his/her anticipated revenues and expenditures for the following fiscal year. The Director shall make such other interim reports as from time to time may be requested by the City Manager.

§ 158-7 Violations and penalties.

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

Any violation of this chapter or of the rules and regulations as provided for hereunder shall be considered to be a violation and subject to a penalty as provided in § 1-1 of this Code.

Councilor Lachapelle said there is a Codes and Ordinances Committee meeting scheduled for this coming Thursday at 6:00 PM.

10.2 Fidelity Committee

Councilor Hutchinson said there are no action items. He said there is a Fidelity Committee meeting scheduled for next Thursday on Teams.

10.3 Finance Committee

10.3.1 Resolution Authorizing \$75,575.67 of Previous Appropriations of the School Department CTE Equipment Capital Improvements Plan Project for CTE Paving *first reading and consideration for adoption*

Mayor McCarley said the Committee discussed the Assistant Director of Economic Development Position. She said the Finance Committee meeting minutes of December 8, 2020, reflect the Committee's support of the City Manager moving forward with his recommended promotion, which took effect on January 1, 2021.

Mayor McCarley said there is only one action item this evening. Councilor Lachapelle **MOVED** to read the resolution for the first time by title only. Councilor Walker seconded the motion. The **MOTION CARRIED** by a 12 to 1 roll call vote. Councilors Hamann, Walker, Hutchinson, Belken, Lachance, Abbott, Gray, Rice, Bogan, Lachapelle Lauterborn, and Mayor McCarley voted in favor of the motion. Councilor Hainey voted against the motion. Mayor McCarley read the resolution for the first time as follows:

**Resolution Authorizing \$75,575.67 of Previous Appropriations
of the School Department CTE Equipment Capital Improvements
Plan Project for CTE Paving**

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

WHEREAS, by virtue of resolution adopted by the Mayor and City Council of the City of Rochester, the Mayor and City Council appropriated the sum of Two Hundred Seventy Thousand Dollars (\$270,000.00) to the School Department Capital Improvements Plan CTE Renovation - Additional Equipment project # 20121 of the City of Rochester; and

WHEREAS, the Mayor and City Council of the City of Rochester have determined that the best interests of the City are served by authorizing unexpended funds from the School Department Capital Improvements Plan CTE Renovation Additional Equipment project # 20121 for the purposes of CTE Paving.

NOW THEREFORE, the Mayor and City Council of the City of Rochester by adoption of this resolution, hereby authorize the repurposing of the sum of Seventy Five Thousand Five Hundred Seventy Five and 67/100 Dollars (\$75,575.67) of previously appropriated unexpended funds from the CTE Renovation – Additional Equipment project # 20121 to designate its use for the School Department 2020-2021 Fund 1501 Capital Improvements Plan CTE Renovation Paving project.

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 Lachapelle **MOVED** to **ADOPT** the resolution. Councilor Walker seconded the motion. Councilor Walker spoke against the motion and said that Councilor Gray made a suggestion to de-authorize the project and the remaining funds would simply be added into the General Fund. He said the paving project should be included in next year's budget process. Councilor Gray reiterated Councilor Walker's comments and gave reasons why he did not support the paving project at this time. Councilor Hailey said this recommendation is coming from the Joint Building Committee rather than from the School Board. She said the funds could have been better utilized in giving the teachers/students the resources needed now for remote learning (books/materials). She intends to vote no on the resolution to adopt. Mayor McCarley stated that both City Councilors and School Board members serve on the Joint Building Committee. She supported this proposal when it was vetted through the Finance Committee. She said it is not certain that the money could have been utilized for other materials; however, these are the remaining funds for this project and this project should be completed by finishing the parking lot. Councilor Rice agreed that the project should be completed now.

Paul Lynch, Chair of the School Board, said there are essentially two CIP accounts with remaining funds from this project. Katie Ambrose, Deputy City Manager, stated that the two CIP accounts total \$236,000. Mr. Lynch said that the request, this evening, is being made from a supplemental appropriation (additional equipment) authorized by the City Council last year, which had a remaining balance of approximately \$75,000. He gave reasons why he supported the project and why it makes sense not to wait until the budget season. He added that this would not have an impact to the taxpayers and that staff worked hard to ensure this project stayed within/under the budget. Councilor Gray disagreed that this does not have an impact on the taxpayer and stated that there are other roads in need of repair. He said this project should be resubmitted with the School Department's budget for next fiscal year. Councilor Lauterborn said she voted in favor of the request at the Finance Committee; however, she has since changed her mind and will vote against the motion this evening. Mayor McCarley spoke in favor of the motion. She said this is the completion of this project and it is important for all our citizens.

The **MOTION CARRIED** by a 9 to 4 roll call vote. Councilors Hamann, Hutchinson, Belken, Lachance, Abbott, Rice, Bogan, Lachapelle, and Mayor McCarley voted in favor of the motion. Councilors Walker, Gray, Hailey, and Lauterborn voted against the motion.

Mayor McCarley said the Finance Committee would be meeting in January and would be discussing how to proceed with the budget process.

10.4 Planning Board

Councilor Walker said the Planning Board met last evening. The Board voted against a waiver of Impact Fees for a landowner on 9 Nature Lane.

Councilor Walker stated that the Planning Board approved the request for a storage unit (without fences) on Sterling Drive.

Councilor Rice said a few months ago there was an approval to install a gas station at the corner of Brock Street and Route 125. He questioned how many more gas stations would be approved on that corridor since there are some locations vacant at this point. Councilor Walker explained that this would be a gas station/convenient store and the City cannot deny a site plan based upon other similar entities in the City. He said at one time there were at least 8 Chinese Restaurants within the City limits and that is when the free market weeds them out.

Councilor Gray stated that the Planning Board had a discussion about Impact Fees. He requested that Councilor Walker expand on that conversation. Councilor Walker stated that a motion was made to deny the request to waive of Impact Fees, without prejudice for 9 Nature Lane, at the advice of legal counsel. It was explained that the City cannot choose to waive Impact Fees for certain developers; however, it was determined that the Planning Board would revisit the Impact Fee Ordinance to create an exemption for single family homes on single lots. He said the Impact Fees were implemented for large developments and it makes sense to revisit this ordinance.

10.5 Public Safety

10.5.1 **Committee Recommendation:** To install a streetlight at the corner of Juniper Street and Meadow Lane. *Consideration for approval*

Councilor Hamann briefed the City Council about a request to install a streetlight at the corner of Juniper Street and Meadow Lane. He **MOVED** to **APPROVE** the Committee's recommendation. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a roll call vote of 13 to 0. Councilors Belken, Gray, Hamann, Rice, Lauterborn, Hainey, Lachapelle, Hainey, Lachapelle, Hutchinson, Walker, Lachance, Abbott, Bogan, and Mayor McCarley voted in favor of the motion.

11. Old Business

11.1 Resolution Authorizing the Change of Funding Sources and De-authorizing Previous Appropriations of the Department of Public Works EDA Salmon Falls Road Capital Improvement Plan Project and Supplemental Appropriation from General Fund Unassigned Fund Balance in an amount not to exceed \$17,674.28 *second reading and consideration for 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 13 to 0 roll call vote. Councilors, Abbott, Walker, Belken, Bogan, Lachapelle, Hamann, Lauterborn, Hailey, Rice, Gray, Hutchinson, Lachance, and Mayor McCarley voted in favor of the motion. Mayor McCarley read the resolution for the second time as follows.

Resolution Authorizing the Change of Funding Sources and De-authorizing Previous Appropriations of the Department of Public Works EDA Salmon Falls Road Capital Improvement Plan Project and Supplemental Appropriation from General Fund Unassigned Fund Balance in an amount not to exceed \$17,674.28

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

I. CIP FUND 1501 – Department of Public Works (Highway Division)

WHEREAS, by virtue of various resolutions adopted by the Mayor and City Council of the City of Rochester, the Mayor and City Council appropriated the sum of One Million One Thousand Five Hundred Dollars (\$1,001,500.00) to the Department of Public Works Capital Improvement Plan EDA Salmon Falls Road project # 13551 of the City of Rochester, all as more particularly set forth in Exhibit A annexed hereto; and

WHEREAS, the Mayor and City Council of the City of Rochester have determined that the best interests of the City are served by changing the funding sources for the EDA Salmon Falls Road project # 13551 referenced in Exhibit A.

NOW THEREFORE, the Mayor and City Council of the City of Rochester, by adoption of this Resolution, hereby change the funding sources for the EDA

Salmon Falls Road project # 13551 referenced in Exhibit A.

FURTHER, the Mayor and City Council of the City of Rochester, hereby de-authorize the sum of Twenty Eight Thousand Nine Hundred Sixty Three and 33/100 Dollars (\$28,963.33) of previously appropriated funds from the EDA Salmon Falls Road project # 13551.

FURTHER STILL, in accordance with the provisions of RSA 33:9 and Section 45 of the Rochester City Charter, the Mayor and City Council of the City Rochester, hereby withdraw borrowing authority in the amount of Thirty Four Thousand Three Hundred Twenty Four and 05/100 Dollars (\$34,324.05).

II. WATER CIP FUND 5501 – Department of Public Works (Water Division)

WHEREAS, by virtue of various resolutions adopted by the Mayor and City Council of the City of Rochester, the Mayor and City Council appropriated the sum of One Million Eighty Thousand Two Hundred Dollars (\$1,080,200.00) to the Department of Public Works Water Fund 5501 Capital Improvement Plan EDA Salmon Falls Road project budgets of the City of Rochester, all as more particularly set forth in Exhibit A annexed hereto; and

WHEREAS, the Mayor and City Council of the City of Rochester have determined that the best interests of the City are served by changing the funding sources for the EDA Salmon Falls Road project referenced in Exhibit A.

NOW THEREFORE, the Mayor and City Council of the City of Rochester, by adoption of this Resolution, hereby change the funding sources for the EDA Salmon Falls Road project referenced in Exhibit A.

FURTHER, the Mayor and City Council of the City of Rochester, hereby de-authorize the sum of One Hundred Nine Thousand Two Hundred Seventy Nine and 48/100 Dollars (\$109,279.48) of previously appropriated funds from the EDA Salmon Falls Road project # 13551.

FURTHER STILL, in accordance with the provisions of RSA 33:9 and Section 45 of the Rochester City Charter, the Mayor and City Council of the City Rochester, hereby withdraw borrowing authority in the amount of Two Hundred Seven Thousand Five Hundred Seventy Seven and 53/100 Dollars

(\$207,577.53).

III. SEWER CIP FUND 5502 – Department of Public Works (Sewer Division)

WHEREAS, by virtue of various resolutions adopted by the Mayor and City Council of the City of Rochester, the Mayor and City Council appropriated the sum of Two Million Seven Hundred Eighty Five Thousand Five Hundred Dollars (\$2,785,500.00) to the Department of Public Works Sewer Fund 5502 Capital Improvement Plan EDA Salmon Falls Road projects # 13551 and # 18549 of the City of Rochester, all as more particularly set forth in Exhibit A annexed hereto; and

WHEREAS, the Mayor and City Council of the City of Rochester have determined that the best interests of the City are served by changing the funding sources for the EDA Salmon Falls Road projects referenced in Exhibit A.

NOW THEREFORE, the Mayor and City Council of the City of Rochester, by adoption of this Resolution, hereby change the funding sources for the EDA Salmon Falls Road projects referenced in Exhibit A.

FURTHER, the Mayor and City Council of the City of Rochester, by adoption of this Resolution, hereby de-authorize \$16,181.96 of previously appropriated funds for the EDA Salmon Falls Road project #18549 and repurpose the Sewer Fund retained earnings funding source for said project to the EDA Salmon Falls Road project #13551.

FURTHER, the Mayor and City Council of the City of Rochester, by adoption of this Resolution, hereby de-authorize Nineteen Thousand Eight Hundred Two and 54/100 Dollars \$19,802.54 of previously appropriated funds for the EDA Salmon Falls Road project # 13551.

FURTHER STILL, the Mayor and City Council of the City of Rochester, by adoption of this Resolution, hereby authorize a supplemental appropriation in the amount of Seventeen Thousand Six Hundred Seventy Four and 28/100 Dollars (\$17,674.28) for the purpose of fully funding the completed EDA Salmon Falls Rd project # 13551. The funding for this supplemental

appropriation shall be derived in its entirety from the General Fund unassigned fund balance.

To the extent not otherwise provided for in this Resolution, the Finance Director is hereby authorized to 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 13 to 0 roll call vote. Councilors Walker, Abbott, Belken, Bogan, Lachapelle, Hamann, Lauterborn, Hainey, Rice, Gray, Hutchinson, Lachance, and Mayor McCarley voted in favor of the motion.

11.2 Resolution Authorizing a Supplemental Appropriation in the Amount of \$270,000.00 for the Purchase of 8 Amarosa Drive and 0 Milton Road *second reading and consideration for adoption*

Councilor Lachapelle **MOVED** to read the resolution for the second time by title only. Councilor Walker seconded the motion. The **MOTION CARRIED** by a 12 to 1 roll call vote. Councilors Lachapelle, Rice, Gray, Hainey, Abbott, Bogan, Lachance, Hamann, Lauterborn, Walker, Belken, and Mayor McCarley voted in favor of the motion. Councilor Hutchinson voted against the motion. Mayor McCarley read the resolution for the second time by title only as follows:

Resolution Authorizing a Supplemental Appropriation in the Amount of \$270,000.00 for the Purchase of 8 Amarosa Drive and 0 Milton Road

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

That the amount of Two Hundred Seventy Thousand Dollars (\$270,000.00) is hereby appropriated as a supplemental appropriation for the purpose of paying costs associated with the purchase of 8 Amarosa Drive and 0 Milton Road. The funding for this supplemental appropriation shall be derived in its entirety from the General Fund Unassigned Fund Balance.

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

Councilor Lachapelle **MOVED** to **ADOPT** the resolution. Councilor Walker seconded the motion. The **MOTION CARRIED** by a 11 to 2 roll call vote Councilors Gray, Lachapelle, Rice, Hainey, Abbott, Bogan, Lachance, Hamann, Lauterborn, Walker, and Mayor McCarley voted in favor of the motion. Councilors Hutchinson and Belken voted against the motion.

Councilor Lachance said he would be voting in favor of this purchase this evening; however, he made it clear that he does not yet fully support the project. He shared concerns for the small business owners in that area. He said the City should come up with a plan that will not affect the small businesses in the City. Councilor Belken agreed and questioned if there is a solid plan in place from the developer. Mayor McCarley said the City is in receipt of a letter of intent and commitment to work with the City signed by the developer.

Councilor Lachance said that the City has already appropriated \$200,000 for an engineering study and now there is another \$270,000 to purchase this property, which equates to almost a half a million dollars. It is likely to take a few more million dollars to build out that intersection. He said without a right-of-way granted to the City this could be problematic as time passes. He gave reasons why he will be watching this project closely to ensure tax dollars are not wasted. Mayor McCarley said it is important to note that the developer is committed to paying a half million dollars to assist with the intersection project.

Mayor McCarley said a two-thirds vote (9 votes) is required. The **MOTION CARRIED** by an 11 to 2 roll call vote. Councilors Gray, Lachapelle, Rice, Hainey, Abbott, Bogan, Lachance, Hamann, Lauterborn, Walker, and Mayor McCarley voted in favor of the motion. Councilors Hutchinson and Belken voted against the motion.

12. Consent Calendar

13. New Business

13.1 Amendment to the General Ordinances of the City of Rochester Creating Chapter 41, Disorderly Residence ***first reading and refer to Codes & Ordinances committee***

Councilor Lachapelle **MOVED** to read the Amendment for a first time and to refer the matter to the Codes and Ordinances Committee for review. Councilor Walker seconded the motion.

Councilor Lachapelle said this is the same proposed ordinance that the Codes and Ordinances Committee dealt with in August of 2018, which the Committee, at that time, voted down. He said the Committee could discuss this proposed ordinance again; however, he does not agree with the concept of penalizing landlords for the actions committed by the tenants. Councilor Hainey stated that she is responsible for having this proposed ordinance added to the Agenda. She shared a story about her own neighborhood, which has trouble with tenants involving the police. She felt the problem is not isolated to her own neighborhood. She said something must be done and nothing else seems to work. Councilor Lachapelle recalled that back in 2018, the Police Commission was going to look at policy and procedures vs an Amendment to the Ordinances. Councilor Lauterborn questioned who drafted this proposal. Councilor Lachance replied that this is the exact same verbiage from Franklin, NH, and it is identical to what the Committee reviewed back in 2018. Councilor Lachapelle said at that time, the landlords who, at that time, attended the meeting spoke about some valid points opposing the Amendment. Councilor Belken said it is unfortunate that this problem exists; however, it seems to punish the wrong person for the actions of the tenants. Councilor Hutchinson gave reasons why there could be unsubstantiated claims causing problems for the landlords.

The **MOTION FAILED** by a roll call vote of 4 to 9. Councilors Hamann, Hainey, Lachapelle, and Lauterborn, voted in favor of the motion. Councilors Walker, Hutchinson, Belken, Lachance, Abbott, Gray, Rice, Bogan, and Mayor McCarley voted against the motion.

For informational purposes only:

Amendment to the General Ordinances of the City of Rochester
Creating Chapter 41, Disorderly Residence

THE CITY OF ROCHESTER ORDAINS:

That the General Ordinances of the City of Rochester and currently before the Rochester City Council, be amended to create Chapter 41, Disorderly Residence, as follows:

Chapter 41: Disorderly Residence

§ 41-1 Purpose.

§ 41-2 Definitions.

§ 41-3 Documentation and classification of complaints.

§ 41-4 Notice and enforcement procedures; fines, violations and penalties.

§ 41-5 Legal action against owner for cost recovery; alternative enforcement

actions.

§ 41-1 Purpose.

This chapter is adopted in accordance with RSA 47:17, RSA 31:39, I (n), and RSA 644:2, and all other relevant statutory authority. It is hereby declared a valid public purpose of the City of Rochester that in order to promote and protect the health and general welfare of the City of Rochester, its residents and its neighborhoods, a process needs to be in place to properly and adequately control and manage chronic and unlawful nuisance and disorderly activities that might occur in the neighborhoods of the City. It is the public policy of the City to utilize this chapter to control and manage the disorderly activities and properties described below, and to appropriately assign financial liability for enforcement actions to the owners of the property where such activities occur in repeated fashion. There is an obligation on the part of the property owners to take all appropriate actions to reduce or eliminate these types of events from occurring. Ongoing disorderly events consume time and energies of the Police Department, thus reducing the amount of time that can be spent on more significant crimes and community affairs. While fines and enforcement actions may be necessary, this chapter is not adopted to create a mechanism to solely impose punitive punishments on the property owners; instead the goal of this chapter is create a dialogue with property owners and engage them in a process of eliminating these disorderly activities to the greatest degree possible.

§ 41-2 Definitions.

As used in this chapter the following terms shall have the meanings outlined below:

DISORDERLY ACTIVITIES

Situations created within or in the immediate vicinity of a building by a building's owner, occupants, or tenants, or the invitees of an owner, tenant or occupant, which would have a tendency to unreasonably disturb the community, the neighborhood or an ordinary individual occupying property in or near the disorderly activity, including but not limited to loud music; boisterous parties; excessively loud or unnecessary noises emanating from within or near the building which are audible outside the building; fights within the building, or in its vicinity, involving occupants of the building or their invitees; occupants of the building or their invitees being intoxicated outdoors in the vicinity of the building; and other similar activities in the building or in the vicinity of the building.

DISORDERLY EVENT

An activity to which the Police Department responds on the basis of a

complaint and determines to be disorderly. Multiple responses to a single building that occur within a twelve-hour period may be deemed a single disorderly event at the discretion of the Police Department. The Police Department shall be the final arbiter on how events are classified and counted towards the enforcement procedures in this chapter. If the disorderly events occur at a multifamily property (more than two units) and the events are taking place at individual units on different dates and times, the Police Department, in consultation with the City Manager, shall determine how these events will be classified in reference to the notice and fine provisions of § 41-4 B through D below. The type and frequency of the events, and the degree of threat to public safety, will be factors in how the events are classified.

HABITUAL DISORDERLY RESIDENCE

A residence which has been identified and classified by the Police Chief or a designee as being either the subject of eight or more police responses for any disorderly events in any twelve-month period; or the subject of 10 or more police responses for any disorderly events in any eighteen-month period.

OWNER

The person or persons having the right of legal title to, or the beneficial interest in, a building or parcel of land, as their interest is recorded in the tax records of the City of Rochester. For the purpose of all notifications and related communications, the term "owner" shall also be defined as the landlord's agent, as provided to the City by the owner of the property subject to the provisions of RSA 540.

RESIDENCE

Any type of residential unit or building, including but not limited to a single- or two-family dwelling, a multifamily dwelling unit, family apartment, boardinghouse, condominium, rooming house or unit, or leased units in a manufactured housing park (hereinafter jointly and severally "building"). The term "residence" also includes any property (yard, driveway or parking area, etc.) associated with the residence.

§ 41-3 Documentation and classification of complaints.

The Police Department shall document all responses to complaints of disorderly activities and classify each complaint as either substantiated or unsubstantiated.

§ 41-4 Notice and enforcement procedures; fines, violations and penalties.

A.

When the Police Department determines that the first incident at a property will be subject to the provisions of this chapter, it shall notify the owner of the property and provide a copy of this chapter. The owner may voluntarily contact the Police Chief and/or City Manager to schedule a meeting to discuss the violation; if such a meeting is scheduled, the owner may, if he or she so chooses, present the City with a plan to take proactive steps to prevent future events.

B.

Whenever a residence has been visited by the police two times in any thirty-day period, in relation to incidents involving a disorderly event, the Police Chief, the City Manager, or any other agent designated by the City Manager (hereinafter referred to as the "City") shall send a notice to the owner. The owner shall be provided with a copy of this chapter and shall be informed that a fine of \$100 shall be imposed for the event. If the owner contacts the Police Chief and/or the City Manager and schedules a meeting, within 10 calendar days of the receipt of the notice, to discuss the events, and said owner satisfactorily outlines a mechanism to prevent future disorderly events, then the fine may be waived.

C.

Whenever a residence has been visited by the police for a third event in any sixty-day period, in relation to incidents involving a disorderly event, the Police Chief, the City Manager, or any other agent designated by the City Manager (hereinafter referred to as the "city") shall send a notice to the owner. The owner shall be subject to a fine of \$1,000. If the owner contacts the Police Chief and/or the City Manager and schedules a meeting, within 10 calendar days of the receipt of the notice, to discuss the events, and said owner satisfactorily outlines a plan to prevent future disorderly events, then the fine may be waived. The plan shall demonstrate that the owner agrees to take effective and immediate measures to prevent future disorderly events. The implementation of the plan shall begin within one week of the meeting. The plan shall be in writing and shall be signed and acknowledged by the City and the owner. The owner shall submit a report to the Police Chief and the City Manager, no later than three weeks after the meeting, reporting the steps taken to prevent future events. If the City determines that the plan is not being implemented in good faith, then the full fine of \$1,000 shall be reinstated.

D.

For any fourth disorderly event within any 60 days from the third event, or for any subsequent event within 180 days from the date of the first event, the Police Chief, the City Manager, or any other designated agent shall send a notice to the owner. The owner shall be subject to a fine of \$1,000 for the

fourth event and for each subsequent event. The fine for the fourth event may be reduced or waived by the City Manager if the owner demonstrates a good-faith effort to prevent future disorderly events.

E.

The notices described above shall include a brief narrative outlining the circumstances of the disorderly events [date, time, and nature of the event(s)]. The notice shall be delivered to the owner or the appropriate representative by hand or by first-class mail. Service of such notice in the foregoing manner upon the owner's agent or upon the person responsible for the structure shall constitute service of notice upon the owner.

F.

At the time of any meeting between the owner and the City, the City may request documentation including but not limited to:

(1) A copy of the names of all tenants or other persons authorized to reside or presently residing in the building and the units they occupy;

(2) Management contracts with any building supervisor or other person responsible for the orderly operation of the building.

G.

Failure to meet with city officials or enter into such an agreement at the conclusion of said meeting will be deemed a violation of this chapter, and the city shall file a complaint in a court of competent jurisdiction seeking all compensatory and equitable relief permitted by law.

H.

If a residence that has been the subject of enforcement action under the provisions outlined above becomes subject to a second round of enforcement under this chapter, then the city is under no obligation to meet with the owner but may proceed directly with a complaint to a court of competent jurisdiction, seeking all compensatory and equitable relief permitted by law

I.

The provisions of Subsections **B** through **H** above notwithstanding, if a specific residence becomes identified as being a habitual disorderly residence by the Chief of Police or a designee, then the City is under no obligation to issue any notices or meet with the property owner. The City may, in these cases, issue a notice of violation and assess fines of \$1,000 for each event.

§ 41-5 Legal action against owner for cost recovery; alternative enforcement actions.

In addition to any notice or enforcement provision outlined above, the city may file a legal action against the owner seeking court costs, response charges, and all damages and remedies to which it is entitled pursuant to state and local laws. The City of Rochester also reserves the right to take any other enforcement action allowed by any other local ordinance or state statute as

an alternative to this Disorderly Residence Ordinance.

The effective date of these amendments shall be upon passage. (*This Amendment Failed by a vote of 4 to 9*)

Councilor Lachapelle wished to confirm if this proposed Amendment should be taken off the Codes and Ordinances Agenda for this coming Thursday. Mayor McCarley said that is correct.

13.2 Resolution Deauthorizing \$3,500.00 from New Hampshire Juvenile Court Diversion Network Subcontract *first reading and consideration for adoption*

Councilor Lachapelle **MOVED** to read the resolution for a first time by title only. Councilor Walker seconded the motion. The **MOTION CARRIED** by a vote of 13 to 0. Councilors Belken, Gray, Hamann, Rice, Lauterborn, Hainey, Lachapelle, Hainey, Lachapelle, Hutchinson, Walker, Lachance, Abbott, Bogan, and Mayor McCarley voted in favor of the motion. Mayor McCarley read the resolution for the first time by title only as follows:

Resolution Deauthorizing \$3,500.00 from New Hampshire Juvenile Court Diversion Network Subcontract

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

That the amount of Three Thousand Five Hundred Dollars (\$3,500.00) in previously accepted State Governor's Alcohol Commission funds for the New Hampshire Juvenile Court Diversion subcontract is hereby deauthorized. No funds will be returned, the Police Department will reduce its request under the subcontract for reimbursement.

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

Councilor Lachapelle **MOVED** to **ADOPT** the resolution Councilor Walker seconded the motion. The **MOTION CARRIED** by a roll call vote of 13 to 0. Councilors Gray, Belken, Hamann, Rice, Lauterborn, Hainey, Lachapelle, Hainey, Lachapelle, Hutchinson, Walker, Lachance, Abbott, Bogan, and Mayor McCarley voted in favor of the motion.

13.3 Motion to Authorize City Manager to Execute Chinburg Properties Licensing Agreement *consideration for approval*

Councilor Lachapelle **MOVED** to **APPROVE** the motion to Authorize the City Manager to execute the Chinburg Properties Licensing Agreement. Councilor Walker seconded the motion. The **MOTION CARRIED** by a 13 to 0 roll call vote. Councilors Hutchinson, Lachance, Rice, Walker, Belken, Bogan, Lachapelle, Hamann, Lauterborn, Hailey, Abbott, Gray, Hutchinson, Lachance, and Mayor McCarley voted in favor of the motion.

13.4 Resolution Authorizing the Increase of Donations to the City of Rochester Library by \$1,000 and Supplemental Appropriation in Connection Therewith *first reading and consideration for adoption*

Councilor Lachapelle **MOVED** to read the resolution for the first time by title only. Councilor Walker seconded the motion. The **MOTION CARRIED** by a 13 to 0 roll call vote. Councilors Lachapelle, Rice, Gray, Hailey, Abbott, Bogan, Hutchinson, Lachance, Hamann, Lauterborn, Walker, Belken, and Mayor McCarley voted in favor of the motion. Mayor McCarley read the resolution for the first time by title only as follows:

Resolution Authorizing the Increase of Donations to the City of Rochester Library by \$1,000 and Supplemental Appropriation in Connection Therewith**BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF ROCHESTER:**

The Mayor and City Council authorize a supplemental appropriation to the FY21 Library operating budget in the amount of One Thousand Dollars (\$1,000.00) with the entirety of the supplemental appropriation being derived from donations received by the Library. Expenditures can only occur to the extent donations are received. 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, nonlapsing, multi-year fund accounts(s) as necessary to which said sums shall be recorded.

Councilor Lachapelle **MOVED** to **ADOPT** the resolution. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous roll call vote of 13 to 0. Councilors Rice, Gray, Lachapelle, Hailey, Abbott, Bogan, Hutchinson, Lachance, Hamann, Lauterborn, Walker, Belken, and Mayor McCarley voted in

favor of the motion.

Councilor Lachance said the City Council voted against sending proposed language (Amendment to the Ordinances) of 13.1 to the Codes and Ordinances Committee later this week; however, he suggested the topic should still be discussed by the Committee. Mayor McCarley said that it correct. Councilor Lachapelle said he would be glad to discuss the topic if it is brought up for discussion this coming Thursday.

14. Non – Public

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

Councilor Lauterborn **MOVED** to enter into a Non-Public Session under Land, RSA, 91-A:3, II (d) at 8:12 PM. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a 13 to 0 roll call vote. Councilors Bogan, Hainey, Lachapelle, Lauterborn, Hamann, Walker, Hutchinson, Belken, Lachance, Abbott, Gray, and Rice voted in favor of the motion.

Councilor Lachapelle **MOVED** to exit the Non-Public session at 9:35 PM. Councilor Lachance seconded the motion. The **MOTION CARRIED** by a 13 to 0 roll call vote. Councilors Belken, Gray, Hamann, Rice, Lauterborn, Hainey, Lachapelle, Hainey, Lachapelle, Hutchinson, Walker, Lachance, Abbott, Bogan, and Mayor McCarley voted in favor of the motion.

Councilor Lauterborn **MOVED** to seal the minutes of the non-public session as disclosure would render the proposed action ineffective. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a roll call vote of 13 to 0. Councilors Gray, Belken, Hamann, Rice, Lauterborn, Hainey, Lachapelle, Hainey, Lachapelle, Hutchinson, Walker, Lachance, Abbott, Bogan, and Mayor McCarley voted in favor of the motion.

15. Adjournment

Mayor McCarley said if there were no objections, she would adjourn the Regular City Council Meeting. There were no objections and the Regular City Council meeting was adjourned at 9:38 PM.

Respectfully submitted,

Kelly Walters, CMC
City Clerk

EXHIBIT A

CIP FUND 1501 PROJECTS READY FOR DE-AUTHORIZATION

Account Number	Project Name	Revised Budget	Expended	Deauthorize		Total De-authorization	To Be Bonded	Comment
				Cash	Bond			
15013010-771000-20533	Portland St Roadway/underdrain	\$ 220,000.00	\$ 59,247.30		\$ 160,752.70	\$ 160,752.70	\$ 59,247.30	Project completed under budgeted amount
15013010-772000-17551	Community Center Fac Reno	\$ 100,000.00	\$ 68,356.00		\$ 180.00	\$ 180.00	\$ -	Org appropriation was borrowing, funding source change to fund balance for expended amount. Left this \$180 as funding bond funding source
15011090-772000-20509	Gonic Fire Kitchen Reno/drainage	\$ 40,000.00	\$ 28,299.78	\$ 11,700.22		\$ 11,700.22		Completed Cash Project
15011090-772000-20510	Gonic Pool Improvements	\$ 50,000.00	\$ 34,898.00	\$ 15,102.00		\$ 15,102.00		Completed Cash Project
15011090-772000-20511	N Main St Cemetery Fence	\$ 20,000.00	\$ 11,794.00	\$ 8,206.00		\$ 8,206.00		Completed Cash Project
15011090-772000-20512	Commons Playground	\$ 220,000.00	\$ 209,424.00		\$ 10,576.00	\$ 10,576.00	\$ -	APR 2020 Bond
15011090-772000-20513	Hanson Pines Playground	\$ 250,000.00	\$ 209,351.00		\$ 40,649.00	\$ 40,649.00		APR 2020 Bond
15011090-772000-20565	AC Recreation Office	\$ 35,000.00	\$ 27,180.00	\$ 7,820.00		\$ 7,820.00		Completed Cash Project
						\$ -		
						\$ -		
				\$ 42,828.22	\$ 212,157.70	\$ 254,985.92	\$ 59,247.30	