

**Revised on June 5, 2019*

Codes and Ordinances Committee

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



CODES AND ORDINANCES COMMITTEE

Of the Rochester City Council

Thursday, June 6, 2019

31 Wakefield Street, Rochester, NH

City Council Chambers

6:00 PM

Agenda

1. **Call to Order**
2. **Public Input**
3. **Acceptance of the Minutes: May 2, 2019**
4. **Placement of “Donation Bins”**
5. **Presentation: Rental Inspection Program P. 9**
 - **Rental Housing Inspection Program P. 11*
 - **Residential Rental Unit Registration Licensing and Inspection Guide P. 12*
 - **Rental Housing Inspection Program Process P. 16*
 - **Rental Housing Inspection General List P. 17*
 - **Inspection Form P. 18*
 - **Inspection Definitions P. 20*
 - **Resident’s Right Form P. 23*
6. **Discussion: Amendment to Ordinances (proposed changes)**
7. ***Ordinances Enrollment: Code replacement pages P. 25**
8. **Other**
9. **Adjournment**

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City Clerk's Office

Codes and Ordinances Committee
Councilor Peter Lachapelle, Chair
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CODES AND ORDINANCES COMMITTEE
Of the Rochester City Council
Thursday, May 2, 2019
31 Wakefield Street, Rochester, NH
City Council Chambers
6:00 PM

Minutes

1. Call to Order

Councilor Lachapelle called the Codes and Ordinances Committee meeting to order at 7:00 PM. Kelly Walters, City Clerk, took a silent roll call. All Committee members were present.

2. Public Input

Councilor Lachapelle invited the public to come forward to address the Committee. No member of the public came forward to address the Committee.

3. Acceptance of the Minutes: March 7, 2019

Councilor Lauterborn **MOVED** to **ACCEPT** the minutes of March 7, 2019. Councilor Bogan seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Lachapelle announced that Household Hazardous Waste Day will be held on Saturday, May 4, 2019, from 8:30 AM to 12:30 PM at the Turnkey Landfill, on Rochester Neck Road in Rochester.

4. Rubbish and Refuse

Councilor Lachapelle reviewed the General Ordinances – Code §210 Solid Waste and made the following motions:

Councilor Lachapelle **MOVED** to recommend to the full City Council that the General Ordinances – Code §210-1 Definitions be amended as follows:

Code §210-1

Recyclable Material – Any material, including various glass, paper, cardboard, metal cans, plastics or other materials, that can be processed or treated at ~~the Waste Management~~ a Material Recovery Facility in order to provide reusable materials.

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

Councilor Lachapelle **MOVED** to recommend to the full City Council that the General Ordinances § 210-1 Definitions be amended as follows:

§ 210-1

Residential Recycling Bin – ~~Any reusable container any reusable container that is labeled for recycling. Container shall be no larger than 18 gallons in size.~~ **The specifically provided or designated container distributed by the City's waste collection contractor. No other receptacles will be permitted.**

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

Councilor Bogan **MOVED** to recommend to the full City Council that the General Ordinances §210-3 Definitions be amended as follows:

§210-3.

Rubbish collection. The City of Rochester shall only collect rubbish on public streets or highways. For those properties served by streets other than public streets or highways, including but not limited to mobile home parks, condominiums, or streets not yet accepted by the City, rubbish shall not be placed ~~within the public street~~ **curbside** for collection unless agreed to by the Commissioner of Public Works or his/her designee and the City's waste collection contractor.

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

Councilor Bogan **MOVED** to recommend to the full City Council that the General Ordinances §210-6 be amended as follows:

§210-6.

Receptacles for residential solid waste. All residential solid waste shall be placed in ~~suitable~~ receptacles **provided by the city's waste collection contractor**, as defined under §210-1. Residential solid waste that does not fit in the approved receptacle shall not be collected unless such waste is recyclable materials as defined in §210-1 and placed at curbside as described in §210-17.

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

Councilor Gates **MOVED** to recommend to the full City Council that the General Ordinances § 210-17 be amended as follows:

§210-17.

Residential curbside recycling. Recyclable material will be collected from residences as defined by §210-1 on the same day as rubbish collection. Recyclable material must be placed in the approved residential recycling receptacles (as defined by § 210-1). The approved residential recycling receptacles must be placed ~~at the roadside~~ **curbside** on the evening before or by 7:00 a.m. on the scheduled pickup day. Unacceptable material found in the approved residential recycling receptacles will not be collected.

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

5. Placement of “Donation Bins”

Andrea Mitrushi, Deputy City Attorney/Prosecutor, referred to the recent issues with “dumping” near the charitable donation bins of Planet Aid (located at the old Ben Franklin parking lot) and the bins located at the Salvation Army. She said the City currently does not have any ordinance in place to regulate such charitable donation bins. Ms. Mitrushi said the Committee could discuss two possible options:

- 1.) Propose an amendment to the General Ordinances which would require a permit to be issued for such bins.
- 2.) Propose a zoning amendment which would restrict the placement of such bins within the Industrial/Recycling Zone, which is currently the same zone as the Waste Management Facility.

The Committee discussed the two options. Councilor Lauterborn supported the idea of requiring a permit for such bins because it would likely mandate that the site be kept clean of clutter. She did not support keeping these bins only in Industrial/Recycling Zones, noting that having these bins so far out of public sight may cause an even bigger problem with “dumping.”

Councilor Lachapelle suggested keeping this topic in Committee. He added that Jim Grant, Director of Building Zoning and Licensing Services, will be attending the June 6, 2019 Committee meeting to discuss the “inspection of multi-family dwelling units.” He stated that it would make sense to request that Mr. Grant be prepared to give a recommendation on how to remedy the donation bin situation, either by proposing a zoning amendment or issuing permits. If the recommendation is to issue permits for such bins, than Mr. Grant should provide the Committee with a proposed permit with detailed information outlining what the permit would entail and who would police this issue once a permit is issued. Councilor Gates suggested a requirement to keep the owner’s contact information directly upon such bins. The Committee discussed how some members of the community take advantage of the bins to drop off their “junk.” This matter has been kept in Committee.

6. **Discussion:** Amendment to Ordinances (proposed changes)

Council Abbott had some proposed amendments and suggested that Mr. Grant review these proposed changes as well.

Councilor Abbott said he felt it does not make sense the way in which the City adopts additional codes within the ordinances, specifically the Building Code. It would make sense for the City Council to adopt the current State Building Code only by reference, which lists the State’s adoptive Building Codes and/or an edition of said codes and which is always up-to-date. This would ensure that the City is always in compliance with the provisions of the State RSAs and is not using outdated material. In the future, at the time the State Legislation adopts a set of new Codes, the City would automatically be referencing the correct set of codes at all times. Councilor Abbott referred to some of the City’s building codes, which are now over 10-years out-of-date. The City is permitted to enforce these more stringent regulations of the past; however, if the City Council is not constantly updating new versions of the Code, it can become problematic for various reasons.

Councilor Abbott **MOVED** to recommend that the City Attorney place the following

Amendment in legal format and that it be presented to the full City Council at the next Regular meeting by adopting the building codes only by reference to RSA 155-A with the exception of the property maintenance code, which shall remain in the City ordinances as follows:

- (1) International Property Maintenance Code (2006 edition), published by the International Code Council, Inc., Copyright 2006.

Councilor Bogan seconded the motion. Councilor Lachapelle questioned if by adopting the building codes by referencing RSA 155-A if it would automatically include any newly adopted codes. Ms. Mitrushi agreed to confirm that the Rochester Code would become effective at the same time new legislation is passed and that no further City Council action would be necessary once the correct RSA is adopted by reference. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Abbott referred to City Ordinances - Code §40.15 Permits. He said this chapter has concerned him for some time. The State Building Code provides specific exemptions, especially for residential buildings/properties, of things that do not require a building permit. Some of the exemptions including small sheds (less than 200-square feet) and fencing (less than 6-feet high). He said a Rochester resident will pay more for a building permit based on how expensive the fence costs. He stated that the City should charge a straight fee for building permits not requiring an inspection. This would ensure no one is being penalized for constructing a better quality product. He **MOVED** to recommend that the City Attorney place the following Amendment in legal format to be presented to the full City Council at the next Regular meeting for the City to charge a straight fee for building permits not requiring an inspection. Councilor Bogan seconded the motion.

Councilor Lauterborn asked why the City charges a fee for an item which does not require an inspection. She questioned if other communities charge for non-inspection building permits. Councilor Abbott said he is only aware of the two other communities, in which he was previously employed, which do not charge for exempt building permits. He clarified that such building items (small sheds, some fences, and other exempted items) would still be required to follow any/all set-back requirements. He said such communities adopt the exemptions set forth in the State Building Code RSA 155-A, which has a complete list of exemptions. Councilor Lauterborn supported not charging a building permit fee for items that the State has classified as exempt. Councilor Abbott **WITHDREW** his motion and Councilor Bogan **WITHDREW** her second to the motion.

Councilor Abbott **MOVED** to recommend that the City Attorney place the following Amendment in legal format to be presented to the full City Council at the next Regular meeting, that §40-15 be amended to exempt the requirement for a building permit for items classified as exempt in the State Building Code, which are items that do not require an inspection. Councilor Lauterborn seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Abbott referred to the General Ordinances – §75-11 Means of escape. He said this information kept in §75-11 can be found in the State Building and Fire Codes so there is no reason to keep it in the ordinances as well. Councilor Abbott **MOVED** to recommend that the City Attorney place the following Amendment in legal format to be presented (deleted) to the full City Council at the next Regular meeting that Chapter §75-11 Means of escape as follows:

~~§75-11 Means of escape All factories, hotels, tenement houses, public halls, schoolhouses and other buildings used as places of public resort in the City shall be provided with ample means of escape in case of a fire and adequate facilities for entrance and exits on all occasions, and be so erected as not to endanger the health and safety of persons who occupy them.~~

Councilor Bogan seconded the motion. She questioned where the residents would go to find this information which is being removed from the ordinances. Councilor Abbott replied that it can be found in the State’s Building & Fire Codes. He said that the State Building and Fire Codes address “means of escape” at great length and deal with any/all exceptions. He reiterated that there is no benefit from keeping a vague description in the City ordinances when the State thoroughly deals with the complexity of “means of escape.” The **MOTION CARRIED** by a unanimous voice vote.

Councilor Abbott referred to the General Ordinances –§135-5 Mobile home lots. He said the City of Rochester no longer allows new mobile home parks so 135- 5 A (1) & (2) conflicts with the City’s existing ordinances. He **MOVED** to recommend that the City Attorney place the following Amendment in legal format to be presented to the full City Council at the next Regular meeting by amending (deleting) Chapter §135-5 (A) as follows:

§135-5 A - Mobile home lots.

~~(1) Each mobile home lot shall contain a minimum of 10,000 square feet in area and shall have minimum frontage of 75 feet on a park road.~~

~~(2) No mobile home with accessory buildings, garage, structures, storage building and paved parking spaces shall occupy in excess of 35% of a mobile home lot.~~

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

7. Other

Councilor Lauterborn mentioned that during the codification process it became clear that some of the language in the ordinances is very outdated and that the Committee should continue to make changes as they are brought to the attention of the Codes and Ordinances Committee.

Councilor Lachapelle spoke about the Clerk’s office seeking an alternate location to hold the Ward 2 Polling Location. He stated there is an issues with the limited space available due to the annual craft fair at the current location, St. Mary’s Church. He added that the church is not allowing the public to utilize the restrooms if needed. Councilor Lachapelle said there is another church facility located on Lowell Street, which seems to be a bit more spacious with plenty of parking. The Committee briefly discussed the matter. Councilor Lauterborn suggested that the City Clerk consider the Frisbie Memorial Hospital Conference Center, which is where the Ward Two Rochester United Neighborhoods meeting is currently held. Ms. Walters agreed to look into these other options and to bring it back to the Codes and Ordinances Committee meeting next month.

8. Adjournment

Councilor Lauterborn **MOVED** to **ADJOURN** the Committee meeting at 6:25 PM. Councilor Gates seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Respectfully Submitted

Kelly Walters
City Clerk

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City Clerk's Office

Rental Housing Inspection Program

Attached you will find several brochures and paperwork related to the Rental Housing Inspection Program. These are all ideas and we are willing to discuss and change any aspect you see fit.

- ***The purpose of the program is:***
 - To address the issue of substandard rental properties
 - Promote greater compliance with health and safety standards
 - Preserve the quality of Rochester's neighborhoods and available housing

- ***Registration***
 - Idea #1
 - Owners of rental property are required to submit a Rental Housing Program Registration Form for each rental property owned. The registration form is used to confirm the number of units on each parcel and to collect contact information such as mailing address.
 - Idea #2
 - City staff send reminders to all City Clerk registered rental property owners with the application asking them to submit it. If a rental is not registered with City Clerk's office it would be incumbent on the property owner to register on their own.
 - Idea #3
 - Depending on what ward the rental unit is in dictates when the registration is due. Example: January – Ward 1 & 2, May – Ward 3 & 4, September – Ward 5 & 6

- ***Program Fees***
 - Idea #1
 - No cost associated with the program
 - Idea #2
 - No charge for initial registration and program fee. We would charge for re-inspections if the program did not pass the first inspection.
 - Idea # 3
 - There is a charge for the initial program application. The first re-inspection does not cost the property owner anything and every subsequent inspection after the first results in a fee.

- ***Inspection***
 - Idea #1
 - The property owner schedules an inspection within 30 days of returning the registration form. The property owner notifies the tenants of the inspection, and the tenant is allowed to be present during the inspection

- Idea #2
 - During the initial rollout of the program (first year), the property owner is allowed to schedule the inspection at any point during that year. This way they can coordinate around vacancies should any exist.
- **Scoring System**
 - Depending on where your property scores dictates how frequently you are inspected.
 - Idea #1
 - 100-90 – Every 5 years
 - 89-80 – Every 3 Years
 - 79 and below – Yearly
 - Idea #2
 - 100-90 – Every 3 years
 - 89-80 – Every 2 years
 - 79 and below – Yearly
 - The frequency is based off your initial score. You are still expected to correct all deficiencies.



RESIDENTIAL RENTAL UNIT REGISTRATION

LICENSING AND INSPECTION GUIDE

This checklist outline is to be used as a guide to understand the Rental Registration, Licensing and Inspection Ordinance and the Inspection process. This guide is not to suggest that this is a complete list of every item to be evaluated at the time of inspection; it is meant to reference commonly inspected items. Please that a license or inspection by itself shall not warrant that a Rental Unit is lawful, safe, habitable or in compliance with all City Codes.

Inspection criteria for the Rental Inspections are established in accordance with the City of Rochester Property Maintenance Code as amended and may be amended, and City Health and Housing Standards.

The purpose of the Rental Registration, Licensing and Inspection ordinances is to promote and protect the public health, safety and welfare.

EXTERIOR

- Sidewalks shall be maintained in good condition without tripping hazards and free from weed and grass growth.
- Exterior yard will be inspected for city code violations (including: weeds, debris, and inoperable vehicles).
- Street address numbers must be installed on the front of the main structure and contrast their background.
- Entire exterior of main structure and all accessory structures (garages, sheds, fences) will be inspected for property maintenance violations. *Violations include:* Peeling / chipped paint, missing / damaged siding, rotted wood on exterior of structure (including garages and sheds).
- All accessory structures, including detached garages and fences must be structurally sound and in good repair.
- Condition of roof (bowed / missing shingles).
- Chimneys: structurally safe and sound and in good repair.
- No broken windows.
- Gutters and downspouts must be in good repair and properly discharge storm water.
- Foundation: Excessive cracking or shifting, crawlspace openings securely covered.
- Stairways, decks, porches and balconies: structurally sound and in good repair, and capable of supporting the imposed loads.
- All handrails and guards must be at the required height, properly installed and in good repair.
- Fire Escapes shall be properly installed and maintained. Fire Escapes shall be tested and report submitted to the City Department of Code Enforcement by a Professional Engineer every five years. A copy of the report to be completed is available by the Code Enforcement Office.
- Garbage cans and recycling bins shall be available.
- Abandoned oil tanks (exterior or interior) shall be removed or underground may be abandoned in place in accordance code.
- Out-of-service antennas, satellite dishes, telecommunication lines shall be removed.

INTERIOR

- In two-unit or multi-unit buildings, every unit shall be numbered for identification purposes. Rooming houses shall have every room identified.
- All means-of-egress doors (including screen and storm doors) must be properly operable and weather tight. Double-keyed locks (locks that are keyed on the inside of doors leading to the exterior) are prohibited. Screen and storm doors must have door handles and hardware for proper closure. Door shall be readily open-able without special tools, keys or knowledge.
- Check for general cleanliness – all surfaces must be clean. This includes walls, windows, counter-tops, sinks, tubs, cabinets, floors, etc.
- Carpeting must be in good condition, clean and free from stains and tears. All flooring throughout the dwelling must be clean and in good repair (i.e. linoleum, tiles, etc.).
- All windows must be properly operable, in good repair, and able to readily open/stay open with its own hardware. Locks must be properly operable. Interior window wells and frames must be free of chipped and peeling paint, etc.
- Window screens must be installed properly and in good repair.
- All interior surfaces must be free of chipped/peeling paint, and in good repair.

- All electrical equipment must be properly installed and in good working order. All switch and plug covers must be installed. Panel box must be properly installed, including blanks for missing knockouts and unused breaker openings, labeled and able to safely perform its intended function.
- Light fixtures shall have covers, guards, globes or the like protecting the light bulb.
- Extension cords shall not be used as permanent wiring or to provide power to heaters, air conditioners or similar equipment.
- Smoke detector requirements:
 - At least one detector on the outside hallway wall in the vicinity of each separate sleeping area.
 - One detector installed in each bedroom.
 - One detector on each story of a dwelling unit.
 - Hard-wired (electric) detectors must have a battery back- up.
- Fire extinguishers:
 - Must be located along normal paths of travel and in a conspicuous location where readily accessible.
 - Each dwelling unit and basements in a multi-unit structure requires a minimum 5-lb ABC (rating 2A-10BC) fire extinguisher mounted in the kitchen area.
 - All fire extinguishers must be inspected annually by a certified professional.
- Fire Protection Equipment:
 - Fire detection, protection, alarm and suppression systems must be tested and inspected by a certified professional annually.
 - The Code Office must receive a NFPA 72 inspection sheet, completed by a minimum NICET Level III certified professional to show the results of this inspection, annually.
 - Hardwired interconnected smoke alarm systems must be maintained in working order. If a hardwired batter backup alarm is not working, it cannot be replaced with a battery-only operated alarm.
- All interior doors must be properly operable and in good repair. Keyed locks are prohibited on the inside of bedroom doors. Door shall be readily open-able without special tools, keys or knowledge.
- Bedrooms: shall be at least 70 sq. ft. for one occupant; for more than one occupant the bedroom shall have a minimum 50 sq. ft. for each occupant.
- Minimum ceiling height for habitable spaces must be at least 7 feet, including habitable basements and attics.
- Bathrooms:
 - Sinks, tubs and toilets must be clean and able to safely perform its intended function.
 - Plumbing properly installed (traps, piping, flush tank assembly, etc.).
 - No leakage under bathroom sink.
 - Shelving board under sink free from rotting or evidence of excessive water damage.
 - Either a minimum of one open-able window or mechanical ventilation is required.
- Kitchen:
 - All surfaces clean.
 - All cabinets, counter-tops, storage areas in good repair.
 - No leaks under sink. Trap installed, shelving board in good repair.
 - All electrical equipment in proper operating condition.

- Stove and refrigerator must be clean and in proper working order.
 - Exhaust over stove must be clean and properly installed.
- Water heater must be properly installed, vented properly (if gas), with a discharge pipe installed on the temperature-pressure relief valve. Discharge pipe shall extend to within 6” of the floor, or other approved method.
 - All interior stairs, railings and guards must be at the required height, properly installed and in good repair.
 - All clothes dryers shall properly exhaust to the exterior of the building.
 - All mechanical units / heating must be properly installed and able to safely perform its intended function.
 - Fuel-fired heating systems and chimneys shall be inspected, cleaned and certified by qualified professionals to be in good repair, clean and properly venting within the past twelve (12) months. Signed copies of certificates shall be provided to the Code Enforcement Office.
 - Attics: if accessible, will be inspected for evidence of roof leaks, excessive storage or accumulations, habitability and openings that permit rodent/pest entry.

SUMMARY OF THE RESIDENTIAL RENTAL PROPERTIES LICENSING AND INSPECTION ORDINANCE

The Ordinance requires that EACH residential rental unit/apartment be registered on a yearly basis. The registration/license “year” runs from August 15th of the current year to August 14th of the following year. Registrations received after August 15th will be subject to additional penalty fees. Residential rental units that are vacant, but available for rent, MUST be registered. If you have sold your rental unit, please indicate that on the referral invoice and return the invoice to us. The City must be notified of any changes in ownership/manager within five (5) days of any change.

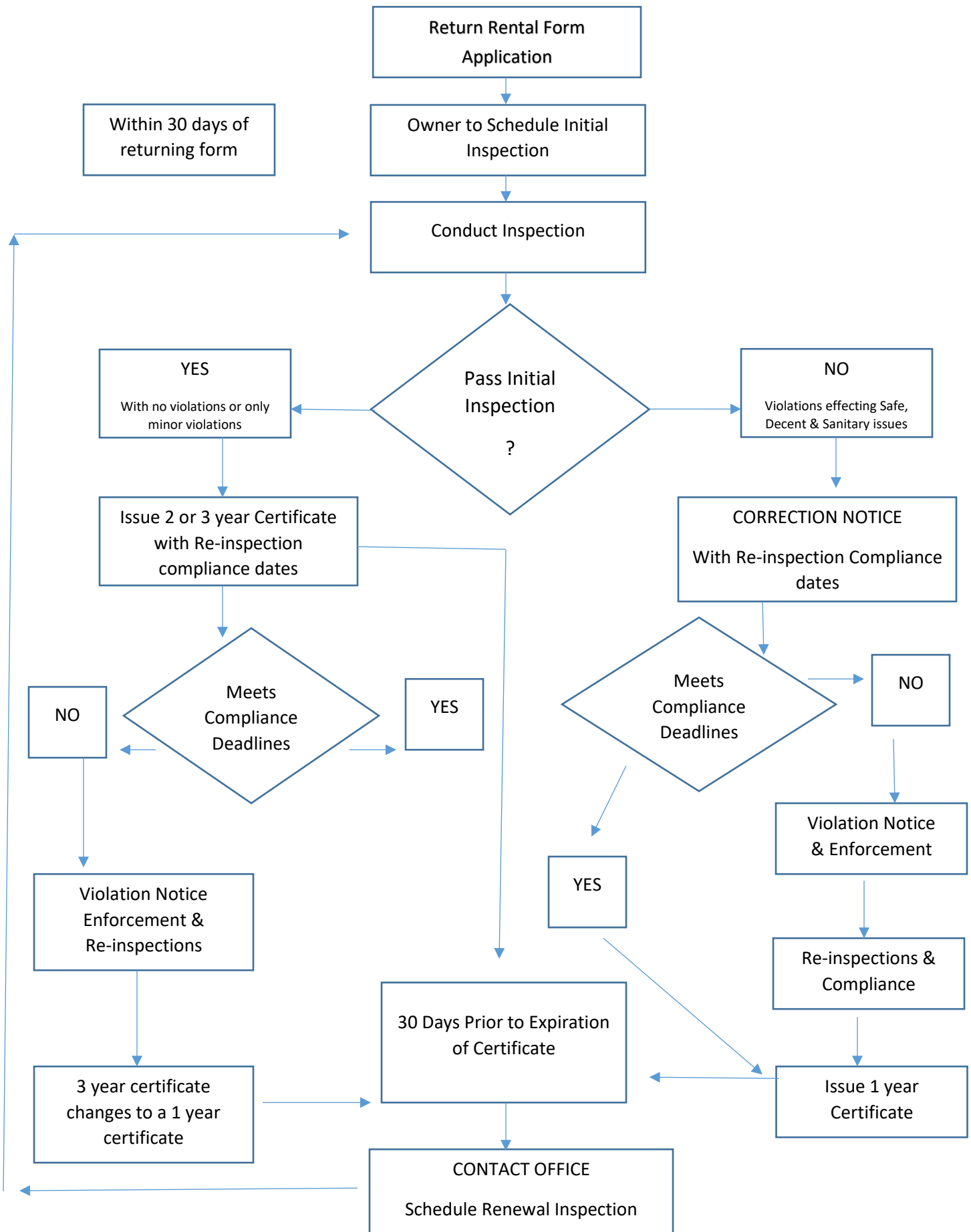
Requirements for a residential rental license include, obtaining a business license, paying all real estate taxes, water, sewage and the owner provides correct information concerning a manager, if applicable and provides a list of names of occupants age 18 or older.

The Ordinance requires that each residential rental unit is subject to an inspection. Inspection appointments shall be made by the Owner/Manager with this office. The owner/manager must accompany the Code Officer on the inspection of the property. The initial inspection and the re-check inspection (done after all necessary corrections, as identified by the Code Officer, have been completed) are included in the Registration/License fee. If, at the re-check inspection, all corrections have NOT been completed, there will be additional charges applied to any RE-INSPECTION. A charge will be applied if the Owner/Manager does not show up for a scheduled inspection/re-check appointment or if the Owner/Manager is unable to gain entry to the rental unit.

The owner is responsible to maintain the premises in compliance with the adopted property maintenance code and City health and housing standards. Failure of the Owner/Manager to correct the violation(s) within the established time period may result in the City invoking the remedies available under this Ordinance or other applicable Codes, Ordinances or Statutes, including fines, condemnation, declaration of the premises being unfit for habitation.

The occupants shall comply with all applicable codes and ordinances of the City. Occupants are responsible to keep the interior and all areas which they control free of all rubbish, garbage and other waste in a clean and sanitary manner and comply with City solid waste and recycling regulations. Occupants shall not engage in, nor tolerate nor permit guests on the premises to engage in, any conduct declared illegal under any code or law or disruptive conduct.

City of Rochester Rental Housing Inspection Program Process





City of Rochester
Rental Housing Inspection
General List

Listed below are deficiencies which may appear when a rental inspection is performed. Any identified deficiencies must be corrected by the compliance date unless an action plan has been submitted to our office. Use this list to help you prepare for your rental inspection. This is only a general list and not intended to be a complete list of potential deficiencies. **Note: All utilities shall be on.**

• **EXTERIOR**

Premises identification. Shall be Arabic numerals or alphabet letter with a minimum height of 4 inches.

General. The exterior of a structure shall be maintained in good repair, structurally sound and sanitary.

Protective treatment. All exterior surfaces, including but not limited to, doors, window frames, cornices, porches, trim, decks shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other treatments.

Structural members. Shall be maintained free from deterioration, and shall be capable of safely supporting the imposed dead and live loads.

Foundation walls. Shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rodents and other pests.

Stairways, decks, porches, and balconies. Shall be maintained structurally sound, in good repair and capable of supporting the imposed loads.

Handrails and guards. Shall be firmly fastened and capable of supporting normally imposed loads and in good condition.

Window, skylight and door frames. Shall be kept in sound condition, good repair and weather tight.

Openable windows. Every window, other than a fixed window, shall be easily openable and capable of being held in position by window hardware.

Rubbish storage facilities. The owner of every occupied premises shall supply approved covered containers for rubbish, and the owner of the premises shall be responsible for the removal of rubbish.

Disposal of garbage. Every occupant of a structure shall dispose of garbage in a clean and sanitary manner by placing such garbage in an approved garbage disposal facility or approved garbage containers.

• **INTERIOR**

Structural members. Shall be structurally sound and capable of supporting the imposed loads.

Interior surfaces. Shall be maintained in good, clean and sanitary condition.

Stairs and walking surfaces. Shall be maintained in good condition.

Handrails and guards. Every handrail and guard shall be maintained in good condition.

Interior doors. Shall fit reasonably well within its frame and shall open and close properly.

Extermination. The owner of any structure shall be responsible for extermination within the structure prior to renting or leasing the structure.

Habitable space. Every habitable space shall have at least one openable window.

Heat supply. Every owner and operator of any building who rents, leases or lets one or more dwelling unit, rooming unit, dormitory or guestroom on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat during the period from October 15 to May 1 to maintain a temperature of not less than 65 degrees F in all habitable rooms, bathrooms, and toilet rooms. **Note:** One or more unvented room heaters shall not be used as the sole source of comfort heat in a dwelling unit.

Plumbing. The owner of the structure shall provide and maintain all plumbing facilities and fixtures.

Mechanical appliances. Shall be properly installed and maintained in a safe working condition.

Clearances. All required clearances to combustible materials shall be maintained.

Combustion air. Shall be provided for all fuel-burning equipment.

Electrical. The size and usage of appliances and equipment shall serve as a basis for additional facilities. Dwelling units shall be served by a three-wire, 120/240 volt, single-phase system, not less than 60 amperes.

Receptacles. Every habitable space shall contain at least two separate outlets. Every laundry area shall contain a grounded outlet or at least one ground fault circuit interrupted protection. Every bathroom shall contain at least one receptacle. Any new bathroom receptacle outlet shall have ground fault circuit interrupted protection.

Insect screens. During the period from April 1 to November 1, every door, window and other outside opening required for ventilation of habitable rooms, shall be supplied with approved tightly fitting screens.

Smoke detectors. Shall be in good working order and shall be in each bedroom, outside of each bedroom and on every floor



Rental Housing Inspection Program INSPECTION FORM

City of Rochester
Building, Zoning, and Licensing Services
33 Wakefield St.
Rochester, NH 03867

Property Street Address: _____ Property Inspection Date: _____

of Units: _____ # of Bedrooms: _____ # of Bathrooms: _____ Unit Occupied Agent Present Owner Present

Property Owner Name: _____ Property Owner Address: _____

Property Owner Phone #: _____ Property Owner Email Address: _____

Local Agent Name: _____ Local Agent Address: _____

Local Agent Phone: _____ Local Agent Email Address: _____

Level 1 = 1 Point

Level 2 = 2 Points

Level 3 = 3 Points

Exterior Property Areas (302)	Pass	Level 1	Level 2	Level 3	Comments
Sanitation (302.1)	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>	N/A	
Grading and Drainage (302.2)	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>	<input type="checkbox"/>	
Sidewalks and Driveways (302.3)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Rodent Harborage (302.5)	<input checked="" type="checkbox"/>	N/A	N/A	<input type="checkbox"/>	
Accessory Structures (302.7)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Motor Vehicles (302.8)	<input checked="" type="checkbox"/>	N/A	N/A	<input type="checkbox"/>	
Defacement of Property (302.9)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Graffiti found on back wall
Exterior Structure (304)	Pass	Level 1	Level 2	Level 3	Comments
Protective Treatment (304.2)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	N/A	North wall has less than 50% chipped
Premises Identification (304.3)	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>	N/A	
Foundation Walls (304.5)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Exterior Walls (304.6)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Roofs and Drainage (304.7)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Back roof has less than 1sq missing
Stairways, Decks, Porches (304.10)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Chimneys and Towers (304.11)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Handrails and Guards (304.12)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Windows (304.13)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Doors (304.15)	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Rear entry door will not close
Building Security (304.18)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Interior Structure (305)	Pass	Level 1	Level 2	Level 3	Comments
Interior Surfaces (305.2)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	N/A	Hallway wall is less than 50% chipped
Stairs and Walking Surfaces (305.4)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Handrails and Guards (305.5)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Interior Doors (305.6)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Rubbish and Garbage (308)	Pass	Level 1	Level 2	Level 3	Comments
Accumulation of Rubbish (308.1)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Containers (308.3.2)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Pest Elimination (309)	Pass	Level 1	Level 2	Level 3	Comments
Infestation (309.1)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

Light and Occupancy Limits - Chapter 4	Pass	Level 1	Level 2	Level 3	Comments
Habitual Spaces (402.1)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Privacy (404.1)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Min. Room Dimensions (404.2/404.3)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Bedroom Requirements (404.4)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Overcrowding (404.5)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Food Preparation (404.7)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Plumbing Facilities – Chapter 5	Pass	Level 1	Level 2	Level 3	Comments
Dwelling Unites (502.1)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
General (504.1)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Plumbing System Hazards (504.3)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Mechanical and Electrical – Chapter 6	Pass	Level 1	Level 2	Level 3	Comments
Residential Occupancies (602.2)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Heat Supply (602.3)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Mechanical Appliances (603.1)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Facilities Required (604.1)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Electrical System Hazard (604.3)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Installation of Electrical (605.1)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Receptacles (605.2)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Luminaries (605.3)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Light fixture missing in hallway
Wiring (605.4)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Fire Safety Requirements - Chapter 7	Pass	Level 1	Level 2	Level 3	Comments
Means of Egress (702.1)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Smoke Alarms (704.2)	<input type="checkbox"/>	N/A	N/A	<input checked="" type="checkbox"/>	Smoke alarm missing in bedroom
Installation Near Cooking (704.2.1.3)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Interconnection (704.2.2)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Power Source (704.2.3)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

Inspection Results:

Score: 90



90-100

Property Inspected
Every 3 years



80-89

Property Inspected
Every 2 Years



79 and Below

Property Inspected
Every Year

Inspector: _____

Date: _____

All violations noted during this inspection are required to be corrected or a detailed plan of correction must be submitted within 30 days of the date of the inspection.

City of Rochester – Inspection Definitions

Defacement of Property (302.9)

No person shall willfully or wantonly damage, mutilate or deface any exterior surface of any structure or building on any private or public property by placing thereon any marking, carving or graffiti. It shall be the responsibility of the owner to restore said surface to an approved state of maintenance and repair.

Deficiency: You see crude inscriptions or drawings scratched, painted, or sprayed on a building surface, retaining wall, or fence that the public can see from 30 feet away.

Level of Deficiency:

Level 1: You see graffiti in 1 place.

Level 2: You see graffiti in 2 to 5 places.

Level 3: You see graffiti in 6 or more places.

Protective Treatment (304.2)

All exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences shall be maintained in good condition. Exterior wood surfaces, other than decay resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. All siding and masonry joints as well as those between the building envelope and the perimeter of windows, doors, and skylights shall be maintained weather resistant and water tight. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion and all surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.

Deficiency: Paint is cracking, flaking, or otherwise deteriorated. Water damage or related problems have stained the paint.

Note: This does not include walls that are not intended to have paint, such as most brick walls, etc.

Level of Deficiency:

Level 1: You observe that less than 50% of a single building exterior wall is affected.

Level 2: You observe that more than 50% of a single building exterior wall is affected.

Level 3: N/A

Roofs and Drainage (304.7)

The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.

Deficiency: Shingles are missing or damaged, including cracking, warping, cupping, and other deterioration.

Note: A square is 100 square feet.

Level of Deficiency:

Level 1: Up to 1 square of surface material or shingles is missing or damaged from roof areas you survey.

Level 2: One to 2 squares of surface material or shingles are missing or damaged from surveyed roof areas.

Level 3: More than 2 squares of shingles are missing or damaged from surveyed roofing areas.

Exterior Doors (304.15)

Exterior doors, door assemblies, operator systems if provided, and hardware shall be maintained in good condition. Locks at all entrances to dwelling units and sleeping units shall tightly secure.

Deficiency: You see a frame, header, jamb, threshold, lintel, or trim that is warped, split, cracked, or broken.

Level of Deficiency:

Level 1: N/A

Level 2: At least 1 door is not functioning or cannot be locked because of damage to the frame, header, jamb, threshold, lintel, or trim.

Level 3: At least 1 entry door or fire/emergency door is not functioning or cannot be locked because of damage to the frame, header, jamb, threshold, lintel, or trim

Interior Surfaces (305.2)

All interior surfaces, including windows and doors, shall be maintained in good, clean and sanitary condition. Peeling, chipping, flaking or abraded paint shall be repaired, removed or covered. Cracked or loose plaster, decayed wood and other defective surface conditions shall be corrected.

Deficiency: Paint is cracking, flaking, or otherwise deteriorated. Water damage or related problems have stained the paint.

Level of Deficiency:

Level 1: You observe that less than 50% of a single building exterior wall is affected.

Level 2: You observe that more than 50% of a single building exterior wall is affected.

Level 3: N/A

Luminaries (605.3)

Every public hall, interior stairway, toilet room, kitchen, bathroom, laundry room, boiler room and furnace room shall contain not less than one electric luminaire.

Deficiency: A lighting fixture is missing or does not function as it should. The malfunction may be in the total system or components, excluding light bulbs.

Level of Deficiency:

Level 1: In 1 room in a unit, a permanent lighting fixture is missing or not functioning, and no other switched light source is functioning in the room.

Level 2: In 2 rooms, a permanent lighting fixture is missing or not functioning, and no other switched light source is functioning in the rooms.

Level 3: In more than 2 rooms, a permanent light fixture is missing or not functioning, and no other switched light sources are functioning in the rooms.

Smoke Alarms (704.2)

Sensor to detect the presence of smoke and activate an alarm. May be battery operated or hard-wired to electrical system. May provide visual signal, audible signal or both.

Deficiency: A smoke detector will not activate or is missing.

Level of Deficiency:

Level 1: N/A

Level 2: N/A

Level 3: A single smoke detector is missing or does not function as it should.

RESIDENT'S RIGHTS FORM

Welcome to your new rental home. We hope your stay is enjoyable, so we encourage you to talk to us if you have any questions about your home or about our rental policies. This information sheet provides you with general information about your rights and responsibilities.

Please read it carefully and let us know if you have any questions. Our contact information is included for your convenience.

Rights and Responsibilities

Owners and residents of rental properties have specific rights and responsibilities under current state and local laws. As a resident, your rental home must be a safe place to live. In other words, it must be habitable. This means that your home must have the following:

- A structure that is weatherproof and waterproof; there must be no holes or cracks that allow rain or wind to enter;
- A plumbing system in good working condition and connected to the local water supply and sewage system or functional septic system;
- Floors, stairs and railings in good repair;
- A hot water system capable of producing water of at least 110 degrees Fahrenheit;
- An electrical system that was legal when installed and without loose or exposed wiring;
- A heating system that is in a safe, working condition.
- A lack of insect or rodent infestation;
- A home that is free from garbage or debris;
- Sufficient garbage or trash receptacles;
- A working toilet, wash basin and bathtub or shower;
- A kitchen with a sink;
- A safe fire or emergency exit;
- Deadbolt locks on each main swinging door that gives you entry to the home;
- Working smoke detectors and carbon monoxide detectors located in certain areas;
- Working telephone jack and phone wiring inside the home.

As a resident, you have a responsibility to do the following:

- Maintain a clean and sanitary rental home;
- Properly operate all electrical, gas and plumbing fixtures;
- Refrain from damaging or defacing the home or allowing anyone else to do so;
- Use the living and dining rooms, bedrooms and kitchens for their proper purposes;
- Report broken door or window locks;
- Contact the rental owner or property manager immediately to report any problems with your rental home especially any water damage or leaks;
- Comply with all rules, terms and conditions of the rental agreement.

Contact Your Rental Owner or Property Manager First

If you have any problems with your rental home, notify the rental owner or property manager first, preferably in writing. If it is an emergency such as water intrusion or water damage, contact the owner or manager immediately.

Contact Information

OWNER/PROPERTY MANAGER

ADDRESS

CITY, STATE, ZIP

DAYTIME PHONE

AFTER HOURS PHONE

EMAIL

Retaliation is Against the Law

A rental owner or property manager may not evict or threaten to evict a resident for exercising a legal right, such as requesting habitability repairs.

Maintenance and Repairs

Owners and managers want to know if there is an item that needs repair in your home. If you have a problem with any of the habitability items listed, you should:

- **Contact the rental owner or property manager first.** You should document your request in writing and keep a copy. If there is water intrusion, a water leak or any water damage occurring to the property, contact the owner or manager immediately.
- **Allow a reasonable period of time for repair.** In most cases, the owner or manager will begin working on your request shortly after it is made. Some repairs may take longer than others to complete. If you have waited a reasonable period of time and the requested repair has not been made, you may contact your local code enforcement department to file a complaint.

Owner's Right to Enter and Your Rights

In most cases, the owner or manager must provide you with prior written notice to enter your rental home. Written notice is considered reasonable if it is provided at least 24 hours in advance. A written notice **is required** in the following situations:

- To make necessary or agreed upon repairs;
- For inspection of the smoke detector and carbon monoxide detectors;
- To inspect waterbeds;
- If a court permits it.

However, a prior written notice **is not** required in the following situations:

- In an emergency;
- When you or another occupant consents;
- After you have abandoned or surrendered the rental home;
- Upon a verbal agreement to allow the owner to make agreed upon repairs or supply services.

Rental Agreement and Other Obligations

The rental agreement, whether it is a month-to-month or a lease, provides the rules and policies while living at the rental home. Be sure to read the language carefully because it is considered a contract between the owner (and/or manager) and resident.

Resident Confirmation

Resident(s) acknowledge(s) having read and understood the forgoing and received a copy. Resident(s) agree to contact owner/manager first to address any issue(s) with the home.

_____	_____
Resident	Date
_____	_____
Resident	Date
_____	_____
Owner/Agent	Date

Your local code enforcement department can help.

If you have made a request for a habitability item listed and waited a reasonable period of time and the repair has not been made, you may contact your local code enforcement department to file a complaint.

City of Rochester

(603) 332-3508

GENERAL CODE

INSTRUCTIONS

City of Rochester Code Supplement No. 1

The enclosed new and/or replacement pages should be placed in your Code volume immediately! The dateline, on the bottom of the page, does not indicate the adoption date of the Code changes, but rather identifies the pages printed with this supplement. This instruction page should be placed in the front of your Code volume.

REMOVE

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200:29 – 200:32
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275:125 – 275:128
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275 Attachment 7:1
DL:1 – DL:2
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Legislation, by number or date of adoption, included in this supplement: 3-5-2019.

Chapter 1

GENERAL PROVISIONS

ARTICLE I

Construction and Penalties

§ 1-1. General penalty.

§ 1-2. Definitions and word usage.

ARTICLE II

Adoption of Code

§ 1-3. Adoption of Code.

§ 1-4. Code supersedes prior ordinances.

§ 1-5. Continuation of existing provisions.

§ 1-6. Copy of Code on file.

§ 1-7. Amendments to Code.

§ 1-8. Publication; filing.

§ 1-9. Code to be kept up-to-date.

§ 1-10. Sale of Code.

§ 1-11. Altering or tampering with Code; penalties for violation.

§ 1-12. Severability of Code provisions.

§ 1-13. Severability of ordinance provisions.

§ 1-14. Repealer.

§ 1-15. Ordinances saved from repeal.

§ 1-16. Changes in previously adopted ordinances.

§ 1-17. When effective.

§ 1-18. Incorporation of provisions into Code.

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

ARTICLE I

Construction and Penalties

[Adopted 6-6-1995 as Ch. 30 of the 1995 Code]

§ 1-1. General penalty.

Any person or persons, company or corporation who or which shall violate or cause to be violated, by agent or otherwise, any provision of this the Code of the City of Rochester, or any order, rule or regulation made under authority granted by the Code, shall, upon conviction thereof, before the District Court or other court of competent jurisdiction, be fined not more than \$1,000, except in cases where a different punishment is provided for by the laws of the state or this the Code of the City of Rochester.

§ 1-2. Definitions and word usage. [Added 3-5-2019]

A. Definitions. Unless the context requires other interpretations or otherwise noted, the following terms are defined:

CITY — The City of Rochester, New Hampshire.

CITY COUNCIL — The City Council of Rochester, New Hampshire.

CODE — The Code of General Ordinances of the City of Rochester, New Hampshire.

COUNTY — Strafford County.

PERSON — Any natural individual, firm, trust, partnership, association or corporation in his/her or its own capacity as administrator, conservator, executor, trustee, receiver or other representative appointed by a court.

PUBLIC WAY — Any sidewalk, street, alley, highway or other public thoroughfare.

STATE — The State of New Hampshire.

B. Word usage.

- (1) Whenever any words in this Code denote the plural, the singular shall be deemed included, and whenever the singular number shall be used, it shall be deemed to include the plural.
- (2) All gender references have been removed. Only gender-neutral references shall be used throughout the Code.
- (3) Words in the present tense shall be deemed to include the future.
- (4) The word "shall" as used in this Code is mandatory.

ARTICLE II

Adoption of Code
[Adopted 3-5-2019]

§ 1-3. Adoption of Code.

The ordinances of the City of Rochester of a general and permanent nature adopted by the City Council of the City of Rochester, as revised, codified and consolidated into chapters and sections by General Code, and consisting of Chapters 1 through 275, inclusive, are hereby approved, adopted, ordained and enacted as the "Code of the City of Rochester," hereinafter referred to as the "Code."

§ 1-4. Code supersedes prior ordinances.

This ordinance and the Code shall supersede the City Code adopted June 6, 1995, and all other general and permanent ordinances enacted prior to the enactment of this Code, except such ordinances as are hereinafter expressly saved from repeal or continued in force.

§ 1-5. Continuation of existing provisions.

The provisions of the Code, insofar as they are substantively the same as those of the ordinances in force immediately prior to the enactment of the Code by this ordinance, are intended as a continuation of such ordinances and not as new enactments, and the effectiveness of such provisions shall date from the date of adoption of the prior ordinances.

§ 1-6. Copy of Code on file.

A copy of the Code has been filed in the office of the City Clerk and shall remain there for use and examination by the public until final action is taken on this ordinance, and if this ordinance shall be adopted, such copy shall be certified to by the Clerk of the City of Rochester by impressing thereon the Seal of the City, as provided by law, and such certified copy shall remain on file in the office of the Clerk to be made available to persons desiring to examine the same during all times while said Code is in effect.

§ 1-7. Amendments to Code.

Any and all additions, deletions, amendments or supplements to the Code, when adopted in such form as to indicate the intention of the City Council to make them a part thereof, shall be deemed to be incorporated into such Code so that reference to the "Code of the City of Rochester" shall be understood and intended to include such additions, deletions, amendments or supplements. Whenever such additions, deletions, amendments or supplements to the Code shall be adopted, they shall thereafter be inserted in the Code as amendments and supplements thereto.

§ 1-8. Publication; filing.

The Clerk of the City of Rochester, pursuant to law, shall cause to be published, in the manner required by law, notice of the adoption of this ordinance. A copy of the Code of the City of Rochester shall be maintained in the office of the Clerk for inspection by the public at all times during regular office hours. The enactment and publication of this ordinance, coupled with the availability of a copy of the Code for inspection by the public, shall be deemed, held and considered to be due and legal publication of all provisions of the Code for all purposes.

§ 1-9. Code to be kept up-to-date.

It shall be the duty of the City Clerk, or someone authorized and directed by the Clerk, to keep up-to-date the certified copy of the Code required to be filed in the Clerk's office for use by the public. All changes in said Code and all ordinances adopted subsequent to the effective date of this codification which shall be adopted specifically as part of the Code shall, when finally adopted, be included therein by reference until such changes or new ordinances are included as supplements to said Code.

§ 1-10. Sale of Code.

Copies of the Code, or any chapter or portion of it, may be purchased from the Clerk or an authorized agent of the Clerk upon the payment of a fee to be set by the City Council. The Clerk may also arrange for procedures for the periodic supplementation of the Code.

§ 1-11. Altering or tampering with Code; penalties for violation.

It shall be unlawful for anyone to improperly change or amend, by additions or deletions, any part or portion of the Code or to alter or tamper with such Code in any manner whatsoever which will cause the law of the City of Rochester to be misrepresented thereby. Anyone violating this section or any part of this ordinance shall be subject, upon conviction, to a fine as provided in § 1-1 of the Code.

§ 1-12. Severability of Code provisions.

Each section of the Code and every part of each section is an independent section or part of a section, and the holding of any section or a part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other sections or parts thereof. If any provision of this Code or the application thereof to any person or circumstances is held invalid, the remainder of this Code and the application of such provision to other persons or circumstances shall not be affected thereby.

§ 1-13. Severability of ordinance provisions.

Each section of this ordinance is an independent section, and the holding of any section or part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other sections or parts thereof.

§ 1-14. Repealer.

All ordinances or parts of ordinances inconsistent with the provisions contained in the Code adopted by this ordinance are hereby repealed; provided, however, that such repeal shall only be to the extent of such inconsistency, and any valid legislation of the City of Rochester which is not in conflict with the provisions of the Code shall be deemed to remain in full force and effect.

§ 1-15. Ordinances saved from repeal.

The adoption of this Code and the repeal of ordinances provided for in § 1-14 of this ordinance shall not affect the following ordinances, rights and obligations, which are hereby expressly saved from repeal:

- A. Any ordinance adopted subsequent to September 4, 2018.
- B. Any right or liability established, accrued or incurred under any legislative provision prior to the effective date of this ordinance or any action or proceeding brought for the enforcement of such right or liability.
- C. Any offense or act committed or done before the effective date of this ordinance in violation of any legislative provision or any penalty, punishment or forfeiture which may result therefrom.

- D. Any prosecution, indictment, action, suit or other proceeding pending or any judgment rendered prior to the effective date of this ordinance brought pursuant to any legislative provision.
- E. Any franchise, license, right, easement or privilege heretofore granted or conferred.
- F. Any ordinance providing for the laying out, opening, altering, widening, relocating, straightening, establishing grade, changing name, improvement, acceptance or vacation of any right-of-way, easement, street, road, highway, park or other public place or any portion thereof.
- G. Any ordinance appropriating money or transferring funds, promising or guaranteeing the payment of money or authorizing the issuance and delivery of any bond or other instruments or evidence of the City's indebtedness.
- H. Ordinances authorizing the purchase, sale, lease or transfer of property or any lawful contract or obligation.
- I. The levy or imposition of taxes, assessments or charges.
- J. The annexation or dedication of property or approval of preliminary or final subdivision plats.
- K. Ordinances providing for local improvements or assessing taxes or special assessments therefor.
- L. All currently effective ordinances pertaining to the rate and manner of payment of salaries and compensation of officers and employees.
- M. Any legislation relating to or establishing a pension plan or pension fund for municipal employees.
- N. Any ordinances adopting or amending a zoning map or otherwise rezoning property.
- O. Any ordinance or portion of an ordinance establishing a specific fee amount for any license, permit or service obtained from the City.
- P. Any ordinance or portion of an ordinance establishing or amending sewer or water rates or charges.

§ 1-16. Changes in previously adopted ordinances.

- A. In compiling and preparing the ordinances for publication as the Code of the City of Rochester, no changes in the meaning or intent of such ordinances have been made, except as provided for in Subsection B hereof. Certain grammatical changes and other minor nonsubstantive changes were made in one or more of said pieces of legislation. It is the intention of the City Council that all such changes be adopted as part of the Code as if the ordinances had been previously formally amended to read as such.
- B. The amendments and/or additions as set forth in Schedule A attached hereto and made a part hereof are made herewith, to become effective upon the effective date of this ordinance. (Chapter and section number references are to the ordinances as they have been renumbered and appear in the Code.)

§ 1-17. When effective.

This ordinance shall take effect upon passage and publication as required by law.

§ 1-18. Incorporation of provisions into Code.

The provisions of this ordinance are hereby made part of Chapter 1 of the Code of the City of Rochester, to be titled "General Provisions, Article II, Adoption of Code."

Chapter 7

ADMINISTRATIVE CODE

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[HISTORY: Adopted by the City of Rochester 6-6-1995 as Ch. 1 to Ch. 14 of the 1995 Code. Amendments noted where applicable.]

ARTICLE I

Legal Basis and Departmental Organization

§ 7-1. Legal basis.

This Administrative Code is established in accordance with the provisions of Section 26 of the Rochester City Charter, adopted September 12, 1989.

§ 7-2. Administrative departments. [Amended 10-15-2013; 3-5-2019]

The administrative service of the City shall consist of the following departments, and the department heads shall be known by the titles shown:

Department	Department Head
Assessing	City Assessor
Building, Zoning, and Licensing Services	Director of Building, Zoning, and Licensing Services
Economic Development	Economic Development Director
Finance	Finance Director
Fire	Fire Chief
Health	City Health Officer
Information Technology	Chief Information Officer
Legal	City Solicitor
Library	Library Director
Planning and Development	Director of Planning and Development
Police	Chief of Police
Public Works	Commissioner of Public Works
Purchasing	City Purchasing Agent
Records	City Clerk
Recreation and Arena	Director of Recreation and Arena
Tax Collection	Tax Collector
Welfare	Welfare Director

§ 7-3. Powers and duties of department heads.

- A. Each department head shall be responsible for the efficient operation of his/her department. He/she shall perform all the duties and exercise all the powers conferred upon his/her office by applicable laws and ordinances.

- B. Department heads may, with the approval of the City Manager, establish such department divisions and subunits as may be deemed desirable in the interest of economy and efficiency, and in accordance with sound administrative principles and practices.
- C. Department heads may prescribe departmental regulations subject to the approval of the City Manager not inconsistent with law, the City Charter, and rules and regulations of the City Council, for the administration of their various departments, conduct of their employees, and the proper performance of the department's business.
- D. Pursuant to the authority established by the City Charter, Sections 14, 15 and 18, a decision of any department head shall be subject to review and final decision by the City Manager.

§ 7-4. Appointment and compensation of department heads.

- A. All department heads shall be appointed in the manner and for such terms as shall be provided by the Rochester City Charter or the applicable statute or ordinance.
- B. The compensation of all department heads, unless otherwise provided, shall be as established in the annual budget appropriation for their respective departments.

§ 7-5. Department staffs.

- A. Department heads may establish subordinate positions and make appointments and removals as may be necessary, within the limitations of the appropriations provided and subject to Section 15 of the City Charter.
- B. All employees shall be under the immediate supervision of their respective department or division heads.

ARTICLE II

Municipal Departments

§ 7-6. Administrative head of City.

- A. The City Manager shall be the administrative head of the City, and shall perform all the duties and have all the responsibilities prescribed by the City Charter. The City Manager shall be appointed in accordance with the provisions of Section 11 of the Rochester City Charter.
- B. The City Manager shall supervise the heads of all departments established by this code, and shall have the power to suspend and discipline, and to perform or delegate the duties and responsibilities of such department heads.
- C. The City Manager may prescribe such rules and regulations not inconsistent with the City Charter and City ordinances as he/she may deem necessary for the conduct of the various departments, and he/she may investigate and inquire into the affairs of any department at any time.

§ 7-7. (Reserved)¹**§ 7-8. Assessing Department.**

- A. The Assessing Department shall consist of one Assessor, to be known as the City Assessor, and three Deputy Assessors, who all together shall be known as the Board of Assessors, and such personnel as may be provided for in the annual departmental budget appropriation. The City Assessor shall be appointed in the manner and for such term provided in Sections 15 and 18 of the Rochester City Charter. The Deputy Assessors shall be appointed in accordance with provisions of Section 20 of the Rochester City Charter. The Assessing Department shall be under the immediate supervision of the City Assessor. **[Amended 5-1-2007; 3-5-2019]**
- B. The City Assessor, with the assistance of City personnel, shall perform the following functions: **[Amended 5-1-2007]**
- (1) Carry out the duties relative to taking the inventory and appraisal of property for taxation.
 - (2) Prepare all assessments and tax rolls and tax notices as required by law.
 - (3) Check all property transfers and maintain all property records pertaining to the assessing function.
 - (4) Perform other related functions as required.
- C. The Board of Assessors shall perform the following functions:
- (1) Review and sign all tax warrants to be committed to the Tax Collector.
 - (2) Act as a Board of Tax Review on all appeals from assessments and sign all appeal forms, after their action.

§ 7-9. Department of Building, Zoning, and Licensing Services. [Amended 10-15-2013]

- A. The Department of Building, Zoning, and Licensing Services shall be under the immediate supervision of the Director of Building, Zoning, and Licensing Services and shall consist of such personnel as may be provided for in the annual departmental budget appropriation. The Director of Building, Zoning, and Licensing Services shall be appointed in the manner and for such term provided in Sections 15 and 18 of the Rochester City Charter.
- B. The Director of Building, Zoning, and Licensing Services shall perform the following functions:
- (1) Supervise the issuance of building, plumbing and housing permits.
 - (2) Inspect existing housing, new construction, remodeling, and land use for conformity with the Building, Plumbing and Zoning Codes.

1. Editor's Note: Original § 2.18, Arena Department, was repealed 3-5-2019. See now § 7-21, Recreation and Arena Department.

- (3) Prepare and maintain all necessary records.
- (4) Issue all permits for the erection of signs.
- (5) Inspect existing housing, new construction and remodeling for conformity with the Housing Code.
- (6) Perform all other functions that may be required by law or ordinance.

§ 7-10. Economic Development Department.

- A. The Economic Development Department shall be under the immediate supervision of the Economic Development Director and shall consist of such personnel as may be provided for in the annual departmental budget appropriation. The Economic Development Director shall be appointed in such manner and for such term provided in Sections 15 and 18 of the Rochester City Charter.
- B. The Economic Development Department shall perform the following functions:
 - (1) Promote the City of Rochester, through advertising, prospect development, and other means, as an attractive location for industrial and commercial location and expansion.
 - (2) Assist prospects interested in evaluating Rochester as a potential industrial or commercial location.
 - (3) Undertake appropriate actions to encourage the continued availability of marketable industrial and commercial sites within the City.
 - (4) Utilize available industrial and commercial development financing programs to provide a source of financing for local plant construction and/or expansion.
 - (5) Act as the City's liaison with businesses and industries located in the greater Rochester area, to ensure maintenance of good relations, encourage the City's responsiveness to industry needs, and to foster expansion of the City's established industrial and commercial base.
 - (6) Formulate economic development policy for the City of Rochester, in conjunction with the Rochester Economic Development Commission, and implement the same.
 - (7) Perform all other related functions as required.

§ 7-11. Finance Department.

- A. The Finance Department, under the general supervision of the Finance Director, shall consist of the Divisions of Fiscal Control and Treasury. Each division shall consist of a division head and such other personnel as may be provided for in the annual departmental budget appropriation. The Finance Director shall be appointed in the manner and for such term provided in Sections 15 and 18 of the Rochester City Charter. [Amended 5-1-2007; 3-5-2019]

- B. The Division of Fiscal Control shall be under the immediate supervision of the Finance Director. It shall perform the following functions: **[Amended 3-5-2019]**
- (1) Maintain an encumbrance system of budget operation.
 - (2) Pre-audit all claims and demands against the City prior to payment.
 - (3) Maintain and supervise control of all payments from public funds by individual warrants for each payment to the official having custody thereof.
 - (4) Post-audit all receipts by all departments.
 - (5) Post-audit all disbursements by the City Treasurer.
 - (6) Maintain the general financial accounts of the City.
 - (7) Prepare financial reports as required by the City Manager.
 - (8) Supervise all accounting operations of the City.
 - (9) Perform all other related functions as required.
- C. The Treasury Division, under the immediate supervision of the City Treasurer, shall perform the following functions:
- (1) Maintain custody of all City funds, investments, and securities, except trust funds, including the deposit, withdrawal and recording thereof.
 - (2) Maintain jointly with other trustees of trust funds custody of all trust fund assets.
 - (3) Negotiate, upon the authorization of the City Manager and City Council, all loans to the City.
 - (4) Sign all checks, notes and bonds of the City.
 - (5) Perform all other related functions as required.
- D. **7-12. Fire Department.**
- A. The Fire Department, under the supervision of the Fire Chief, shall consist of such permanent officers and firefighters and such other personnel as may be provided for in the annual departmental budget appropriation. In addition, there shall be a call force of not fewer than 25 officers and firefighters provided for in the annual departmental budget appropriation. The Fire Chief shall be appointed in the manner and for such term provided in Sections 15 and 18 of the Rochester City Charter. **[Amended 8-1-1995; 6-3-2008]**
- B. The Fire Department shall perform the following functions:
- (1) Extinguish fires, and protect life and property against fire.
 - (2) Enforce all laws regarding the inspection for and removal of fire hazards, and the prevention of fires.

- (3) Care for and maintain all property and equipment assigned to the Fire Department.
- (4) Care for and maintain the signal alarm system.
- (5) Prepare and maintain all Fire Department records as required.
- (6) Perform all other related functions as required.

§ 7-13. Health Department.

- A. The Health Department shall be under the immediate supervision of the City Health Officer and shall consist of such personnel as may be provided for in the annual departmental budget appropriation. The City Health Officer shall be appointed in the manner and for such term provided in Sections 15 and 18 of the Rochester City Charter.
- B. The City Health Officer shall perform the following functions:
 - (1) Procure, study and analyze data concerning public health and take whatever action is necessary to protect and maintain the public health.
 - (2) Investigate all sanitary hazards and enforce sanitary laws.
 - (3) Investigate and render assistance in reference to private water supply and septic tanks.
 - (4) Prepare and maintain all necessary records.
 - (5) Perform all other related functions as required.

§ 7-14. Legal Department.

- A. The Legal Department under the supervision of the City Solicitor shall consist of such personnel as may be provided for in the annual departmental budget appropriation. The City Solicitor shall be appointed in the manner and for such term provided in Sections 15 and 18 of the Rochester City Charter.
- B. The City Solicitor shall perform the following functions:

- (3) Remove snow and distribute salt and sand on all highways, streets, bridges and sidewalks, and other public ways.
 - (4) Plant, maintain and remove trees and brush on affected City property.
 - (5) Collect, remove and dispose of all refuse as required.
 - (6) Repair and maintain all the motorized and other public works equipment.
 - (7) Perform all other related functions as required.
- C. The Division of Water Supply Works shall perform the following functions:
- (1) Develop, maintain, and operate the water supply system of the City, including watershed areas, reservoirs, pumping stations, standpipes, mains, hydrants and services.
 - (2) Prepare and distribute bills and charges to users of the water system.
 - (3) Prepare and maintain all necessary records pertaining to the Water Supply Works.
 - (4) Care for and maintain all property assigned to the Water Supply Works.
 - (5) Perform all other related functions as may be required.
- D. The Division of Sewage and Waste Treatment Works shall perform the following functions:
- (1) Develop, maintain, and operate the sewage and waste treatment system of the City, including lagoons, treatment plants, pumping stations, pipes, and services.
 - (2) Prepare and distribute bills and charges to users of the sewage and waste treatment system.
 - (3) Prepare and maintain all necessary records pertaining to the Sewage and Waste Treatment Works.
 - (4) Care and maintenance all property assigned to the Sewage and Waste Treatment Works. **[Amended 3-5-2019]**
 - (5) Perform all other related functions as may be required.

§ 7-19. Purchasing Department.

- A. The Purchasing Department shall be under the supervision of the City Purchasing Agent and shall consist of such personnel as may be provided for in the annual departmental budget appropriation. The City Purchasing Agent shall be appointed in the manner and for such term provided in Sections 15 and 18 of the Rochester City Charter.
- B. The Purchasing Department shall perform the following functions:
- (1) Receive and coordinate all requests and solicit, receive and tabulate all bids and contracts for the purchase of materials, supplies, equipment and services.

- (2) Prepare and maintain all necessary purchasing records.
- (3) Institute and ensure that all departments are practicing conservation measures for all commodities.
- (4) Administer the disposition of all surplus municipal property.
- (5) Perform all other related functions.

§ 7-20. Records Department.

- A. The Records Department shall be under the supervision of the City Clerk and shall consist of such other personnel as may be provided for in the annual departmental budget appropriation. The City Clerk shall be appointed in the manner and for such term provided in Sections 15 and 18 of the Rochester City Charter.
- B. The Records Department shall perform the following functions:
 - (1) Prepare, maintain, publish and index all proceedings of the City Council including City ordinances.
 - (2) Arrange for all elections and maintain all election records.
 - (3) Obtain and maintain all statistics on births, marriages and deaths as required by law.
 - (4) File and preserve, as required, all contracts, bonds, oaths of office and other documents.
 - (5) Collect all licenses and fees required by statute and ordinance unless otherwise provided, and deposit these collections with the City Treasurer.
 - (6) Perform all other related functions as required.

§ 7-21. Recreation and Arena Department. [Amended 3-5-2019]

- A. The Recreation and Arena Department shall be under the supervision of the Director of Recreation and Arena and shall consist of such other personnel as may be provided for in the annual departmental budget appropriation. The Director of Recreation and Arena shall be appointed in the manner and for such term provided in Sections 15 and 18 of the Rochester City Charter.
- B. The Recreation and Arena Department shall perform the following functions:
 - (1) Develop a general recreation program for the City.
 - (2) Operate the recreational activities on all City parks, playground, swimming pools, tennis courts, and all other recreational facilities.
 - (3) Maintain, care for and operate all property assigned to the Recreation and Arena Department, including the Rochester Ice Arena.

- (4) Prepare and maintain all records and books pertaining to the Recreation and Arena Department.
 - (5) Cooperate with private groups as well as with public officials in the development, promotional and recreational activities within the City.
 - (6) Perform all other related functions as required.
 - (7) Annually establish a fee schedule for the services provided by the Recreation and Arena Department, said fee schedule to be subject to approval by the City Council.
- C. All moneys received by the Recreation and Arena Department shall be held by the City of Rochester in a fund specifically established for the Recreation and Arena Department, and if at the end of any fiscal year the moneys received by the Recreation and Arena Department shall exceed the moneys expended for the benefit, maintenance and operation of the Recreation and Arena Department, then said moneys shall not revert to the general fund for the City of Rochester but shall be held in a separate fund exclusively for the future use and benefit of the Recreation and Arena Department.

§ 7-22. Tax Collection Department.

- A. The Tax Collection Department shall be under the supervision of the Tax Collector and shall consist of such other personnel as may be provided for in the annual departmental budget appropriation. The Tax Collector shall be appointed in the manner and for such term provided in Sections 15 and 18 of the Rochester City Charter.
- B. The Tax Collection Department shall perform the following functions:
- (1) Mail out tax notices.
 - (2) Collect all accounts due the City, including taxes, rentals, licenses, and fees, except where otherwise provided in this Administrative Code.
 - (3) Maintain proper records pertaining to the collection function.
 - (4) Register motor vehicles and collect the fees therefor.
 - (5) Turn over all receipts to the City Treasurer.
 - (6) Perform all other related functions as required.

§ 7-23. Welfare Department.

- A. The Welfare Department shall be under the supervision of the Welfare Director and shall consist of such other personnel as may be provided for in the annual departmental budget appropriation. The Welfare Director shall be appointed in the manner and for such term provided in Sections 15 and 18 of the Rochester City Charter.
- B. The Welfare Department shall perform the following functions:
- (1) Investigate all requests for relief.

- (2) Authorize such relief as may be deemed necessary.
- (3) Prepare and maintain all necessary relief records.
- (4) Maintain and care for all property and equipment assigned to the Welfare Department.
- (5) Perform all other related work as required.

ARTICLE III

Boards, Commissions and Committees

§ 7-24. Organization.

- A. There shall be the following boards, commissions, and committees in the City of Rochester: **[Amended 3-5-2019]**
- (1) Board of Appeals.
 - (2) Board of Health.
 - (3) Board of Trustees of the Public Library.
 - (4) Planning Board.
 - (5) Trustees of Trust Funds.
 - (6) Zoning Board of Adjustment.
 - (7) Licensing Board.
 - (8) Conservation Commission.
 - (9) Recreation and Arena Commission.
 - (10) Board of Assessors.
 - (11) Economic Development Commission.
 - (12) Arts and Culture Commission.
 - (13) Utility Advisory Board.
- B. All boards, commissions, and committees shall promulgate rules and regulations governing the conduct of their business, and no member of any board, commission, or committee shall introduce, speak, or vote on any motion or issue in which he/she has a personal or pecuniary interest, direct or indirect.

authority, of the City Manager acting pursuant to authority conferred upon such City Manager by the provisions of § 49-1 of the Code of the City of Rochester, determine who are to be the recipients of the income of the Adams Fund, as per the provisions of said will, and the amount thereof to be paid to each, and shall file a list of the same with the City Clerk.

- D. In addition to the functions specified above, the Trustees of Trust Funds shall perform the following functions:
- (1) Receive all trust funds which may be donated or bequeathed to any department in the City of Rochester.
 - (2) Invest said funds in such investments as are legal for investment by Trustees of Trust Funds.
 - (3) Distribute income and principal in accordance with the purposes for which the trust funds were established.
 - (4) Prepare and maintain complete records of all amounts pertaining to trust funds as required.
- E. The Trustees of Trust Funds shall be completely responsible for the custody of all trust funds. All investments or reinvestments of trust funds shall be made only with the authorization of the majority vote of the full Board of Trustees. The Trustees may retain investments as received from donors until maturity thereof.

§ 7-30. Zoning Board of Adjustment.

- A. The Zoning Board of Adjustment shall consist of five members appointed by the Mayor in accordance with the provisions of Section 74 of the Rochester City Charter. The functions and duties of the Zoning Board of Adjustment shall be provided by Chapters 673 and 674 of the New Hampshire Revised Statutes Annotated as presently enacted or the corresponding provisions of any recodification or amendment of the New Hampshire Revised Statutes Annotated, and by ordinance. [**Amended 12-4-2007**]
- B. The Mayor in accordance with the provisions of Section 74 of the Rochester City Charter may appoint up to but not more than five alternate members of the Zoning Board of Adjustment, each to serve for a term of three years, in accordance with the provisions of Chapter 673 of the New Hampshire Revised Statutes Annotated as presently enacted or the corresponding provisions of any recodification or amendment of the New Hampshire Revised Statutes Annotated.

§ 7-31. Licensing Board.

The composition, functions, powers and duties of the Licensing Board shall be as provided by ordinance.²

2. Editor's Note: See Ch. 123, Licensing Board.

§ 7-32. Conservation Commission.

- A. The City of Rochester hereby adopts the provisions of Chapter 36-A of the New Hampshire Revised Statutes Annotated as presently enacted or the corresponding provisions of any recodification or amendment of the New Hampshire Revised Statutes Annotated.
- B. The Conservation Commission shall consist of seven members, one of whom may be a member of the Planning Board. Members of the Commission shall be appointed by the Mayor in accordance with the provisions of Section 74 of the Rochester City Charter for terms of three years. The terms of members of the Commission shall be so arranged that two regular members of said Commission shall be appointed annually and a Chairperson shall be appointed every third year by the Mayor. Vacancies shall be filled for the unexpired terms. Two alternate members of the Commission shall be appointed in the same manner as regular members of the Commission for terms of three years, and when such alternate serves in the absence or disqualification of a regular member, he/she shall have full voting powers. **[Amended 5-7-1996; 11-1-2016]**
- C. The functions, duties, and powers of the Conservation Commission shall be as provided in Chapter 36-A of the New Hampshire Revised Statutes Annotated as presently enacted or the corresponding provisions of any recodification or amendment of the New Hampshire Revised Statutes Annotated.

§ 7-33. Recreation and Arena Commission. [Amended 11-4-2015]

The composition, functions, powers and duties of the Recreation and Arena Commission shall be as provided by Chapter 158 of the Code of the City of Rochester.

§ 7-34. Board of Assessors.

The composition, functions, powers and duties of the Board of Assessors shall be as provided in Section 20 of the Rochester City Charter, state statutes, and/or ordinance.

§ 7-35. Economic Development Commission. [Amended 6-3-2008]

- A. The Economic Development Commission shall consist of 11 members, two of which members shall be ex officio members. Nine of the initial members of the Commission shall be those currently serving on the Commission. Thereafter, three members shall be elected annually for a term of three years with vacancies being filled by the City Council for any unexpired terms. The initial election shall be so arranged that 1/3 of the members may be elected each year. After the initial election, the three annual vacancies shall be filled by the Mayor in accordance with Section 74 of the City Charter. The Economic Development Commission shall recommend at least two persons from the private sector to the Mayor each year as potential nominees. In all cases, election shall be by the City Council. Members shall be chosen for their expertise, experience and abilities in business, industry, finance, real estate, government and law. A majority of the members shall reside within the City of Rochester and up to four of the elected members may reside outside of the City; provided, however, that any elected member residing outside of the City shall maintain a place of business or shall be employed

- (15) Data. Developing a database and directory of activities and resources in the greater Rochester area.
- (16) Annual report. Preparation of an annual state of the City arts and cultural report for the City Council.
- (17) Other activities. Undertaking any other appropriate action or activity necessary to carry out its mission.

D. Structure of the Commission.

- (1) Composition. The Arts and Culture Commission shall consist of nine members, all of whom shall be regular voting members. The ideal (desired but not required) composition of the Commission shall be as follows, subject to availability and qualifications of candidates [in accordance with Subsection D(2) below] as determined by the City Council:
 - (a) One member from Rochester City government;
 - (b) One member from the business community;
 - (c) One member from the education community;
 - (d) One member who is the Rochester Poet Laureate, or if he/she is not available, then a person from the literary arts community; and
 - (e) Five members who are actively engaged in arts and culture, representing a broad cross section of the arts, culture, and heritage community.
- (2) Qualifications. All members shall be residents of the City of Rochester, except that up to three members may reside in the greater Rochester area. In reviewing the qualifications of all candidates for the Commission, the City Council shall consider his/her demonstrated interest and experience in, and knowledge of, arts, crafts, and culture, and his/her ability to administer this section consistent with the mission of the Commission. To the extent that such persons are available, the Council shall seek members with diverse backgrounds.
- (3) Appointments. The members of the Arts and Culture Commission shall be appointed pursuant to Section 74 of the City Charter for terms of three years. Some initial appointments (and subsequent appointments, when necessary) shall be for less than three years in order that the various terms shall be staggered.

E. Administration.

- (1) Meetings and activities. The Commission shall meet as needed, but it shall meet at a minimum twice each calendar year. It shall hold an annual meeting in February, or at such other time as determined by the Commission, to review activities of the prior year and to plan for the upcoming year.
- (2) Bylaws. The Commission shall adopt bylaws to govern its operation.
- (3) City and state law. The Commission shall be regulated by all applicable City and state laws.

- (4) Staffing and resources. The City of Rochester will provide staffing and other support to the Arts and Culture Commission, as appropriate, subject to availability of staff resources.
- (5) Professional advice. The Commission may seek advice from such professional resources as is deemed necessary, subject to availability of funding.

ARTICLE IV

Purchases and Contracts

§ 7-38. Legal basis.

The provisions of this article governing purchasing procedures to be used by the City of Rochester are incorporated with the Administrative Code in accordance with the requirements of Section 27 of the Rochester City Charter.

§ 7-39. Purchase orders required.

Purchase orders authorized by the proper authority shall be used in all instances.

§ 7-40. Purchasing procedures. [Amended 9-4-2007; 10-15-2013]

- A. All purchases under one thousand one dollars (\$1,001.) shall have the electronic approval of the department head and Purchasing Department with the limitation that said sum shall not be exceeded for any one item or combination of items to be purchased from any single vendor.
- B. All purchases greater than one thousand dollars (\$1,000.) and less than ten thousand one dollars (\$10,001.) shall have a minimum of three comparable quotes. If three quotes are not available then an exception may be made with the approval of the City Manager, or his/her designee, clearly documenting the reason for the exception in the electronic requisition document. The maximum of ten thousand dollars (\$10,000.) shall not be exceeded for any one item or combination of items to be purchased from any single vendor.
- C. All individual item purchases or contracts over ten thousand dollars (\$10,000.) shall require a competitive sealed bid process and approval of the department head, Finance Director and the City Manager. Exceptions for purchases over ten thousand dollars (\$10,000.) may be allowed at the discretion of the City Manager for professional service contracts, computer software/hardware, passenger vehicles/one-ton vehicles or smaller, or other items where comparative pricing instead of a sealed bid process may be in the best overall interest of the City. The City Council shall be formally notified whenever an exception to the sealed bid process occurs.

§ 7-41. Sale of tax-deeded property. [Amended 2-1-2005]

- A. In accordance with the provisions of RSA 80:42 and/or 80:80, the City Manager is hereby indefinitely, and until such time as this section is repealed, authorized to transfer

tax liens upon real property acquired by the City at a Tax Collector's sale for nonpayment of taxes thereon and/or to convey property acquired by the City by tax deed for nonpayment of taxes; provided, however, that a public auction and/or advertised sealed bid sale is held, and the results of said public auction and/or sealed bid sale are confirmed by a majority vote of the City Council. In conducting such public auction and/or sealed bid sale, the City Manager may establish a minimum amount for which the property is to be sold and the terms and conditions of sale.

- B. The City Manager, by ordinance, may be authorized to dispose of tax liens or tax-deeded property in a manner otherwise than provided in this section, as justice may require.
- C. Upon the affirmative two-thirds vote of the Rochester City Council, the City Manager may be authorized to transfer tax liens upon real property acquired by the City at a Tax Collector's sale for nonpayment of taxes thereon and/or to convey property acquired by the City by tax deed for nonpayment of taxes without conducting a public auction and/or advertised sealed bid sale, subject to such terms and conditions as the City Council shall establish.
- D. For purposes of this section, the authority to dispose of the property "as justice may require" shall include the power of the City Manager to transfer the tax lien(s) and/or convey the property to a former owner, or to a third party for benefit of a former owner, upon such reasonable terms as may be agreed to in writing, including the authority of the City to retain a mortgage interest in the property, or to reimpose its tax lien, contingent upon an agreed payment schedule, which need not necessarily reflect any prior redemption amount. Any such agreement shall be recorded in the Registry of Deeds. This subsection shall not be construed to obligate the City to make any such conveyance or agreement.

ARTICLE V

Salaries

§ 7-42. Declaration of policy.

The salaries of all City officials and employees shall be in full payment and final satisfaction for all services required by law.

§ 7-43. Payment.

The salaries of all full- and part-time City officers and employees, except for the salaries of such officials as are popularly elected, shall be paid from the budget appropriation for the department employing such officer or employee in such amount as shall be established by contract and/or provided for in the annual budget appropriation of such department for such office or position.

§ 7-44. Salaries of elected officials. [Amended 9-5-1995; 3-6-2007; 6-8-2010; 12-1-2015]

The following salaries shall be paid to the following City officials:

A. Effective January 1, 2008:

- (1) Mayor: two thousand four hundred dollars (\$2,400.) per year in addition to salary as City Councilor.
- (2) Deputy Mayor: one hundred dollars (\$100.) per year in addition to salary as City Councilor.
- (3) City Councilor: one thousand dollars (\$1,000.) per year, plus ten dollars (\$10.) per meeting for each member of a regular, workshop or special City Council committee attending a meeting of such committee at which a quorum is present. The Chairman of any regular or special committee of the City Council shall receive an additional one hundred dollars (\$100.) per year.
- (4) School Board member: one thousand dollars (\$1,000.) per year, plus ten dollars (\$10.) per meeting for each member of a regular, workshop or special School Board committee attending a meeting of such committee at which a quorum is present. The Chairman of any regular or special committee of the school board shall receive an additional one hundred dollars (\$100.) per year.
- (5) Police Commissioner: one thousand dollars (\$1,000.) per year.
- (6) Election officials.
 - (a) Ward Moderator: one hundred fifty dollars (\$150.) per day.
 - (b) Ward Clerk: one hundred twenty-five dollars (\$125.) per day.
 - (c) Selectman: one hundred twenty dollars (\$120.) per day.
 - (d) Checklist Supervisor: one hundred fifty dollars (\$150.) per election or session day.
 - (e) Checklist Supervisor Chairman: none.
 - (f) Ballot Clerk: one hundred dollars (\$100.) per day.
 - (g) In the event that an election official shall perform duties and/or attend any election-related activity approved by the City Clerk and lasting four or fewer hours, the election official(s) in question shall receive a per diem payment for the performance of such duties or attending such activity at a rate one-half that provided for in Subsection A(6)(a), (b), (c) and (f) above.

§ 7-45. Expenses.

Expense allotments shall be budgeted items for expenses relating to the performance of each office and shall not be used to supplement the salary levels established by this article.

ARTICLE VI
Legislative Body

§ 7-46. Ordinances.

- A. Citation. All citations of this Code may be designated the Code of the City of Rochester, adding to the citation when necessary the number of the chapter and section. [**Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)**]
- B. Enacting style. The enacting style in making and passing ordinances shall be, "The City of Rochester Ordains."
- C. Effective date. Every ordinance shall take effect upon passage unless a different time is provided therein.
- D. Recordation and preservation. The City Clerk shall cause to be engrossed all ordinances which have passed the City Council. The same shall be done in plain and legible handwriting, typewriting, or printing as the City Clerk shall determine without erasure or interlineation, upon strong paper of a suitable size with a proper margin, and he/she shall bind such ordinances in a book lettered, "Record of General Ordinances of the City of Rochester" which book shall be preserved in the office of the City Clerk and shall be currently maintained by said City Clerk and shall be subject to the inspection of the citizens.

§ 7-47. Introduction of ordinances, resolutions and petitions.

Every proposed ordinance, proposed amendment to any ordinance, proposed resolution, or other proposed petition to be submitted to any regular meeting of the City Council shall be submitted by the proponent thereof in writing to the City Clerk no later than five days prior to the regular meeting of said Council. The City Clerk shall notify each member of the City Council in writing of each proposed ordinance, proposed amendment to any ordinance, proposed resolution or other proposed petition submitted as aforesaid at least four days prior to the date of said regular City Council meeting. Any proposed ordinance or amendment thereto, proposed resolution or other proposed petition not submitted to the City Clerk at least five days prior to a regular meeting of the City Council or whose contents have not been submitted to each City Councilor at least four days prior thereto may be acted upon by the City Council at such regular meeting, provided that the City Council shall vote to act upon such legislation by a two-thirds vote of the Council.

§ 7-48. City Seal.

- A. The design of the City Seal shall be: a circle with a border around it; across the center of the circle, the word "Rochester"; above said word a perspective view of Haven's Hill, a pair of horses attached to a cart, men loading grain; below said word a perspective view of shoe shops, tannery, railroad tracks, engine and car; in the border, the words "Town Chartered 1722, Settled 1728, Organized 1737, City Charter 1891," the device thereof being as follows:



- B. Custody. The City Clerk shall have the custody of the City Seal, but shall permit any duly authorized officer of said City to affix said Seal to any document requiring the same.
- C. Affixation. All deeds and other legal documents made, given, or entered into by the City, requiring a seal, shall be sealed with the City Seal and be signed and acknowledged in behalf of the City by the City Manager or such other official as may be duly authorized.

§ 7-49. Conflict of interest.

- A. Municipal body in legislative capacity; prohibition on voting. When a municipal body acts in a legislative capacity, no member shall vote on any matter in which he/she has a conflict of interest.
- B. Municipal body in legislative capacity; limitation on discussion. When a municipal body acts in a legislative capacity, a member having a conflict of interest concerning a matter before the body may participate in the body's discussion concerning the matter, whether in public or executive session, only upon satisfaction of the requirements established by Section 72 of the Rochester City Charter.
- C. Municipal body in judicial capacity. When a municipal body acts in a judicial capacity, no member shall sit upon the hearing, participate in any discussion, attend any executive session, or vote upon the matter if he/she would be disqualified for any cause to act as a juror upon the trial of the same matter in any action at law. Reasons for disqualification do not include exemption from service as a juror or knowledge of the facts involved gained in the performance of the member's official duties.
- D. Definitions. The following words and phrases when used in this section shall have the meaning given to them in this subsection:

CONFLICT OF INTEREST — Direct personal and pecuniary interest.

DIRECT — Immediate, definite, and capable of demonstration; not remote, uncertain, contingent, and speculative.

MEMBER — A member of a municipal body.

MUNICIPAL BODY — The Rochester City Council, Police Commission, School Board, Utility Advisory Board, Zoning Board of Adjustment, Planning Board, Historic District Commission or any other authorized City body with legislative and/or judicial powers.

PECUNIARY INTEREST — Any advantage in the form of money, property, commercial interest or anything else, the primary significance of which is economic gain.

PERSONAL — An interest different from that of any other citizen.

- E. Procedure. When uncertainty arises as to a member's right to participate in the municipal body's work, because of Subsection A, B or C, the municipal body shall, upon the request of that or any other member, vote on whether that member should be disqualified. Any such request and vote shall be made prior to or at the commencement of any discussion of the matter before the municipal body. If by an affirmative roll-call vote of at least 2/3 of the members of the body present the body finds that the member has a conflict of interest, that member shall be prohibited from action in accordance with this section. The challenged member, if present, shall be entitled to vote on the question of his/her disqualification. If a court of a competent jurisdiction subsequently determines that the municipal body erroneously found a conflict of interest to exist, then the member in question may at the regular meeting of the municipal body first following the date of such determination move for reconsideration of the matter. If a court of competent jurisdiction subsequently determines that the municipal body erroneously failed to find a conflict of interest, and the official in question voted in the majority on the matter, then at the regular meeting of the municipal body first following the date of such determination any member who voted in the minority may move for reconsideration. **[Amended 5-1-2007]**

ARTICLE VII

Finance

§ 7-50. City Finance Director. [Amended 3-5-2019]

The City Manager, in accordance with the provisions of Sections 15 and 18 of the Rochester City Charter, shall appoint a City Finance Director who shall be responsible for the supervision and direction of all phases of the City's fiscal operations subject to the direction and supervision of the City Manager. This position shall require a four-year degree in accounting, business administration or related area, plus professional experience in the field.

§ 7-51. Claims against City.

- A. Itemization. No account or claim against the City, except judgments of judicial courts, shall be received or acted upon unless each item thereof shall be specifically set forth, and unless such account or claim shall be accompanied with the approval of the officer or agent authorized in behalf of the City, School Board or Trustees of the Public

Library to make the contract, or cause the expenditure to be made, that the same is correct and just.

- B. Officers to receive. The Superintendent of Schools shall receive all accounts and claims from persons having demands against the School Board, the Librarian from persons having demands against the Trustees of the Public Library and the City Finance Director from persons for all other demands against the City. They shall carefully examine all such accounts and claims and see that they are correctly cast, and present the same to the City Finance Director for final approval by the City Manager. **[Amended 3-5-2019]**
- C. Payment by check. Payment of all claims as approved in accordance with the preceding section shall be made by check drawn and signed by the City Treasurer and countersigned by the City Manager; provided, however, that the City Council, in the absence or disability of either the City Treasurer or the City Manager, or both, may appoint some other person to sign in his/her place.

§ 7-52. City funds.

- A. Deposited in name of City. Unless otherwise specifically provided, all sums received by or on behalf of said City shall be deposited in the name of the City.
- B. When and where deposited. The City Treasurer and City Tax Collector shall deposit to the credit of the City all money which they may receive for or in behalf of the City in such bank or banks as the Treasurer may direct. Their financial records and lists shall be submitted to the City Finance Director for his/her inspection and computation. All other persons who shall at any time have money in their hands belonging to the City, unless otherwise provided, shall forthwith pay the same to the City Treasurer, taking his/her receipt for the same. **[Amended 5-1-2007]**
- C. Record of receipts and payments. The City Finance Director shall enter in suitable books fair, detailed and correct records of all sums of money received into and paid from the City treasury. He/she shall enter the various appropriations made by the City Council, each under its appropriate head, and charge to each the different payments and expenditures which from time to time shall be made therefrom. **[Amended 3-5-2019]**
- D. Expended appropriations to be reported. Whenever any appropriation shall be expended, the City Finance Director shall immediately give notice thereof to the City Manager and the City Council, and no claim or account shall be passed or allowed chargeable to any head or appropriation which has been expended, until the City Council shall have provided the means for paying the same. **[Amended 3-5-2019]**

§ 7-53. Collection of motor vehicle permit fees.

The City Tax Collector shall collect all permit fees required by law in the registration of motor vehicles, keep a proper record of the same, and pay the same to the City.

- A. Exemption for prisoners of war. The permit fee shall be waived for a permit to register one motor vehicle owned by any person who was captured and incarcerated for 30 days or more while serving in a qualifying war and armed conflict as defined in RSA 72:28,

IV, and who was honorably discharged, provided the person has provided the City Tax Collector with satisfactory proof of these circumstances.

§ 7-54. Negotiation of loans to City. [Amended 3-5-2019]

The City Treasurer, with the assistance and subject to the approval of the City Manager, shall negotiate all loans to the City which shall be authorized by the City Council and shall report the amount to the City Finance Director.

§ 7-55. Notes of City.

- A. Signatures required. Whenever authority is given by the City Council to borrow money on the credit of the City, all notes and certificates of indebtedness given therefor shall be signed by the City Manager and City Treasurer and countersigned by the City Clerk, and all such notes and certificates shall be registered in books kept for that purpose by the City Finance Director. Such registers shall describe said notes and certificates by number, date and amount, the name of the person to whom payable, when payable, the rate of interest and the date of the ordinance or resolution authorizing the same, and, when paid, the date of payment shall be inserted on each of said registers. **[Amended 3-5-2019]**
- B. Form. All notes given the City of Rochester shall be substantially in the following form:

CITY OF ROCHESTER

Treasurer's Office

For value received the City of Rochester will pay at the office of the City Treasurer to _____ or order, the sum of _____ dollars _____ in _____ from the date hereof, with interest _____ at the rate of _____ percent. In testimony whereof we, the City Manager and Treasurer, in the name and in behalf of the City, by virtue of authority in us vested for this purpose, by an order of the City Council of said City, passed on the _____ day of _____ A.D. _____ have hereunto set our hands and the Seal of said City, at said Rochester this _____

_____City Manager

_____Treasurer

This note is also countersigned by the City Clerk of said City.

_____City Clerk

§ 7-56. Annual report of City receipts and expenditures. [Amended 9-4-2007]

The City Manager shall annually, before the last day of January, present the independent auditors' report, in accordance with § 7-58 of this article, of the preceding year.

§ 7-57. Preparation of City budget.

The City Manager shall annually prepare the municipal budget in accordance with the provisions of Section 40 of the Rochester City Charter, and shall lay the same before the City Council at least 60 days before the start of the fiscal year of the budget. Said budget shall contain an estimate of the amount of money necessary to be raised for the next financial year, under the various heads of appropriations, and the various means of raising the same. The City Council shall set a date for a public hearing on the annual budget, which hearing shall be held before the final adoption of said budget, at such time and place as the City Council shall direct, provided that notice of such public hearing shall be published by the City Clerk at least one week in advance of said hearing, and posted together with a summary of the budget, as submitted, in two public places at least one week in advance of said hearing.

§ 7-58. Audit of City accounts.

An independent audit of all accounts of the City shall be made annually by certified public accountants selected by the City Council and experienced in municipal accounting in accordance with the provisions of Section 46 of the Rochester City Charter.

§ 7-59. Redemption of City bonds. [Amended 3-5-2019]

The City Treasurer with the approval of the City Manager is hereby authorized to purchase any bonds of the City of Rochester from any funds in said City, provided they can do so to the advantage of said City. Any bonds and the coupons attached thereto when purchased and redeemed shall be canceled by the Treasurer of said City, and a record of the same shall be made in the bond book of said City and signed by the City Clerk, City Treasurer, and City Manager showing the numbers of the bonds with their coupons attached, when purchased, and their numbers when canceled. Said bonds when so canceled shall be kept by the City Finance Director.

§ 7-60. Fiscal year.

The fiscal and budget year of the City shall begin on the first day of July.

§ 7-61. Contracts with City officials limited.

No contract or agreement for labor, or for the purchase or sale of any materials, goods, wares or merchandise, in which any member of the City Council or any officer or agent appointed by the City Council shall be directly or indirectly interested in a private capacity, shall be made and concluded by any person or persons in behalf of the City, unless such contract or agreement shall have been authorized or ratified by the City Council, and no account or claims against the City arising out of such contract or agreement shall be allowed or certified by any committees, nor shall any order therefor be drawn upon or paid by the City; provided, however, that such restriction shall not be construed to prevent the purchase of ordinary supplies from members of the City Council who may be engaged in trade, nor the employment of the members of the City Council in their ordinary vocation, by duly authorized heads of departments.

§ 7-62. Undesignated fund balance.

- A. Purpose. The Rochester City Council recognizes that the establishment and maintenance of fiscal responsibility and the promotion of property tax stabilization are goals which promote the public health, safety and welfare of the City of Rochester and its inhabitants. Therefore, it is the purpose of the Rochester City Council in adopting this section to establish a mechanism whereby the fiscal integrity of the City is strengthened and maintained, and the long-term stability of the City's property tax rate is promoted, through the establishment of a systemic and disciplined process for the prudent and planned utilization of revenues. In adopting this section, the Rochester City Council recognized that it is prudent financial practice for municipalities such as Rochester to establish and maintain an undesignated fund balance (as hereinafter more particularly defined) between 5% and 10% of their respective total general fund appropriations.
- B. Minimum undesignated fund balance requirement. The general fund balance of the City, at the end of any fiscal year, as established in accordance with generally accepted accounting principles (GAAP), including any and all balances derived from accounts and/or operations taken into account in the "general fund" column of the City's annual audit, and excluding any and all reserves, and any dedicated fund balances of the general fund, shall for the purposes of this section be designated as the "undesignated fund balance" of the general fund of the City of Rochester, and shall be referred to throughout this section as the "undesignated fund balance." The undesignated fund balance for any fiscal year shall be maintained at a level of not less than 5% of the actual total general fund appropriations for the City for that fiscal year.
- C. Use of undesignated fund balance. In any subsequent fiscal year, the City Council may utilize the excess of the actual fund balance of the general fund (as determined by the annual audit of the City) over the prescribed undesignated fund balance level established in Subsection B of this section from the prior fiscal year for capital projects, transfers to capital projects, transfers to capital reserve, or for any other appropriation of a nonrecurring nature.
- D. Emergency appropriations of undesignated fund balance. At any time in a budget year, the City Council may, upon adoption of a written resolution by majority vote, after notice and public hearing, make emergency appropriations from the general fund balance of the City of Rochester to meet an essential need for public expenditure. If such emergency appropriation reduces the undesignated fund balance to a level below the minimum prescribed by Subsection B of this section, the resolution authorizing such appropriation shall include a plan to restore the undesignated fund balance to the minimum level established in Subsection B of this section.⁴

§ 7-63. Economic Development Special Reserve Fund. [Added 9-6-2016]

- A. Statement of purpose.

4. Editor's Note: Original § 11.20, City of Rochester Economic Development Special Reserve Fund, added 6-22-2004, which immediately followed this section, was repealed 4-5-2016.

- (1) The City of Rochester currently serves as the "Host Community" for the Turnkey Recycling and Environmental Enterprises Waste Disposal Facility (TREE) currently operated by Waste Management of New Hampshire, Inc., and located on the Rochester Neck Road. By virtue of its status as Host Community for TREE, the City of Rochester, in addition to incurring significant expenses in connection with such facility, receives significant financial benefits in the form of real property taxes, user fees (in the form of so-called "host community fees") and various other benefits relative to the cost to the City and its inhabitants of the disposal and/or recycling of various solid waste, including reduced and/or eliminated fees for the disposal and/or recycling of solid waste generated within the City of Rochester. It is currently estimated that the permitted capacity of the TREE Waste Disposal Facility (TLR-III) will be reached in approximately the year 2023. When such facility is filled to its permitted capacity, it is anticipated that the City will experience a loss in revenues, and the City and its inhabitants will experience increased costs associated with the disposal and/or recycling of solid waste, particularly in the form of reduced and/or lost user fees and reduced property tax revenues, as well as increased costs associated with the disposal and/or recycling of solid waste. Therefore, in an effort to offset the expected loss of revenues and increased costs occurring to the City as a result of the anticipated filling of the TREE Waste Disposal Facility to its permitted capacity and to promote the general fiscal strength and well-being of the City, it is necessary that economic development in the City of Rochester be promoted and/or maintained to ensure the existence and/or expansion of a vibrant economic base for the City and its inhabitants.
 - (2) Therefore, the City Council of the City of Rochester, pursuant to the authority granted by RSA 47:1-b and 47:1-c, hereby establishes a special revenue reserve fund from the specific source identified in Subsection B of this section for capital expenditures or expenditures for capital projects, transfers to capital projects, transfers to capital reserve, or for any other appropriation of a nonrecurring nature in support of economic development as determined by the City Council. The special reserve fund established in Subsection B of this section shall be known as the "City of Rochester Economic Development Special Reserve Fund." No expenditure from said City of Rochester Economic Development Special Reserve Fund shall be made without an appropriation of such funds having been adopted by the Rochester City Council, which appropriation shall provide that such appropriation is for economic development purposes and shall contain a statement and/or finding by the City Council indicating the manner in which it is anticipated that such appropriation is related to the economic development of the City of Rochester.
- B. There is hereby created a non-lapsing budgetary account within the City of Rochester, pursuant to the authority granted to the City by the provisions of RSA 47:1-b, such special reserve fund to be known as the "City of Rochester Economic Development Special Reserve Fund." Such fund shall be funded on an annual basis by the appropriation by the City Council to such special reserve fund of an amount not less than one hundred thousand dollars (\$100,000.) from the funds annually payable to the City of Rochester by Waste Management of New Hampshire, Inc., from the so-called "host community fees" payable to the City pursuant to the provisions of the Host

Agreement between the City and Waste Management of New Hampshire, Inc., or of any successor to such agreement. In addition to such minimum funding level, the City Manager may, during any fiscal year of the City, upon written notification to, and appropriation by, the City Council, transfer to said City of Rochester Economic Development Special Reserve Fund unappropriated host community fees in an amount not to exceed the difference between the total amount of host community fees received from Waste Management of New Hampshire, Inc., during such fiscal year and the amount of such host community fees previously appropriated by the Rochester City Council during such fiscal year (having in mind the minimum funding/appropriation requirement provided for herein and any other appropriation of such fiscal year's host community fees by the City Council during such fiscal year).

§ 7-64. Conservation Fund.

- A. Purpose. The Rochester City Council recognizes that the proper utilization and protection of the City's natural resources and the protection of its watershed resources are important to the well-being of the City of Rochester and its inhabitants, and to that end the City has adopted the provisions of Chapter 36-A of the New Hampshire Revised Statutes Annotated providing for the establishment of a Conservation Commission. The Rochester City Council further recognizes that realizing the goals of properly utilizing and protecting its natural resources and protecting its watershed resources requires the development and implementation of a systematic program designed to maintain and care for such resources, which program implementation is enhanced when the Conservation Commission is provided with a regular source of revenue. Therefore, it is the purpose of the Rochester City Council in adopting this section to establish a mechanism whereby the Conservation Commission is provided with a source of funding which can be utilized to aid in the accomplishment of the goals of properly utilizing and protecting the City of Rochester's natural resources and protecting its watershed resources. **[Added 5-4-1999]**
- B. Establishment of Conservation Fund. Pursuant to the provisions of RSA 36-A:5, I, a Conservation Fund is established by the City of Rochester. Funds appropriated to said Conservation Fund by the Rochester City Council, and any gifts received pursuant to the provisions of RSA 36-A:4, shall be placed in said fund and allowed to accumulate from year to year. The City Treasurer shall have custody of all moneys in the Conservation Fund and shall pay out the same only upon the order of the Conservation Commission. Money may be expended from the Conservation Fund by the Conservation Commission for the purposes specified in Chapter 36-A of the New Hampshire Revised Statutes Annotated without further approval of the City Council. The disbursement of Conservation Fund moneys shall be authorized by a majority of the Conservation Commission. Prior to the use of such funds for the purchase of any interest in real property, the Conservation Commission shall hold a public hearing with notice in accordance with RSA 675:7.
- C. Establishment of annual Conservation Fund budget. The City Manager shall include in the budget prepared and submitted to the City Council annually, pursuant to Section 40 of the Rochester City Charter, an appropriation to the Conservation Fund in an amount hereinafter provided for, the source of funds for which appropriation shall be specified as being drawn in their entirety from revenues received by the City during such

budgetary period from the so-called "current use change tax" provided for in RSA 79-A:7, or the corresponding provision of any recodification of such statute. Said appropriation shall be in an amount equal to all revenues, in excess of twenty-five thousand dollars (\$25,000.), projected in the budget to be received by the City during such budgetary period from the so-called "current use change tax." In the event that the funds received by the City from the so-called "current use change tax" shall exceed the amount projected in the budget to be received from such source during such budgetary period, the City Manager shall, prior to the close of the fiscal year in question, present a supplemental appropriation in the amount of the excess receipts funds so received and identifying such excess receipts as the source of funding for such supplemental appropriation. The City Council shall act on such supplemental appropriation in the ordinary course. **[Amended 8-6-2002]**

§ 7-65. Budget line items for merit salary increases or pay adjustments. [Added 6-1-2004]

- A. Purpose. The purpose of this section is to implement the authority of the Mayor and City Council to take proper care that no money shall be paid from the City treasury unless previously granted and appropriated, and to secure a just and prompt accounting for expenditures made pursuant to appropriations as provided for in RSA 47:6, as well as to promote the well-being of the City in accordance with the provisions of RSA 47:17, and to implement the power of the Mayor and City Council over the City budget as specified in Sections 38 through 46 of the Rochester City Charter. The provisions of this section shall apply solely to annual budget line items dealing with salaries and benefits payable to City of Rochester employees subject to the so-called Merit Plan provided for in Sections 59 through 64 of the Rochester City Charter.
- B. Establishment of annual budget line item(s) for the purpose of estimating the amount of, and appropriating funds to pay for, a merit salary increase and/or a merit pay adjustment. The annual proposed budget submitted to the City Council each year, pursuant to the provisions of Section 40 of the Rochester City Charter, and the annual budget adopted by the City Council pursuant to the provisions of Section 43 of the Rochester City Charter shall contain for each City department, except for the School Department, one or more separate line items, which line item(s) shall contain the estimated amount of expenditures for a merit salary increase and/or a merit pay adjustment to be made during the fiscal year covered by such budget under, and pursuant to, the so-called Merit Plan embodied in Sections 59 through 64 of the Rochester City Charter, and the provisions of Article VI, Section 3 and Section 3a, of the Employment Policy Handbook, City of Rochester, New Hampshire.
- C. Prohibition against payment of a merit salary increase and/or a merit pay adjustment made pursuant to Article VI, Section 3 and Section 3a, of the Employment Policy Handbook, City of Rochester, New Hampshire. No payment of any merit salary increase and/or merit pay adjustment authorized pursuant to the provisions of Article VI, Section 3 and Section 3a, of the Employment Policy Handbook, City of Rochester, New Hampshire, shall be paid to any employee of any department except from the budgetary line item(s) established pursuant to the provisions of Subparagraph B of this section for the department in question.

D. This section shall become effective on July 1, 2004.

§ 7-66. Limitation on budget increase. [Amended 1-6-2009]

- A. Purpose. The purpose of this section is to implement the provisions of Section 43-a of the Rochester City Charter, adopted on November 4, 2008, and known as the so-called "tax cap" Charter amendment.
- B. The word "budget" as used throughout Section 43-a of the Rochester City Charter, as well as in the phrases "The City Manager shall submit the proposed budget to the City Council" in Section 40 of the Rochester City Charter and "The budget shall be finally adopted" in Section 43 of the Rochester City Charter, shall include the county expenditures and the state school tax apportionment. The word "budget" as used in the aforesaid circumstances shall not include enterprise and special revenue funds that do not impact the tax commitment for the City.
- C. The phrase in the "Override provision" of Section 43-a of the Rochester City Charter which provides "Budgetary restrictions described in any part of Section 43-a may be overridden upon a vote of 2/3 of all elected members of the City Council" shall refer to both capital and operating budgets.
- D. The phrase in the "Override provision" of Section 43-a of the Rochester City Charter which provides that "may be overridden upon a vote of 2/3 of all elected members of the City Council" shall mean 2/3 of the total number of City Councilors in office at the time of the vote, whether or not all of the Councilors are present. If, for example, the office of Mayor and all 12 Council seats are filled at the time of a vote, nine votes are needed, even if not all 13 members of the City Council are present.
- E. The provisions of Section 43-a of the Rochester City Charter which provide "Such override expires following adoption of the annual budget" and "Subsequent budgets or supplemental appropriations require additional two-thirds override votes, or the limitations expressed in this section will apply" shall mean that once a budget is adopted, and throughout the fiscal year for which it is adopted, any subsequent supplemental appropriation to the general fund budget for which the amount that needs to be raised by taxes exceeds the limitation of Section 43-a of the Rochester City Charter shall require a new two-thirds override vote. The "limitation on budget increase" as provided for in Section 43-a of the Rochester City Charter for a subsequent fiscal year budget shall be calculated using the official Department of Revenue Administration tax setting documents for the immediately preceding year. The "amount to be raised by taxes" as set forth on such document shall be adjusted as provided for in Section 43-a of the Rochester City Charter. **[Amended 3-5-2019]**
- F. If there is a decrease in revenue after adoption of the budget and before the setting of the tax rate, which causes the tax levy to exceed the limitations of Section 43-a of the Rochester City Charter, the Council shall reconsider the adopted budget.
- G. The phrase "National Consumer Price Index – Urban as published by the United States Department of Labor for the calendar year immediately preceding budget adoption" shall mean the "percent change Avg.-Avg." and not "percent change Dec.- Dec." for the calendar year preceding the year of budget adoption of the Consumer Price Index – All

Urban Consumer (Current Series), U.S. All items, 1982-84=100, Series CUUROOOOSAO, not seasonally adjusted, as published by the United States Department of Labor available on the federal government website found at www.bls.gov.

- H. The phrase "revaluation year" in Subsection C shall not apply to the annual assessment updates implemented by the City of Rochester Assessor, and such phrase shall only refer to a full City-wide revaluation that physically reinspects every property in that year and develops new formulas for value calculation.
- I. The phrase "budget limitation with annual changes in assessments" as contained in Subsection D of Section 43-a of the Rochester City Charter shall refer to the annual updates and phased physical property examination that are part of the requirements to keep the City within the parameters recommended by the New Hampshire Department of Revenue Administration (DRA). It does not require that all properties be changed, but that some are reviewed and/or changed as part of a planned process to keep assessed values within DRA guidelines. **[Amended 3-5-2019]**
- J. The phrase "plus real estate taxes calculated by applying the prior year real estate tax rate to the net increase in new construction" as contained in Subsection D of Section 43-a of the Rochester City Charter shall mean the taxes that apply to the budget as defined in Subsection B above, namely the municipal and school tax rate and shall include the county and state school tax rate.
- K. The phrase "total dollar value of building permits less total dollar value of demolition permits issued for the period of April 1 – March 31 preceding budget adoption" as contained in Subsection D of Section 43-a of the Rochester City Charter shall mean the construction/demolition value estimate on which the building/demolition permit fee is calculated, namely the values used by the Department of Building, Zoning, and Licensing Services in calculating the fee to be charged in connection with the issuance of building permits. **[Amended 10-15-2013]**
- L. The phrase "increased by the other revenues generated by the municipality" as contained in Subsection E of Section 43-a of the Rochester City Charter shall include the funds derived from the use of fund balance, transfers from other funds and all other anticipated revenues.
- M. The amount of money raised by taxes for the municipal, county, state school tax and local school tax rates shall be derived from the DRA's tax rate setting documents. Each of the tax rates shall separately be multiplied by the National CPI. If the City is operating under Subsection D of Section 43-a, the total of net new construction shall be multiplied by the state and local school tax rate and that number added to the school amount to be raised by taxes. The total of net new construction shall be multiplied by the municipal and county tax rate and that number added to the municipal amount to be raised by taxes. By February 1 of each year, the City Manager shall inform the School Board and the City Council of these amounts, noting they are preliminary pending the final new net construction numbers as of April 1 of each year.
- N. The School Board shall adjust its budget for the increases and decreases in the state tax and the City shall adjust its budget for the increases and decreases in the county tax.

- O. The School Board will submit to the City Manager by March 25 of each year its recommended budget within its cap amount, including detailed revenue projections. The City Manager, in his/her budget presentation to the City Council, may adjust the school budget to meet the overall spending limitation for the City.
- P. If any provision of this section shall be declared illegal, void or unenforceable, the other provisions shall not be affected but shall remain in full force and effect.

§ 7-67. School Building Fund [Added 10-4-2016]

- A. By adoption of a resolution on December 15, 2015, the City Council established a capital reserve fund pursuant to RSA 34:1 for the purpose of rehabilitating, enlarging, replacing, and/or constructing new school facilities and/or the purchase of land for the enlargement of existing school facilities and/or siting of new school facilities. The name of such fund shall be the School Building Fund.
- B. The City Council, at its sole discretion, may appropriate moneys to said School Building Fund through the annual budgeting process. The City Council may also, by favorable vote of 3/4 of its members, transfer to such fund, after a public hearing with notice as provided in RSA 34:2, not more than 1/2 of its unencumbered surplus funds remaining on hand at the end of the fiscal year, within limits as provided in RSA 34:4. No transfer from the City's unencumbered surplus funds to the School Building Fund shall be considered until after the annual audit presentation by the independent auditor and confirmation of the stated surplus. The City Council may also accept and appropriate gifts, legacies and trusts to the School Building Fund by majority vote.
- C. Expenditure of funds from the School Building Fund is at the sole discretion of the City Council.
- D. Pursuant to RSA 34:6, the Trustees of Trust Funds shall have custody of all capital reserves transferred to the School Building Fund. The Trustees of Trust Funds will hold the moneys appropriated to the School Building Fund in a separate account. Appropriations made to the School Building Fund will be paid over to the Trustees of Trust Funds after July 1 but prior to June 30 of the fiscal year of the appropriation.
- E. The City Council may dissolve the School Building Fund at its sole discretion. Upon dissolution of any portion of said fund appropriated from the general fund said funds will lapse to surplus (unassigned general fund fund balance) and cannot be repurposed directly to a different capital fund or project. Any funds contained in the School Building Fund accepted and appropriated from gifts, legacies or trusts may be redirected at the discretion of the City Council.

ARTICLE VIII
Municipal Elections

§ 7-68. Conduct of municipal elections.

Regular and special municipal elections shall be held at such intervals and in the manner provided in Sections 47 to 58 of the Rochester City Charter.

§ 7-69. Filing declaration of candidacy. [Amended 6-1-2010]

No person's name shall be printed upon the municipal election ballot unless, not later than 5:00 p.m. of the 45th nor earlier than 9:00 a.m. of the 60th day prior to the date of said municipal election, such person shall file with the City Clerk a written declaration of candidacy on forms prepared by the City Clerk and shall have paid to the City Clerk, for the use of the City, a filing fee in the appropriate amount. The appropriate amount of filing fee for the various municipal offices shall be as follows: for Mayor, fifty dollars (\$50.); for City Council, ten dollars (\$10.); for School Board, ten dollars (\$10.); for Police Commission, ten dollars (\$10.); and for election official and any other municipal office to be voted upon at said municipal election, two dollars (\$2.).

§ 7-70. Incompatible candidacies.

No person shall be permitted to file declarations of candidacy at any municipal election for incompatible offices. For purposes of this section, incompatible offices shall include the offices of Mayor, City Councilor, School Board member, and Police Commissioner. If any person shall attempt to file declarations of candidacy for such incompatible offices, the City Clerk shall advise of the provisions hereof.

§ 7-71. Incompatible offices.

No person shall hold two of the following offices at the same time: Mayor, City Councilor, School Board member, and Police Commissioner. An acceptance of any one of the aforesaid offices shall be a resignation of the others.

§ 7-72. Recount.

Any candidate for an office at a municipal election shall be entitled to a recount of the ballots cast at said election upon his/her filing with the City Clerk an application for such recount in accordance with the provisions of Section 52 of the City Charter and paying to the City Clerk for the use of the City a fee in the appropriate amount. In cases where the vote margin separating the candidate requesting the recount from the winning candidate according to the official canvass of the votes is no greater than 3% of the total votes cast for such office at said election, the appropriate fee shall be fifty dollars (\$50.) for a City-wide recount and ten dollars (\$10.) for a ward recount. In all other cases, the appropriate fee for a recount shall be six hundred dollars (\$600.) for a City-wide recount and two hundred dollars (\$200.) for a ward recount.

ARTICLE IX

Appointment, Election and Removal of City Officers**§ 7-73. Appointment of department heads, officers and employees.**

In accordance with the provisions of Sections 15 and 18 of the Rochester City Charter, the City Manager shall appoint all department heads, officers and employees in the administrative service of the City, except the School Department and the Police Department as provided for

in Sections 23, 24, and 25 of the Rochester City Charter. All such appointments shall be without definite term unless for provisional, temporary, or emergency service not to exceed the maximum periods which may be prescribed by the rules and regulations of the Merit Plan established pursuant to Section 60 of the Rochester City Charter.

§ 7-74. Removal of department heads, officers and employees.

In accordance with the provisions of Section 15 of the Rochester City Charter, the City Manager may remove all department heads, officers and employees in the administrative service of the City, except the School Department and Police Department as provided for in Sections 23, 24 and 25 of the Rochester City Charter.

§ 7-75. (Reserved)^s

§ 7-76. Public notice of vacancy.

- A. Within three days of the receipt of a report of a vacancy in an office to be filled pursuant to Section 74 of the Rochester City Charter, the City Clerk shall cause a notice of such vacancy to be posted in a public place in Rochester City Hall. Said notice shall contain the following statement: "Any person interested in being considered for this (these) office(s) shall file a written statement to that effect with the Rochester City Clerk. The Mayor and City Council are not obligated to nominate any person who files such a statement, and may nominate a person who has not filed such a statement. All statements filed, however, will be given to each member of the City Council before the vacancy is filled. The City Council may fill this vacancy at any regular or special meeting of the City Council."
- B. Each such notice may list as many offices as are then vacant. The City Clerk shall provide a copy of each such notice to each member of the City Council as soon as practicable.

§ 7-77. Form of statement of interest.

A person's statement of interest in an office to be filled pursuant to Section 74 of the Rochester City Charter shall be legible, shall contain writing or printing on only one side of the paper, and shall be 8.5 inches by 11 inches or smaller. The statement shall include the person's name and address, a statement that he/she is 18 years old or older, whether he/she is a registered voter, the ward in which he/she resides, and such other information as he/she desires. The City Clerk shall maintain a supply of forms to be used by those filing such statements, and may also accept a statement on any other paper that otherwise complies with this section.

5. Editor's Note: Original § 13.3, Election of Chairman of Board of Supervisors of the Checklist, was repealed 3-5-2019. See Sec. 53 of the City Charter.

§ 7-78. Filling vacancy; procedure.

When the Mayor intends to make a nomination to fill a vacancy pursuant to Section 74 of the Rochester City Charter, the Mayor shall so advise the City Clerk when preparing the agenda for the meeting at which such nomination shall be made. The City Clerk shall then provide to each member of the City Council a copy of each written statement received by the City Clerk pursuant to § 7-77 and pertaining to such vacancy. All statements filed with the City Clerk shall at all times be available for public inspection.

§ 7-79. Report of vacancies.

The chairperson of each board or committee whose members are appointed pursuant to Section 74 of the Rochester City Charter shall be responsible for reporting to the City Clerk all vacancies in the membership of that board or committee. Each such chairperson shall file with the City Clerk a written report of each such vacancy, whether arising by resignation, death or otherwise, as soon as practicable after learning of the vacancy. For the purpose of § 7-76 of this article, vacancies shall be deemed to exist upon the filing of such report, without further action of the City Council, the Mayor, the City Manager, or any other body or person.

ARTICLE X

Bonds of City Officials**§ 7-80. Bonds required; amount.**

All City officials as are required to give bonds for the faithful discharge of their duties shall file the same with the City Clerk within 30 days after their election or appointment, in the amounts following:

- A. Tax Collector: amount required by New Hampshire Department of Revenue Administration.
- B. City Treasurer: twenty thousand dollars (\$20,000.).
- C. City Clerk: twenty thousand dollars (\$20,000.).
- D. Chief of Police: five hundred dollars (\$500.).
- E. Deputy Chief of Police: three hundred dollars (\$300.).

§ 7-81. City Council may require bond.

Other officers may be required to give bond as the City Council may determine.

§ 7-82. Form of bonds.

All bonds shall be drawn by the City Solicitor or approved by him/her as to legal form and proper execution before the same are presented to the City Council for approval and shall conform as near as possible to the following form:

KNOW ALL MEN BY THESE PRESENTS:

That we of Rochester, County of Strafford and State of New Hampshire, as principal, and _____ as surety, are holden and stand firmly bound and obliged unto the City of Rochester, a municipal corporation in said county and state, in the sum of _____ dollars, to be paid to the City of Rochester, its successors or assigns, to the payment of which, well and truly to be made, we bind ourselves, our heirs, executors and administrators, successors and assigns, jointly and severally firmly by these presents.

Sealed with our seals and dated this _____ day of _____ A.D. 20____

The condition of the above obligation is such that whereas said _____ has been duly elected the _____ of such City of Rochester for the year 20____ now, therefore, if the said _____ shall faithfully perform all the duties incumbent upon him/her as _____ and shall serve all processes lawfully directed to him/her and perform all other things whatever which a _____ may or ought by law to do and shall really and truly account to said City for all money coming into his/her hands as said _____ then this instrument shall be null and void, otherwise to remain in full force and effect.

Signed, sealed and delivered _____ In the presence of us,

§ 11-4. Violations and penalties.

- A. Any person, partnership or corporation who or which is found to have violated this chapter shall be fined a sum not exceeding one thousand dollars (\$1,000.) for each such violation.
- B. Each violation of this chapter shall be considered a separate offense, and any violation continuing more than one hour of time shall be considered a separate offense for each hour of violation.

§ 11-5. Severability.

Should any court of competent jurisdiction declare any section, clause or provision of this chapter to be unconstitutional, such decision shall affect only such section, clause or provision so declared unconstitutional and shall not affect any other section, clause or provision of this chapter.

Chapter 16

ALARM SYSTEMS

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| <p>§ 16-1. Purpose.</p> <p>§ 16-2. Alarm user permit required.</p> <p>§ 16-3. Alarm user permit application.</p> <p>§ 16-4. Alarm user permit fee.</p> <p>§ 16-5. Misuse of alarm user information.</p> <p>§ 16-6. Operating system without permit; penalty.</p> | <p>§ 16-7. Operating system after revocation or suspension of permit; penalty.</p> <p>§ 16-8. False alarms.</p> <p>§ 16-9. Revocation procedure.</p> <p>§ 16-10. Application for revoked user permit.</p> <p>§ 16-11. Violations and penalties.</p> <p>§ 16-12. When effective.</p> |
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[HISTORY: Adopted by the City of Rochester 6-6-1995 as Ch. 33 of the 1995 Code; amended 6-6-2006. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Fires and fire safety — See Ch. 75.

§ 16-1. Purpose.

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

§ 16-2. Alarm user permit required.

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

§ 16-3. Alarm user permit application.

- A. The alarm user applying for the permit required in § 16-2 of this chapter shall state on the permit application prescribed by the Chief of the Police Department or Fire Department his/her name, the address of the residence or business or businesses where the alarm system has been installed, his/her telephone number, and at least two persons who can be reached any time day or night and who are authorized to respond to an alarm signal and who can open the premises in which the system is installed.

- B. Any false statement or misrepresentation of a material fact made by an applicant for the purpose of obtaining a user's permit or renewal, or while making a change thereto, shall be sufficient cause for refusal to grant or revocation of a permit.

§ 16-4. Alarm user permit fee.

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

§ 16-5. Misuse of alarm user information.

The information contained in the alarm user permit application required by § 16-3 and other information received by the Chief of the Police Department or Fire Department, through correspondence or communications with the alarm user, shall be securely maintained and restricted to inspection by the Chief of the Police Department or Fire Department or certain police or fire officers, or City employees specifically assigned the responsibility for handling and processing alarm user permits in the course of their duties. If one of those persons is found to have purposely or knowingly revealed the information contained in an alarm user permit application or in correspondence or communications with an alarm user to any person for any purpose not related to this chapter or official law enforcement matters, or without the express written consent of the alarm user supplying such information, he/she shall be guilty of a violation.

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

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

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

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

§ 16-8. False alarms.

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

§ 16-9. Revocation procedure.

- A. If the Police Department, in the case of a burglar alarm, or the Fire Department, in the case of a fire alarm, has recorded false alarms in excess of limits stated in § 16-8, the Chief of the Police Department or Fire Department shall notify the permit holder in writing and request the permit holder to submit a report within 15 days describing efforts to discover and eliminate the cause(s) of the false alarms. If the alarm user reasonably requests an extension of time to file said report based upon some extraordinary circumstances, the Chief of the Police Department or Fire Department may extend the 15 days for a reasonable time. If the permit holder fails to submit his/her report within the specified period, the Chief of the Police Department or Fire Department shall notify the alarm user that his/her permit to operate an alarm system has been revoked, and under such circumstances the user shall not be entitled to a hearing as hereinafter provided.
- B. If the alarm user submits a report as required by Subsection A of this section but the Chief of the Police Department or Fire Department finds the report unsatisfactory, then the Chief of the Police Department or Fire Department may issue a written notice of his/her intent to revoke the alarm user's permit.
- C. If after submission of a report required by Subsection A of this section which is satisfactory to the Chief of the Police Department or Fire Department the alarm system of the permit holder incurs two or more false alarms during the same calendar year, the Chief of the Police Department or Fire Department may issue a written notice of his/her intent to revoke the alarm user's permit.
- D. Upon receipt of a notice of intent to revoke an alarm user's permit, the permit holder may, within 10 days of such receipt, submit a written request for a hearing before the Licensing Board setting forth the reasons that his/her permit should not be revoked. Written notice of the time, date and place of the hearing shall be served to the permit holder at least five days prior to the date set for the hearing.

- E. At the hearing before the Licensing Board, the holder of the permit or his/her authorized representative shall have the right to be made aware of the circumstances leading to revocation of the alarm permit and to present evidence on his/her own behalf. After the hearing, the Licensing Board may either issue an order of revocation, withdraw the notice of revocation or allow a reasonable time, not to exceed 15 days, in which the alarm user must take action to eliminate the cause(s) of the false alarms.

§ 16-10. Application for revoked user permit.

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

§ 16-11. Violations and penalties.

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

§ 16-12. When effective.

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

Chapter 22

AMUSEMENTS AND ENTERTAINMENT

ARTICLE I Theaters

§ 22-1. Blanket licenses; fees.

ARTICLE II Boxing and Wrestling Exhibitions

§ 22-2. Exhibitions authorized.

ARTICLE III Public Dances, Circuses and Parades

§ 22-3. License required.

ARTICLE IV Bowling Alleys and Billiard Tables

§ 22-4. Licensing.

ARTICLE V

Pinball and Video Games and Machines

§ 22-5. Definitions.

§ 22-6. Gambling devices not permitted.

§ 22-7. License required.

§ 22-8. Application for license.

§ 22-9. Inspection.

§ 22-10. License fees.

§ 22-11. Display of license.

§ 22-12. Transfer of license.

§ 22-13. Hours of operation by minors.

§ 22-14. False representation of age.

§ 22-15. Revocation of license.

§ 22-16. Appeals.

§ 22-17. Seizure and destruction of machine.

§ 22-18. Violations and penalties.

§ 22-19. Severability.

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

GENERAL REFERENCES

Adult-oriented establishments — See Ch. 11.

Parks, recreation and arena — See Ch. 158.

ARTICLE I

Theaters

[Adopted 6-6-1995 as § 26.2 of the 1995 Code]

§ 22-1. Blanket licenses; fees.

The Licensing Board may grant blanket licenses to theaters and in such case the licensee shall pay in advance the following fees:

- A. For the public showing of moving pictures, fifty dollars (\$50.) for the first three months and twenty dollars (\$20.) for every three months thereafter.

- B. For exhibitions, vaudeville, entertainment, and presentations other than moving pictures or in addition to moving pictures, one hundred dollars (\$100.) for the first three months and seventy-five dollars (\$75.) for every three months thereafter; provided, however, that if a licensee has paid a fee for a license for a motion picture, the fee for occasional exhibitions, vaudeville, entertainment and presentations shall only be such sum in addition to a motion picture fee as the Board may deem just and reasonable, but the fee for a license to exhibit in any hall shall not exceed fifty dollars (\$50.).

ARTICLE II

Boxing and Wrestling Exhibitions

[Adopted 6-6-1995 as § 26.5 of the 1995 Code]

§ 22-2. Exhibitions authorized. [Amended 3-5-2019]

The holding of boxing and/or wrestling exhibitions or bouts within the City of Rochester, under license issued by the New Hampshire Boxing and Wrestling Commission and permit issued by the Licensing Board of the City of Rochester, is hereby permitted and authorized, subject to the provisions of the statutes of the State of New Hampshire relating to athletic exhibitions. No permit for the holding of boxing and/or wrestling exhibitions or bouts within the City of Rochester shall be issued by the Licensing Board unless the place for holding such exhibition or bout shall have been approved by majority vote of the City Council. After issuance by the Licensing Board, the City Council may revoke or suspend said permit after hearing for any cause which the Council may deem sufficient. The fee for such permit shall be twenty-five dollars (\$25.) per day.

ARTICLE III

Public Dances, Circuses and Parades

[Adopted 6-6-1995 as § 26.6 of the 1995 Code]

§ 22-3. License required. [Amended 3-5-2019]

Unless a license therefor shall first have been obtained from the Licensing Board, no person shall conduct a public dance, circus or carnival, theatrical or dramatic representation, parade or procession upon any public street or way, and no open air public meeting upon any ground abutting a public street or way or any party or gathering on private property which party or gathering is open to the general public. The fee for such license shall be two dollars (\$2.).

ARTICLE IV

Bowling Alleys and Billiard Tables

[Adopted 6-6-1995 as § 26.8 of the 1995 Code]

§ 22-4. Licensing.

Bowling alleys, billiard tables and pool tables shall be licensed by the Licensing Board in accordance with the procedures and fees established in RSA 286 as it is now constituted and as it may from time to time be amended.

ARTICLE V

Pinball and Video Games and Machines
[Adopted 6-6-1995 as Ch. 27 of the 1995 Code]**§ 22-5. Definitions.**

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

MECHANICAL AMUSEMENT DEVICE — Any machine which, upon insertion of a coin, slug, token, plate or disc, may be operated by the public generally for use as a game, entertainment or amusement, whether or not registering a score, but shall not include jukeboxes. It shall include, but not be limited to, such devices as marble machines, pinball machines, video games, skill ball, mechanical grab machines, and all games, operations, and transactions similar thereto under whatever name they may be indicated. **[Amended 3-5-2019]**

PERSON, FIRM, CORPORATION or ASSOCIATION — Includes the following: any person, firm, corporation, or association in whose place of business any such machine is placed for use by the public, and the person, firm, corporation, or association having control over such machine.

§ 22-6. Gambling devices not permitted.

Nothing in this article shall in any way be construed to authorize or license or permit any gambling devices whatsoever, or any mechanism that has been judicially determined to be a gambling device, or in any way contrary to law.

§ 22-7. License required. [Amended 3-5-2019]

Any person, firm, corporation, or association displaying for public patronage any mechanical amusement device shall obtain a license for each such mechanical amusement device from the Licensing Board of the City of Rochester. Application for such license shall be made upon a form to be supplied by the Licensing Board for that purpose. No license shall be issued to any applicant unless he/she shall be 18 years of age and a citizen of the United States and of good moral character. No license shall be issued to any applicant until after the Chief of Police has approved the application.

§ 22-8. Application for license.

The application for such license shall contain the following information:

- A. Name and address of the applicant and his/her age, date and place of birth. If the applicant is a naturalized citizen, he/she shall also give satisfactory proof of naturalization.
- B. Prior criminal convictions of applicant, if any.
- C. Place where machine or device is to be displayed or operated and the business conducted at that place.

- D. Description of machine to be covered by license, mechanical features, name of manufacturer, and serial number.
- E. Signed "release of information authorization" form authorizing the Rochester Police Department to conduct a criminal record check of the applicant and authorizing individuals to supply information to the Rochester Police Department in connection with such record check.

§ 22-9. Inspection.

The Chief of Police shall investigate wherein it is proposed to operate such machine and ascertain if the applicant is a person of good moral character.

§ 22-10. License fees. [Amended 12-3-1997]

Every applicant before being granted a license shall pay an annual nonrefundable application fee of ten dollars (\$10.) per machine for which a license is sought. Upon approval of an application, every applicant shall pay an annual license fee of fifty dollars (\$50.) per machine for the privilege of operation, or maintaining for operation, a mechanical amusement device as defined in § 22-5 above; provided, however, that with respect to any machine for which a license is sought under the provisions of this section on or after July 1 of any calendar year and for which machine no license has been issued under the provisions of this article since January 1 of the preceding calendar year, the license fee for such machine for the balance of such year shall be twenty-five dollars (\$25.). Each license shall expire at 12:00 midnight, December 31, of the year in which such license is issued.

§ 22-11. Display of license.

The license or licenses herein provided for shall be posted permanently and conspicuously at the location of the machine in the premises wherein the device is to be operated or maintained to be operated.

§ 22-12. Transfer of license.

- A. Such license may be transferred from one machine or device to another similar machine, in the same place of business, upon application to the Chief of Police to such effect and the giving of a description and the serial number of the new machine or device as described in § 22-8D. Not more than one machine shall be operated under one license, and the applicant or licensee shall be required to secure a license for each and every machine displayed or operated.
- B. If the licensee shall move his/her place of business to another location within the City of Rochester, the license may be transferred to such new location upon application to the Chief of Police, giving the street and number of the new location. The new location shall be approved by the Chief of Police in the same manner as provided in § 22-9 of this article.

- C. A license shall not be transferable from person to person and shall be usable only at the place and by the person designated in the license except as designated in Subsections A and B of this section.

§ 22-13. Hours of operation by minors. [Amended 3-5-2019]

No person, firm, corporation, or association holding a license under this article shall permit any person under 18 years of age and over five years of age to play or operate any mechanical amusement device as defined in § 22-5 of this article during normal school hours on any day in which the Rochester public schools are in session, or permit any minor under the age of 16 years to play or operate any such mechanical amusement device after 9:00 p.m. unless accompanied by a parent, guardian or other suitable person.

§ 22-14. False representation of age.

A minor who falsely represents his/her age for the purpose of operating such mechanical amusement device as defined in § 22-5 of this article shall be fined not more than one hundred dollars (\$100.). The owner shall have the right to request said minor to exhibit his birth certificate or other proof of age.

§ 22-15. Revocation of license. [Amended 3-5-2019]

Every license issued hereunder may be revoked in the event the licensee, directly or indirectly, permits the operation of any mechanical amusement device contrary to the provisions of this article or other ordinances of the City of Rochester or the laws of the State of New Hampshire. The license may be revoked by the Licensing Board by a written notice to the licensee, which notice shall specify the ordinances or law violations with which the licensee is charged.

§ 22-16. Appeals.

Any licensee may, by written notice filed with the City Clerk within seven days of the refusal of the Licensing Board to grant him/her a license or of the revocation of a license, appeal to the City Council at which appeal hearing the licensee may present witnesses and submit evidence on his/her own behalf.

§ 22-17. Seizure and destruction of machine. [Amended 3-5-2019]

If the Chief of Police shall have reason to believe any mechanical amusement device is used as a gambling device, such machine may be seized by the police and impounded, and if, upon trial of the exhibitor for allowing it to be used as a gambling device, said exhibitor is found guilty, such machine shall be destroyed by the police.

§ 22-18. Violations and penalties.

Any person, firm, corporation, or association violating any of the provisions of this article, in addition to the revocation of his/her license, shall be liable to a fine or penalty of not more than one hundred dollars (\$100.) for each offense.

§ 22-19. Severability.

Each provision of this article shall be deemed independent of all other provisions therein, and if any provision of this article be declared invalid, all other provisions thereof shall remain valid and enforceable.

Chapter 28

ANIMALS

§ 28-1. Animal Control Officer.

§ 28-4. Nuisances.

§ 28-2. Powers and duties of Animal Control Officer.

§ 28-5. Removal of dog excrement.

§ 28-3. Dogs running at large.

§ 28-6. Violations and penalties.

[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 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.¹

- 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.

1. Note: For state statutes relative to control of dogs, see RSA 466, all provisions of which have been adopted by the City of Rochester, effective November 1980.

- 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:
- (1) Any animal or bird causes frequent, or long continued, noise which disturbs the comfort or repose of any person in a neighboring premises, 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.)

§ 40-6. Life Safety Code. [Amended 4-19-2005]

The duties defined in and the enforcement of the Life Safety Code, NFPA 101 (2003 edition), or any applicable successor code, shall be assumed by the Fire Chief of the City of Rochester or his/her authorized representative.

§ 40-7. Electrical Code and Property Maintenance Code. [Amended 4-19-2005; 9-4-2007; 10-15-2013]

The duties defined in and the enforcement of the NEC 2005, National Electrical Code (2005 edition), and the International Property Maintenance Code (2006 edition), or any applicable successor codes, shall be assumed by the Director of Building, Zoning, and Licensing Services or his/her authorized representative.

§ 40-8. Plumbing Code. [Amended 4-19-2005; 9-4-2007; 10-15-2013; 3-5-2019]

The duties defined in and the enforcement of the International Plumbing Code (2006 edition), or any applicable successor code, shall be assumed by the Director of Building, Zoning, and Licensing Services, or his/her authorized representative, except as otherwise provided in Chapter 200, Sewers, of the Code of the City of Rochester where the same are defined as the duties of the Commissioner of Public Works, with inspections to be done by the Director of Building, Zoning, and Licensing Services or an authorized member of the Division of Water Supply Works or Division of Sewage and Waste Treatment Works.

§ 40-9. Regulation of construction storage yards.

Any individual or entity engaged in excavation, development, construction, building, and/or similar project within the City and involving the outside storage of construction and/or related equipment and/or materials shall forthwith cease to store such equipment and/or materials upon the premises involving such excavation, development, construction, building and/or similar project upon the expiration of the building permit or other similar authorization for such project, or upon the written notification by the City Engineer that such project has been completed, whichever event shall first occur. Upon removal of such equipment and/or material upon the completion of a project, the land disturbed by such storage shall be returned to its original state.

§ 40-10. Right of entry. [Amended 10-15-2013]

The Director of Building, Zoning, and Licensing Services, the Fire Chief, or their authorized representatives in the discharge of their official duties and upon proper identification shall have authority to enter any building, structures, or premises at any reasonable hour.

§ 40-11. Definitions.

Where the word "municipality" is used in any code adopted herein, it shall be deemed to mean the City of Rochester. Where the words "corporate counsel" or "legal representative"

are used in any code adopted herein, they shall be deemed to refer to the Rochester City Solicitor.

§ 40-12. Violations and penalties.

- A. Any person who shall violate any provisions of any code adopted herein, or fail to comply therewith or with any requirements thereof, or who shall erect, construct, alter, or repair or has erected, constructed, altered, or repaired a building or structure or portion thereof in violation of a detailed statement or plan submitted and approved thereunder, or of a permit or certificate issued thereunder, shall be punishable by a civil penalty of two hundred seventy-five dollars (\$275.) for the first offense and five hundred fifty dollars (\$550.) for subsequent offenses, for each day that such violation is found by a court to continue after the conviction date or after the date on which the violator receives written notice from the City that he/she is in violation thereof, whichever date is earlier. Each day that a violation continues shall be a separate offense. The owner of a building or structure or portion thereof or of the premises where anything in violation of any code adopted herein shall be placed or shall exist, and an architect, building contractor, agent, person or corporation employed in connection therewith and who may have assisted in the commission of such violation, shall be guilty of a separate offense and upon conviction thereof shall be punishable by a civil penalty of two hundred seventy-five dollars (\$275.) for the first offense and five hundred fifty dollars (\$550.) for subsequent offenses, for each day that such violation is found by a court to continue after the conviction date or after the date on which the violator receives written notice from the City that he/she is in violation thereof, whichever date is earlier. Each day that a violation continues shall be a separate offense. **[Amended 4-5-2016; 3-5-2019]**
- B. The imposition of the penalties herein prescribed shall not preclude the City Solicitor from instituting an appropriate action or procedure to prevent any unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, or to restrain, correct or abate a violation or to prevent the occupancy of a building, structure, or premises, or portion thereof, or of the premises, or to prevent an illegal act, conduct, business or use in or about the premises.

§ 40-13. Fire limits established. [Amended 3-5-2019]

The fire limits for the City of Rochester are hereby established as those areas classified as Downtown Commercial, Office Commercial and Highway Commercial Districts and adjacent to North and South Main Streets in Rochester proper and Main Streets in Gonic and East Rochester, so called, as shown on the Zoning Maps, as an overlay, adopted as part of the Zoning Ordinance, adopted on March 4, 1986, which are incorporated herein by specific reference thereto.¹

1. Editor's Note: See Ch. 275, Zoning. Original § 40.14, Access to basements, which immediately followed this section, was repealed 9-6-2011.

§ 40-14. More restrictive provisions to apply.

When the provisions of any codes adopted herein cover essentially the same subject matter, the more restrictive provisions shall apply.

§ 40-15. Permits.

- A. Permits shall be obtained from the Director of Building, Zoning, and Licensing Services for the construction, alteration, removal, demolition, or repair of any foundation, footing, building or structure or for the installation of plumbing, use of concrete, masonry, metal, iron and wood, and other building material, the installation of electric wiring, and fire protection incident thereto for the prevention of fires, including but not limited to swimming pools, signs, and fences, except that no permit shall be required for painting, papering, laying floors, or upkeep in maintenance of any structure. Separate permits shall be required for building, electrical, plumbing, mechanical, fire protection, and demolition. Prior to the issuance of a foundation or building permit by the Director of Building, Zoning, and Licensing Services, the applicant for such permit shall file with the Department of the Building, Zoning, and Licensing Services a foundation certification plan bearing the stamp of a New Hampshire licensed land surveyor and containing a statement from such surveyor to the effect that the proposed building or structure complies with all applicable building or structure setback requirements and that no portion of the new building or structure is located within any of the setback areas required by law. The requirement for a foundation certification plan may be waived, in writing, by the Director of Building, Zoning, and Licensing Services if, in the discretion of the Director of Building, Zoning, and Licensing Services there are reasonable grounds to conclude that the preparation and submission of a foundation certification plan is unnecessary to ensure that the new building or structure does not violate any required setback. **[Amended 6-15-1999; 6-15-2004; 10-15-2013]**
- (1) The following fees shall be charged for said permits, based upon the estimated cost of construction as presented to the Director of Building, Zoning, and Licensing Services upon application forms provided by him: on proposed work, the fee of nine dollars (\$9.) per one thousand dollars (\$1,000.) of estimated cost of work, or any portion thereof, with a minimum fee of ten dollars (\$10.), in addition to an application fee of ten dollars (\$10.) for each permit.
 - (2) Each building permit shall expire 12 months from the date of issuance unless renewed by the Director of Building, Zoning, and Licensing Services prior to the expiration date. Any renewal shall require reapplication and payment of required fees based on the remaining work to be done. The Director of Building, Zoning, and Licensing Services may issue no building permit until such other permits or approvals as may be required by any code, other ordinances, or state statutes have been acquired.
 - (3) A separate permit shall be required for staging, scaffolding, platforms, or other similar equipment to be erected on private property that is to be erected for a period exceeding 30 days. Said permit shall expire 12 months from the date of issue and all equipment shall be removed upon said expiration or upon completion of the work, whichever comes first. The fee for said permit shall be

five dollars (\$5.). The City reserves the right to revoke, deny, or not reissue said permit if work required is not being actively pursued in a timely or otherwise reasonable manner.

- (4) Fees for building permits shall be waived for an honorably discharged veteran or an active duty, National Guard or reserve member of the United States Armed Forces who plans to construct or have constructed for himself/herself a home or appurtenance to a home already owned by him/her for exclusive occupancy by himself/herself and his/her immediate family. **[Amended 1-12-2016]**
 - (5) Permits issued to or for the City of Rochester are exempt from the above fees.
- B. The estimated cost of construction for purposes of Subsection A of this section shall be calculated on the following basis: **[Amended 9-4-2007; 1-4-2011]**
- (1) For contract work, new buildings and newly constructed additions, the building permit fee shall be based on the greater of all contract/construction costs associated with the total construction project or the cost of construction as determined using the latest "Building Valuation Data" as published periodically by the International Code Council. When construction costs are determined using the "Building Valuation Data" as published by the International Code Council, such costs shall be multiplied by a modification factor of 0.60. Construction costs shall include, but not be limited to, pile driving, foundations, structural and nonstructural framing, interior finish (as regulated by this chapter), fire protection systems and any other work which would render the building complete and ready for occupancy. **[Amended 3-5-2019]**
 - (2) For non-contract work, not covered under Subsection B(1), such as when a homeowner furnishes his/her own or has furnished free labor but purchases the materials, the fee shall be based on the actual cost of all materials with a multiplier of two applied. For example, total materials of five thousand dollars (\$5,000.): $\$5,000 \times 2 = \$10,000$. The permit fee would therefore be ninety dollars (\$90.) (or $10.0 \times \$9$). If, in the opinion of the Building Official, the cost of construction is underestimated on the application, the permit shall be denied, unless the applicant can show detailed documentation to meet the approval of the Building Official. Final building permit cost of construction shall be approved by the Building Official.
 - (3) Any person who is found to have demolished, constructed, altered, removed, or changed the use of a building or structure without the benefit of a building, electrical, plumbing, mechanical, fire protection or demolition permit shall, upon application for said permit(s), be assessed a permit fee of twice the normal rate outlined in Subsection A of this section or twenty-five dollars (\$25.), whichever is greater. Example: Cost of materials = \$15,392; Labor = Self; Permit Fee = $16.0 \times \$9 \times 2$ (self labor) $\times 2$ (added fee) = \$576.
 - (4) In the case of a revocation of a permit or abandonment or discontinuance of a building project, the portion of the work actually completed shall be computed and any excess fee for the uncompleted work shall be returned to the permit holder upon written request. All plan examination and permit processing fees and all penalties that have been imposed on the permit holder under the requirements

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of this chapter shall first be collected. The permit processing fee shall be 10% of the building permit application fee with a minimum fee of ten dollars (\$10.). [Amended 3-5-2019]

§ 40-16. Prospective application.

Nothing in this chapter or in the codes hereby adopted shall be construed to affect any suit or proceeding now pending in any court or any rights acquired or liability incurred, nor any causes of action accrued or existing, under any act or ordinance repealed hereby, nor shall any right or remedy of any character be lost, impaired, or affected by this chapter. This chapter shall have prospective application only.

§ 40-17. Severability.

The invalidity of any section or provision of this chapter or of the codes hereby adopted shall not invalidate any other sections or provisions thereof.

§ 40-18. Cleanup of construction sites. [Amended 2-4-1997; 10-15-2013]

Within 30 days of the issuance of a certificate of occupancy or, in the case of a project which is terminated or delayed indefinitely, within 30 days of appropriate notification by the Director of Building, Zoning, and Licensing Services, the land at any construction site must be reclaimed. Such reclamation includes removal of all vehicles, equipment, materials, and temporary structures related to the construction project and restoration of any disturbed land to a grassed, planted, or otherwise erosion-free condition.

Chapter 54
CITATIONS

§ 54-1. Purpose and objectives.

§ 54-3. Fine schedule.

§ 54-2. Authority.

[HISTORY: Adopted by the City of Rochester 6-6-1995 as Ch. 44 of the 1995 Code; amended 4-5-2016. Subsequent amendments noted where applicable.]

§ 54-1. Purpose and objectives.

In addition to any other enforcement procedure authorized by law, any City official with authority to prosecute an offense under any municipal code, ordinance, bylaw, or regulation, if such offense is classified as a violation under applicable law, may issue and serve upon the defendant, in addition to a summons to appear in the Circuit Court, a local ordinance citation as set forth in this chapter. A defendant receiving such a citation may plead guilty or nolo contendere by mail by entering that plea as provided herein. If such a plea is accepted by the Circuit Court and the prescribed fine is paid with the plea by mail, the defendant shall not be required to appear personally or by counsel; otherwise the defendant shall appear as directed by the Court.

§ 54-2. Authority.

This chapter is adopted pursuant to the authority vested in the City by RSA 31:39-d.

§ 54-3. Fine schedule. [Amended 3-5-2019]

Any defendant issued a local ordinance citation may plead guilty or nolo contendere by mail within 10 days of receipt of the local ordinance citation consistent with the following violation fine schedule:

Category	First Offense	Second Offense
Permits	\$50	\$100
Garbage, residential solid waste and debris	\$75	\$150
Infestation	\$100	\$200
Interior, building elements	\$125	\$250
Exterior, building elements	\$150	\$300
Exterior, motor vehicles	\$200	\$400
All other violations	\$100	\$275

Chapter 75

FIRES AND FIRE SAFETY

ARTICLE I Fire Department

- § 75-1. Appointment and requirements of Fire Chief.
- § 75-2. Transfer of authority in Chief's absence.
- § 75-3. Taking equipment and apparatus outside of City.

ARTICLE II Fire Prevention

- § 75-4. Fire Safety Rules and Regulations.
- § 75-5. Enforcement officer.
- § 75-6. Smoke detector wiring.
- § 75-7. Outdoor fires.

- § 75-8. Provisions for rapid entry.
- § 75-9. Public safety amplification system required in large facilities.
- § 75-10. Administration and enforcement.
- § 75-11. Means of escape.
- § 75-12. Fire Department access.
- § 75-13. Inspections; control of fire hazards.
- § 75-14. Violations and penalties.
- § 75-15. Sprinkler requirements for certain dwellings.
- § 75-16. Fireworks.
- § 75-17. Listed Agent Program.
- § 75-18. Regulation of fire alarms.

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

GENERAL REFERENCES

Alarm systems — See Ch. 16.
Building construction and property maintenance — See Ch. 40.

Nuisances — See Ch. 149.

ARTICLE I

Fire Department

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

§ 75-1. Appointment and requirements of Fire Chief. [Amended 3-5-2019]

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

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

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

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

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

ARTICLE II**Fire Prevention**

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

§ 75-4. Fire Safety Rules and Regulations.

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

§ 75-5. Enforcement officer.

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

§ 75-6. Smoke detector wiring. [Amended 2-8-2000]

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

§ 75-7. Outdoor fires.¹

No person shall kindle, light, or otherwise start an outdoor fire in the City of Rochester for any purpose whatsoever without first having obtained a written permit, without cost, from the Chief of the Rochester Fire Department. All such permits shall be in writing and in such form as the Chief of the Rochester Fire Department shall prescribe and shall set forth any

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

conditions or restrictions which, in the opinion of the Fire Chief, shall be reasonably necessary and prudent to ensure the safe performance of permitted activities.

§ 75-8. Provisions for rapid entry.

- A. For purposes of rapid entry in cases of emergencies or required access to buildings after hours, any new construction on the following type occupancies occurring after the date of the adoption of this article will require a Knox-Box® to be installed on such premises:
- (1) Assembly.
 - (2) Educational.
 - (3) Mercantile.
 - (4) Business.
 - (5) Industrial.
 - (6) Apartment complex.
- B. The Fire Chief shall have authority to require any other type of building, not listed above, to install a Knox-Box® to meet rapid entry requirements, if in his/her discretion public safety considerations require such installation.

§ 75-9. Public safety amplification system required in large facilities. [Amended 1-2-2007]

The purpose of this system is to provide minimum standards to ensure a reasonable degree of reliability for emergency services communications from within certain buildings and structures within the City to and from emergency communications centers. It is the responsibility of the emergency service provider to get the signal to and from the building site.

- A. Applicability. The provisions of this section shall apply to:
- (1) New buildings greater than 50,000 square feet;
 - (2) Existing buildings over 50,000 square feet when modifications, alterations or repairs exceed 50% of the value of the existing building(s) and are made within any twelve-month period or the usable floor area is expanded or enlarged by more than 50%; and
 - (3) All sublevels, regardless of the occupancy, over 10,000 square feet.
- B. Radio coverage.
- (1) Except as otherwise provided in this section, no person shall erect, construct or modify any building or structure or any part thereof, or cause the same to be done, which fails to support adequate radio coverage for firefighters and police officers.

- (2) The City's Fire Department, with consideration of the appropriate emergency services department, shall determine the frequency range or ranges that must be supported. **[Amended 3-5-2019]**
 - (3) For the purposes of this section, adequate radio coverage shall constitute a successful communications test between the equipment in the building and the communications center for all appropriate emergency service providers for the building.
- C. Inbound into the building.
- (1) A minimum average in-building field strength of 2.25 microvolts (-100 dbm) for analog and five microvolts (-93 dbm) for digital systems throughout 85% of the area of each floor of the building when transmitted from the City's police dispatch center and the appropriate emergency service dispatch centers which are providing fire and emergency medical protection services to the building.
 - (2) If the field strength outside the building where the receive antenna system for the in-building system is located is less than -100 dbm for analog or -93 dbm for digital systems, then the minimum required in-building field strength shall equal the field strength being delivered to the receive antenna of the building.
 - (3) As used in this section, 85% coverage or reliability means the radio will transmit 85% of the time at the field strength and levels as defined in this section.
- D. Outbound from the building.
- (1) A minimum average signal strength of 112 microvolts (-6 dbm) for analog and five microvolts (+1 dbm) for digital systems as received by the City's police dispatch center and the appropriate emergency service dispatch centers which are providing fire and emergency medical protection services to the building.
 - (2) FCC authorization. If amplification is used in the system, all FCC authorizations must be obtained prior to use of the system. A copy of these authorizations shall be provided to the City's Fire Department.
- E. Enhanced amplification systems.
- (1) Where buildings and structures are required to provide amenities to achieve adequate signal strength, they shall be equipped with any of the following to achieve the required adequate radio coverage: radiating cable system(s), internal multiple antenna system(s) with an acceptable frequency range and an amplification system(s) as needed, voting receiver system(s) as needed, or any other City-approved system(s).
 - (2) If any part of the installed system or systems contains an electrically powered component, the system shall be capable of operation on an independent battery or generator system for a period of at least eight hours without external power input or maintenance. The battery system shall automatically charge in the presence of external power.
 - (3) Amplification equipment must have adequate environmental controls to meet the heating, ventilation, cooling and humidity requirements of the equipment that will

be utilized to meet the requirements of this section. The area where the amplification equipment is located must be free of hazardous materials such as fuels, asbestos, etc. All communications equipment, including amplification systems, cable and antenna systems, shall be grounded with a single point ground system of five ohms or less. The ground system must include an internal tie point within three feet of the amplification equipment. System transient suppression for the telephone circuits, AC power, radio frequency (RF) cabling and grounding protection are required as needed. **[Amended 3-5-2019]**

- (4) The following information shall be provided to the Fire Department by the builder:
 - (a) A blueprint showing the location of the amplification equipment and associated antenna systems which includes a view showing building access to the equipment; and
 - (b) Schematic drawings of the electrical, backup power, antenna system and any other associated equipment relative to the amplification equipment, including panel locations and labeling.
- F. Testing procedures; method to conduct tests. Tests shall be made using frequencies close to the frequencies used by the police and appropriate emergency services. If testing is done on the actual frequencies, then this testing must be coordinated within the City's Fire Department. All testing must be done on frequencies authorized by the FCC. A valid FCC license will be required if testing is done on frequencies different from the police, fire or emergency medical frequencies.
- G. Measurements shall be made using the following guidelines:
 - (1) With a service monitor using a unity gain antenna on a small ground plane;
 - (2) Measurements shall be made with the antenna held in a vertical position at three to four feet above the floor;
 - (3) A calibrated service monitor (with a factory calibration dated within 24 months) may be used to do the test;
 - (4) The telecommunications unit representative for the City may also make simultaneous measurements to verify that the equipment is making accurate measurements. A variance of three db between the instruments will be allowed; and
 - (5) If measurements in one location are varying, then average measurements must be used.
 - (a) All testing shall be done in the presence of a Fire Department representative at no expense to the City or appropriate emergency services department.
 - (b) Signal strength, both inbound and outbound as defined above, shall be measured on each and every floor above and below ground, including stairwells, basements, penthouse facilities and parking areas of the structure. The structure shall be divided into fifty-foot grids and the measurements shall be taken at the center of each grid.

- H. Annual tests. Annual tests will be conducted by the City's telecommunications unit or appropriate emergency services department. If communications appear to have degraded or if the tests fail to demonstrate adequate system performance, the owner of the building or structure is required to remedy the problem and restore the system in a manner consistent with the original approval criteria. The re-testing will be done at no expense to the City or the appropriate emergency services department as required in the original testing procedures.
- I. Field testing. Police and fire personnel, after providing reasonable notice to the owner or his/her representative, shall have the right to enter onto the property to conduct field testing to be certain the required level of radio coverage is present. Certificates of occupancy may be denied for new and existing buildings for failure to comply with these requirements.

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

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

- A. The fee schedule under this article shall be as follows:
- (1) Tank removal: twenty-five dollars (\$25.).
 - (2) Blasting: twenty-five dollars (\$25.).
 - (3) Incident report: five dollars (\$5.).
 - (4) Fire Marshal's investigation report: twenty-five dollars (\$25.).
 - (5) Photographs (fire scene): fifteen dollars (\$15.).
 - (6) CD photos (fire scene): fifteen dollars (\$15.).
 - (7) Fire alarm system plan review: one dollar (\$1.) per device or fifty dollars (\$50.) minimum.
 - (8) Sprinkler system plan review: one dollar (\$1.) per device or fifty dollars (\$50.) minimum.
 - (9) Commercial hood fire suppression: one dollar (\$1.) per device or fifty dollars (\$50.) minimum.
 - (10) Clean agent: one dollar (\$1.) per device or fifty dollars (\$50.) minimum.
 - (11) Initial inspection: free of charge.
 - (12) Reinspections (sprinkler systems, fire alarm systems, commercial hood fire suppression, clean agent): fifty dollars (\$50.) per person with one hundred dollars (\$100.) minimum.
 - (13) Listed agent: twenty-five dollars (\$25.) per year, per restriction.
 - (14) False alarm, fire alarm activation: one hundred seventy-five dollars (\$175.) after two consecutive, per calendar year.

- B. The fine for working without a permit or license is one hundred seventy-five dollars (\$175.).

§ 75-11. Means of escape. [Amended 6-6-2006]

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

§ 75-12. Fire Department access. [Amended 6-6-2006]

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

§ 75-13. Inspections; control of fire hazards. [Amended 6-6-2006]

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

§ 75-14. Violations and penalties. [Amended 6-6-2006; 5-2-2017]

Any person, persons, firm, corporation or partnership who or which shall violate any provision of this article shall be guilty of a violation punishable by a fine of not less than one hundred dollars (\$100.) or not more than five hundred dollars (\$500.). Each day that the violation continues to exist shall constitute a separate offense. The owner of record of any property upon which a violation of this article occurs shall be held strictly liable for any violation occurring on his/her or its property and shall be guilty of a violation in the same manner as stated above.

§ 75-15. Sprinkler requirements for certain dwellings. [Amended 3-6-2007]

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

§ 75-16. Fireworks. [Added 3-4-2008; amended 11-9-2010; 4-2-2013]

A. In accordance with the provisions of RSA 160-C, it shall be illegal for any person, firm, partnership or corporation to offer for sale, expose for sale, sell at retail, purchase, possess, use, explode or display any permissible fireworks within the City of Rochester, except as specifically provided for in this section.

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

DISPLAY — The use, explosion, activation, ignition, discharge, firing or any other activity which is intended to cause or which causes a firework to do what it was manufactured to do.

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

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

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

C. Permit required. No person shall use, discharge or explode any permissible fireworks without a permit issued by the City of Rochester. **[Added 2-14-2017]**

(1) Any person wishing to obtain a permissible fireworks display permit shall apply to the Licensing Board at least 15 days prior to the display. The time frame may be waived at the discretion of the Police and Fire Chiefs. **[Amended 5-2-2017]**

(2) The applicant shall provide the following information:

(a) Date of application.

(b) Name, address, and telephone number of applicant.

(c) Address of location where the display will be held.

(d) Diagram of the display location, showing the location of all nearby property lines, nearby buildings, public ways, nearby trees, electrical and telephone lines or other overhead obstructions, and the location of any nearby storage of flammable or combustible liquids or gases.

(e) Name of the owner of the property where the display will be held.

(f) Intended date and time of display, including a possible rain date.

(g) Written authorization of the property owner, if different from the applicant.

(h) Signature of the applicant.

(3) Permit fee. The fee for a permissible fireworks display shall be five dollars (\$5.) per event. The fee shall be paid at the time of application and is nonrefundable.

(4) Site inspections.

- (a) Prior to issuing a permit, the Police Chief or the Fire Chief may conduct an inspection of the display site to determine whether a permissible fireworks display can be held in a safe manner.
 - (b) If, in the opinion of the Licensing Board, the proposed site is not suitable for the safe display of permissible fireworks, the application for a permit shall be denied. **[Amended 5-2-2017]**
- D. Subject to and in accordance with the provisions of Chapter 160-C of the New Hampshire Revised Statutes Annotated it shall be lawful to possess and/or display permissible fireworks upon compliance with the following requirements:
- (1) A person who is 21 years of age or older may display permissible fireworks on private property with the written consent of the owner or in the owner's presence, subject to the provisions of this section and RSA 160-C and any other applicable ordinance, regulation or statute.
 - (2) No display of permissible fireworks shall be permitted within the City except between the hours of 6:00 p.m. and 11:00 p.m. on the following holiday: Fourth of July (including the evening of July 3 beginning at 6:00 p.m., including from such time until 12:00 midnight on any rain date established for the annual City-wide fireworks display held at the Rochester Fairgrounds), after obtaining a permit. **[Amended 6-6-2013; 2-14-2017]**
 - (3) The display of permissible fireworks shall be of such a character, and so located and conducted, that it shall not be hazardous to property or endanger any person. In accordance with the provisions of RSA 160-C, permissible fireworks shall not be permitted on public property and must be at least 50 feet from nearby buildings, nearby trees, electrical and telephone lines or other overhead obstructions, and the location of any nearby storage of flammable or combustible liquids or gases.
 - (4) No permissible fireworks may be used, discharged, exploded, or displayed during periods of very high or extreme fire danger as determined by the Fire Chief or the New Hampshire Division of Forests and Lands.
 - (5) Permissible fireworks may be used, discharged, exploded, or displayed in a manner such that any and all discharge debris shall remain within the property lines of the lot on which the display originates.
 - (6) Anyone using permissible fireworks shall be responsible for removing any debris accumulated due to the discharge of fireworks that fall onto the public way, public property, and any private property within 24 hours. Anyone failing to remove such debris shall be financially responsible for its cleanup. **[Amended 3-5-2019]**
 - (7) Display of permissible fireworks shall be permitted on public property the evening of July 3 beginning at 6:00 p.m., including from such time until 12:00 midnight on any rain date established for the annual City-wide fireworks display held at the Rochester Fairgrounds, provided that such display shall be authorized in a duly issued block party application/permit from the City's Licensing Board covering the public property on which the display is to occur. **[Added 6-4-2013]**

- E. A violation of this section shall be subject to the penalties provided for in § 75-14 of this article.
- F. This section shall be construed consistently with New Hampshire Code of Administrative Rules Chapter Saf-C 2600, as made applicable by state statute and as adopted by reference in § 75-4 of this article, and is not meant to repeal any section thereof. Nothing in this section shall be interpreted so as to conflict with the provisions of Chapter 160-B or 160-C of the New Hampshire Revised Statutes Annotated, as currently written, or as from time to time hereafter amended. If any subsection, sentence, clause, phrase or portion of this section is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such provision shall be deemed a separate, distinct, independent provision and such holding shall not affect the validity of the remaining portions thereof.
- G. The Police Chief or Fire Chief may suspend the use of permissible fireworks for any of the following reasons:
- (1) Unfavorable weather conditions, including but not limited to lightning storms or high wind conditions exceeding 20 miles per hour or higher.
 - (2) If any person under the age of 21 possesses, uses, discharges or explodes or used, discharged or exploded any permissible firework device.
 - (3) If any person who is using, discharging, exploding, or displaying the permissible fireworks appears to be under the influence of alcohol or drugs.
 - (4) If, in the opinion of the Police Chief or Fire Chief, the use, discharge, exploding, or display of permissible fireworks would create a threat to public safety.
- H. The Police Chief and/or Fire Chief is authorized to seize, take, remove or cause to be removed, at the expense of the owner, all firework devices that are being discharged in violation of this section.
- I. The City Manager, Mayor, and/or the City Council may declare a special event of cultural or civic significance and authorize the display of fireworks on the same terms as Subsection D(2) on particular days to celebrate those special events. **[Added 2-14-2017]**

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

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

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

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

§ 80-3. License required.

It shall be unlawful for any person to operate a food service establishment within the City of Rochester who does not possess a valid license for that purpose issued to him/her by the Board. Only a person who complies with the requirements of this article shall be entitled to receive and retain such a license. Licenses shall not be transferable from one person to another person or another place. A valid license shall be conspicuously posted in every food service establishment. Licenses for temporary food service establishments shall be issued for a period of time not to exceed 14 days.

§ 80-4. Issuance of license; fees. [Amended 9-3-2013; 3-5-2019]

Every applicant for a license to operate a food service establishment shall make written application therefor on forms provided by the Board. Upon receipt of an application and the designated license fee, and after inspection to ensure compliance with the Sanitary Food Code, a license shall be issued to the applicant by the Board if the requirements of this article have been met. All licenses issued hereunder shall expire on the first day of July in each year.

A. Fees. Based upon highest classification.

- (1) Class A. Food service establishments having a seating capacity of 200 persons or more; retail food store with four or more food preparation areas: three hundred dollars (\$300.).
- (2) Class B. Food service establishments having a seating capacity of 100 through 199 persons; retail food store with two to three food preparation areas: two hundred dollars (\$200.).
- (3) Class C. Food service establishments having a seating capacity of more than 25 but fewer than 100 persons; retail food store with one food preparation area; caterers; bar or lounge that serves food; service/fraternal clubs with bar/liquor lounges; nursing homes: one hundred fifty dollars (\$150.).
- (4) Class D. Food service establishments with a seating capacity of 25 or fewer (including but not limited to bakeries); food service establishments with take-out service and no seating; drive-in movie theaters; service/fraternities and sororities; group day-care facilities; shared homes; rest homes; sheltered homes; boarding homes; home food manufacturers; and mobile food operators: one hundred dollars (\$100.).
- (5) Class E. Bed-and-breakfast; ice cream vendors - scooping; lodging facilities serving continental breakfast: eighty-five dollars (\$85.).
- (6) Class F. Retail food store - no preparation areas; wholesalers/distributors of TSC* food; vending machines serving TSC* foods; bakeries which do not serve TSC* food or have seating; food service establishments selling only pre-packaged products: seventy-five dollars (\$75.). (*TSC - Time/Temperature Control for Food Safety)
- (7) Class G. Bar or lounge with no food preparation area that serves alcohol; arena/theater concessions serving non-TSC* food; retail food stores serving pre-

packaged ice cream only; institutions; private schools; senior meal sites; sellers of pre-packaged frozen USDA meat or poultry; temporary food establishments; vending machine operators per location that do not dispense TSC* food; social clubs; residential day-care facilities: fifty dollars (\$50.). (*TSC - Time/Temperature Control for Food Safety)

- (8) Class H. Nonprofit charitable organizations not holding a liquor license and not serving meals on a daily basis; public and private schools; government facilities: no fee.
 - (9) Class I. Seasonal food service establishments (open less than six months of the year): fee is 1/2 the annual fee for corresponding nonseasonal Class A through Class H establishments set forth above.
 - (10) Class J. Food establishments at Rochester Fair: sixty-five dollars (\$65.).
- B. All applications for food service establishment licenses shall be filed with the Board on or before June 20 of each year. In addition to the fees provided for in this section, there shall be a late fee of ten dollars (\$10.) for any renewal application received after June 20 of any year.

§ 80-5. Suspension of license.

- A. If in the judgment of the Health Officer a licensee has failed to comply with any provision of this article, the licensee shall be notified in writing by the Health Officer of such failure of compliance and the licensee shall thereafter immediately bring his/her food service establishment into compliance with this article. If the licensee fails to bring his/her food service establishment into compliance with this article, the Health Officer may petition the Board in writing that the license be suspended and the Board shall give the licensee at least seven days' notice of the scheduling of the hearing on said petition. As a result of said hearing, the Board may suspend the license during such a period of time as the failure of compliance exists.
- B. Notwithstanding any other provision of this article, whenever the Health Officer or Board finds unsanitary or other conditions in the operation of a food service establishment which, in his/her or its judgment, constitute a substantial and immediate hazard to the public health, the Health Officer or any member of the Board may issue a written notice to the licensee citing such condition and the corrective action to be taken and specifying the time period within which such action shall be taken. Any person to whom such order is issued shall immediately comply therewith but upon written petition to the Board shall be afforded a hearing as soon as possible and not later than seven days from submission of such petition. Pending a hearing on such petition, if the Health Officer finds an immediate and substantial hazard to public health, he/she may order that the license be immediately suspended and all food service operations immediately discontinued.

§ 80-6. Reinstatement of suspended license.

Any person whose license has been suspended may, at any time, make application for a reinspection for the purpose of reinstatement of the license. Within five days following

receipt of a written request, including a statement signed by the applicant that in his/her opinion the conditions causing suspension of the license have been corrected, the Health Officer shall make a reinspection. If the Health Officer shall find that the food service

§ 80-16. Area service agreement; season. [Amended 3-1-2016]

The terms and conditions of any such requests that are approved by the City Manager in any given year shall be described in an annual area service agreement, which includes a clear depiction of the area approved for outdoor dining use and the time period of approved use ("season"), with said area service agreement to be signed by the City Manager and the party or parties making the request. The season shall run from April 1 through October 31.

- A. Area service agreements shall not be assignable to other parties.
- B. Use of the area subject to the area service agreement (the "area") may be precluded, modified or made subject to any such terms and conditions as may be determined by the City Manager at any time during the season in order to accommodate special municipal events.

§ 80-17. Fee.

A minimum fee for the season of twenty-five dollars (\$25.) shall be required even if the size of the area subject to the agreement is less than 100 square feet. A fee of one dollar (\$1.) per square foot will be charged for the area subject to the agreement for all square feet above 100 square feet. The fee shall be due and payable to the City of Rochester prior to authorization to use the area.

§ 80-18. Restoration of area. [Amended 3-1-2016]

The area specified for outdoor dining use in the area service agreement shall be restored upon termination of the area service agreement at season's end. Specifically, at season's end, the enclosure system, tables, chairs and all other materials in their entirety shall be removed from the City-owned area with the area left in an unobstructed, undamaged, clean and sanitary condition at no cost to the City. Semi-permanent objects may remain in the area at season's end at the discretion of the City Manager.

§ 80-19. Indemnification; insurance.

Outdoor dining establishments on City property shall indemnify and hold harmless the City of Rochester and shall maintain and provide insurance of the types and amounts specified by the City's Legal Department and shall list the City as additional insured. A certificate of insurance documenting said types and amounts of insurance is to be submitted to the City's Legal Department before the start of the season.

§ 80-20. Damaging or obstructing public facilities.

Outdoor dining establishments shall not damage sidewalks, curbing, bike racks, street trees, light poles, trash containers, utilities or any other City amenities or infrastructure, or make the same inaccessible for public use (other than within the approved area) or maintenance purposes.

§ 80-21. Hours of operation.

Outdoor dining establishments may utilize the area for outdoor dining during their normal business hours, except that all tables within the area shall be cleared of all food and alcoholic beverages by 11:00 p.m. Monday through Saturday and by 10:00 p.m. on Sunday with no alcohol served within the area subsequent to 1/2 hour before the foregoing closure times.

§ 80-22. Alcoholic beverages.

- A. Outdoor dining establishments shall agree at all times to comply with all laws, rules and regulations of the New Hampshire State Liquor Commission and all other local, state and federal laws. Approval of the area service agreement by the State Liquor Commission is required. Alcoholic beverage violations shall be self-reported to the State Liquor Commission and the City Manager. See RSA 178:24 and 179:27.
- B. Outdoor dining establishments shall only serve alcoholic beverages to patrons who are seated at a table and who are ordering food with service at tables conducted by wait staff only.

§ 80-23. Accessibility.

Outdoor dining establishments will agree that they shall be solely responsible for compliance with the Americans with Disabilities Act (ADA).

§ 80-24. Suspension of area service agreement.

The area service agreement may be suspended at the sole discretion of the City on an administrative basis.

§ 80-25. Revocation of area service agreement.

The area service agreement may be revoked in its entirety, excepting for indemnity provisions, by the City Manager at any time.

§ 80-26. Site design standards for establishments with alcohol service.

Outdoor dining establishments with alcohol service should meet the following site design standards:

- A. Outdoor dining establishments shall be separated from the public pedestrian space on the adjacent municipal sidewalk by an enclosure system consisting of heavy-duty black decorative metal materials or equivalent as approved by the City Manager or his/her designee; special attention shall be paid to the method used to support the enclosure system in order to avoid damage to public property and ensure public safety; the minimum height of the enclosure system shall be 30 inches and the maximum height shall be 36 inches.

Chapter 94

HEALTH AND SANITATION

ARTICLE I

General Public Health Regulations

- § 94-1. Overcrowded housing.
- § 94-2. Multifamily dwellings; posting of contact information required.
- § 94-3. Residential solid waste and refuse.
- § 94-4. Drains, privies and sewers.
- § 94-5. Nuisances in lots, buildings and other places.
- § 94-6. Swill house in compact part of City.
- § 94-7. Piggpens, goat pens, chicken coops and barnyards.

- § 94-8. Nuisances to be reported; investigations.
- § 94-9. Service of notice to abate nuisance.
- § 94-10. Board of Health rules and regulations.
- § 94-11. Stockpiling or land application of septage and sludge.

ARTICLE II

Removal or Transportation of Putrefied Animal or Vegetable Substances

- § 94-12. Periodic removal of putrefied animal or vegetable substances.
- § 94-13. Vessels to be used in transporting.

[HISTORY: Adopted by the City of Rochester 6-6-1995 as Ch. 25, Arts. 1 and 2, of the 1995 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction and property maintenance — See Ch. 40.
Fires and fire safety — See Ch. 75.
Food and food service — See Ch. 80.

Nuisances — See Ch. 149.
Sewers — See Ch. 200.
Solid waste — See Ch. 210.
Water — See Ch. 260.

ARTICLE I

General Public Health Regulations

§ 94-1. Overcrowded housing.

No owner, lessee, or keeper of any tenement house, lodging house, or boardinghouse shall cause or allow any such house to be overcrowded or allow so great a number of persons to dwell or sleep in such house or houses or any portion thereof so as to cause danger to health, and no such place or room shall be so overcrowded that there shall be less than 500 cubic feet of air or a floor space of less than 50 square feet to each occupant of such place, building or room. No room as a living or sleeping room shall hereafter be built without direct opening to the outdoor air.

§ 94-2. Multifamily dwellings; posting of contact information required.

A. Purpose. The provisions of this section are adopted pursuant to the authority granted by RSA 47:17 and are intended to promote public health, safety and general welfare by providing a means by which City officials, tenants residing in multifamily dwellings and others concerned with matters of public health and safety relating to multifamily dwellings shall be kept informed as to the name, address, and telephone number of the owner and/or individual responsible for addressing public health, safety and welfare issues arising with respect to such multifamily dwelling units.

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

MULTIFAMILY DWELLING — A building designated or used for more than one dwelling unit.

OWNER — The record title holder(s) of a multifamily dwelling as disclosed by the appropriate records of the Strafford County Registry of Deeds or Strafford County Probate Court and/or the records of the Rochester City Tax Collector. [Amended 3-5-2019]

C. Posting of information regarding owner and individual responsible for multifamily dwelling required. The owner of any multifamily dwelling located within the City shall, at all times, have posted in a conspicuous place on the inside of the front door of each dwelling unit within a multifamily dwelling the name, current mailing address and current telephone number of the owner of said dwelling unit and the name, current address, and current telephone number of an individual designated by the owner as being responsible for matters of public health, safety and welfare arising with respect to such multifamily dwelling. The owner shall also be responsible for filing the information specified in the preceding sentence with the Department of Building, Zoning, and Licensing Services of the City of Rochester and for keeping said information current at all times. In the event that a multifamily dwelling is such as to contain a lobby or other similar common area open to the public and/or tenants of such multifamily dwelling, the owner shall also post the information specified in the first sentence of this subsection in said lobby or other similar area and shall keep said posted information current at all times. The provisions of this section shall not apply to owner-occupied multifamily dwellings of fewer than three multifamily dwelling units. [Amended 10-15-2013; 3-5-2019]

§ 94-3. Residential solid waste and refuse. [Amended 1-15-2002; 3-5-2019]

No person shall place or leave or cause to be placed or left, in or near any highway, street, alley, or public place, or in any pond or other body of water where the current will not remove the same, any residential solid waste, dirt, soot, ashes, hay, shreds, oyster, clam or lobster shells, manure, swill, tin cans, decaying fruit or vegetables, wastewater, seeds, or any refuse animal or vegetable matter whatsoever, nor keep in or about any vacant lot, dwelling house, barn, shed, store, shop or cellar any of the aforesaid substances after the same shall have become putrid or offensive or a menace to the public health.

- (3) Any person stockpiling sludge for longer than 12 hours shall cover the stockpile with an odor control material, such as lime, wood ash or cement kiln dust, to minimize odors.
 - (4) Sludge shall be fully incorporated into the soil within eight hours of spreading,
 - (5) The practice of so-called "top dressing" of soil shall be prohibited.
 - (6) No land application or spreading of sludge shall be permitted on any hydric soil as defined in Section Env-Wq 1014.02 or in areas exhibiting seasonal ponding. (For the purposes of this subsection, the determination of the existence and/or location of hydric soils shall be made based upon the results of an order No. 1 soil study to be submitted to the Director of Building, Zoning, and Licensing Services by or on behalf of the site operator.)
 - (7) Every site operator shall file a copy of all materials required to be filed with the State of New Hampshire with respect to a site application pursuant to Section Env-Wq 806.01 with the Department of Building, Zoning, and Licensing Services at the time such documents are filed with the State of New Hampshire.
- D. Random testing. Any sludge used within the City of Rochester and subject to the terms of this section shall be subject to random collection and/or testing for the presence of fecal coliform at the discretion and under the direction of the Director of Building, Zoning, and Licensing Services.
- E. Permit fee. Before any operator shall receive sludge for stockpiling and/or land application purposes as permitted pursuant to this section in any calendar year, such operator shall pay to the Department of Building, Zoning, and Licensing Services an annual sludge land application permit fee of two hundred fifty dollars (\$250.).
- F. Exceptions.
- (1) This section shall not apply to any septage or sludge which is managed at a solid waste facility permitted by the Waste Management Division of the Department of Environmental Services pursuant to RSA 149-M and Chapters Env-Hw 100 to 1100, Env-Sw 200 to 1800 and Env-Or 300 to 700.
 - (2) This section shall not apply to exceptional quality domestic sludge, that is, sludge other than industrial sludge which meets all of the following:
 - (a) The pollutant concentrations contained in 40 CFR 503.13(b)(3);
 - (b) The Class A pathogen reduction requirements contained in 40 CFR 503.32(a); and
 - (c) One of the vector attraction reduction requirements contained in 40 CFR 503.33(b)(1) through (8).

ARTICLE II

Removal or Transportation of Putrefied Animal or Vegetable Substances**§ 94-12. Periodic removal of putrefied animal or vegetable substances.**

The owner, agent, occupant, or other person having care of any stable, barn premises, or any other place where manure, swill, garbage, or any other animal or vegetable substances accumulate shall cause the same to be removed at such stated periods as the Health Officer may designate, and in the event the Health Officer shall have designated such stated periods, such substances shall be removed with such frequency and regularity that such substances shall not be offensive or a menace to the public health and welfare.¹

§ 94-13. Vessels to be used in transporting.

No person shall transport fat, bones, or decayed, putrefied or vile smelling animal or vegetable substance within the City limits except in watertight, securely covered vessels from which no odor can escape.

1. Editor's Note: Original § 25.12, Licenses required, which immediately followed this section, was repealed 5-1-2007.

Chapter 110

JUNK AND SECONDHAND DEALERS

§ 110-1. Definitions.

§ 110-2. License required.

§ 110-3. Procedure for issuance of license.

§ 110-4. Right of appeal.

§ 110-5. License expiration and revocation.

§ 110-6. Purchases from minors.

§ 110-7. Records.

§ 110-8. Exclusions.

§ 110-9. Violations and penalties.

§ 110-10. Severability.

[HISTORY: Adopted by the City of Rochester 6-6-1995 as § 26.4 and Ch. 34 of the 1995 Code; amended 5-1-2007. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Pawnbrokers — See Ch. 162.

Peddling and soliciting — See Ch. 171.

Zoning — See Ch. 275.

§ 110-1. Definitions.

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

JUNK DEALER — A person, firm or corporation engaged in the purchase, sale or barter of old iron, steel, chain, aluminum, brass, copper, tin, lead or other base metals, belting, wastepaper, old rope, old bags, bagging barrels, piping, rubber, glass, empty bottles and jugs of all kinds and quantities of less than one gross, and all other articles discarded or no longer used as manufactured articles composed of any one or more of the materials hereinbefore mentioned.

SECONDHAND DEALER — A person, firm or corporation engaged in the business of selling, exchanging, dealing in or dealing with secondhand articles, including but not limited to firearms, opera glasses, telescopes, watches, clocks, diamonds or other precious metals, jewelry, furs, fur coats, or other kinds of wearing apparel, antique furniture, furnishings, glass and dishes, musical instruments, radios, automobile accessories, office and store fixtures and equipment, gas and water meters, and all classes of fixtures and their connections. For purposes of this definition, yard sales, flea markets, garage sales, attic sales or a similar commercial activity established as a business for the sale of other people's property as described in this chapter or such a sale that exceeds three days' duration or is held more than three times a year shall be considered a secondhand dealer. In the event any such articles are taken in trade for another or similar article by a retail or wholesale establishment, such transactions shall not be considered as coming within the requirements of this chapter.

§ 110-2. License required. [Amended 10-15-2013]

No person, firm or corporation shall engage in the business of junk dealer or secondhand dealer as herein defined unless licensed therefor by the Licensing Officer who shall be the Director of Building, Zoning, and Licensing Services.

§ 110-3. Procedure for issuance of license. [Amended 2-3-2015; 6-2-2015]

- A. Formal application required. Applications for licenses shall be made to the Licensing Officer. The application shall:
- (1) Form of application. Be a written statement upon forms provided by the Licensing Officer; such forms shall include such affidavits to be sworn to by the applicant before a notary public or justice of the peace of this state as the Licensing Officer shall deem necessary.
 - (2) Contents of application. Require the disclosure of any information which the Licensing Officer shall find to be reasonably necessary to the fair administration of this chapter.
 - (3) Payment of fees. Be accompanied by the full amount of fees chargeable for such license. The fee for a junk dealer's license or secondhand dealer's license or any renewal thereof granted under the provisions of RSA 322 shall be fifty dollars (\$50.) a year, payable in advance. **[Amended 3-5-2019]**
- B. Renewal of license procedure. The applicant for renewal of a license shall submit an application to the Licensing Officer. The application shall:
- (1) Form of application. Be a written statement upon forms provided by the Licensing Officer; such forms shall include such affidavits to be sworn to by the applicant before a notary public or justice of the peace of this state as the Licensing Officer shall deem necessary.
 - (2) Contents of application. Require the disclosure of any information which the Licensing Officer shall find to be reasonably necessary to the fair administration of this chapter and the disclosure of such information concerning the applicant's conduct and operation of the licensed activity during the preceding licensed period as is reasonably necessary to the determination by the Licensing Officer of the applicant's eligibility for a renewal license.
- C. Fitness investigation. Upon receipt of any license application or application for license renewal, the Licensing Officer shall forward said application to the Chief of Police who shall cause an investigation to be made of the fitness of the applicant to engage in the business of a junk dealer or secondhand dealer and report his/her findings to the Licensing Officer prior to the Licensing Officer's acting upon said application.
- D. Notice. The Licensing Officer shall notify any applicant of the acceptance or rejection of his/her application and shall, upon his/her refusal of any license, state in writing the reasons therefor and deliver them to the applicant.

- E. Non-approval of license. The Licensing Officer shall, upon disapproving any application submitted under the provisions of this chapter, refund to the applicant all fees paid in advance, provided the applicant is not otherwise indebted to the City.
- F. Compliance pending legal action. When the issuance of a license is denied and any action is instituted by the applicant to compel its issuance, such applicant shall not engage in the activity for which the license was refused unless a license is issued to him/her pursuant to a judgment ordering the same.

§ 110-4. Right of appeal. [Amended 2-3-2015; 6-2-2015]

Any person aggrieved by any decision of the Licensing Officer shall have the right to appeal to the Licensing Board by filing a written appeal with the City Manager within three business days following the effective date of the action or decision complained of.

- A. Contents of appeal. The appeal shall set out a copy of the order or decision appealed from and shall include a statement of facts relied upon to void such order together with any defenses, legal objections or explanations which the appellant wishes the Board to consider. **[Amended 3-5-2019]**
- B. Notification of Licensing Officer. At the time of filing the appeal, a copy thereof shall be filed by the appellant with the Licensing Officer.
- C. Hearing. The City Manager shall fix a time and place for hearing the appeal and shall serve a written notice upon the appellant informing him/her thereof. The City Manager shall also give such notice to the Licensing Officer and the officer shall be entitled to appear to defend such order.
- D. Effect of decision. The findings of the Licensing Board shall be served upon the appellant as required herein.

§ 110-5. License expiration and revocation.

Such license shall expire on April 1 of each year, unless sooner revoked, and shall not be assigned or transferred, but it may be revoked at any time by the Licensing Board after notice and hearing for just cause.

§ 110-6. Purchases from minors.

No junk dealer or secondhand dealer shall, directly or indirectly, either purchase or receive, by way of barter or exchange, any of the articles aforesaid of a minor under the age of 18 years, knowing or having reason to believe him/her to be such, except when said minor shall be accompanied by a parent or legal guardian who shall sign the transaction record in person before said dealer.

§ 110-7. Records. [Amended 10-15-2013]

- A. Secondhand dealers. Every secondhand dealer, upon acquisition of any article, either by purchase or exchange, enumerated in the definition of "secondhand dealer" in § 110-1

hereof, shall prepare and keep a written record of the transaction stating the full name, address, month, day and year when the transaction took place, and a full, accurate, and detailed description of each article so purchased or exchanged, with the price paid therefor, and cause said record to be signed by the seller in person. A copy of said record shall be available for inspection by any Rochester police officer or the Rochester Director of the Building, Zoning, and Licensing Services Department at any and all times.

- B. Junk dealers. Every junk dealer, upon the acquisition of any items enumerated in the definition of "junk dealer" in § 110-1 hereof, shall keep a permanent record of such transactions which shall include a full, accurate, and detailed description of the item with the full name and address of the seller, together with the registration number of any vehicle used by said seller in delivery of said items and the month, day and year of said transaction. A copy of said record shall be available for inspection by any Rochester police officer or the Rochester Director of the Building, Zoning, and Licensing Services Department at any and all times.

§ 110-8. Exclusions.

Specifically excluded from the provisions of this chapter are the following:

- A. Antique dealers.
- B. Purchases from private residences.
- C. Wearing apparel stores.

§ 110-9. Violations and penalties.

Any person, firm, corporation or association violating any of the provisions of this chapter, in addition to the revocation of his/her or its license, shall be liable to a fine or penalty of not more than one hundred dollars (\$100.) for each offense.

§ 110-10. Severability.

Each provision of this chapter shall be deemed independent of all other provisions herein, and if any provision of this chapter is declared invalid, all other provisions thereof shall remain valid and enforceable.

- F. Board of Health requirements. All mobile home parks shall be located in areas free from marshes, swamps, stagnant pools, or other potential breeding places for insects or rodents.
- G. Fire protection.
- (1) The mobile home park area shall be subject to the rules and regulations of the City of Rochester Fire Department.
 - (2) Mobile home park areas shall be kept free of litter, residential solid waste, and other flammable materials. [**3-5-2019**]
 - (3) Where a municipal water system is available to a mobile home park, standard City fire hydrants shall be spaced not more than 500 feet apart within the boundaries of the park. [**Amended 3-7-2000**]
 - (4) Fires shall be made only in stoves and other equipment intended for such purposes. No open fires shall be permitted except in specified areas approved by the Rochester Fire Department.
 - (5) The City of Rochester Fire Department may take whatever additional measures for adequate fire and safety conditions as it feels are necessary for each mobile home park.
- H. Refuse disposal.
- (1) The storage, collection, and disposal of refuse in mobile home parks shall be managed so as to create no health hazards, rodent harborage, insect breeding areas, accident hazards, or air pollution.
 - (2) Racks or holders shall be provided for all refuse containers. Such container racks or holders shall be so designed as to prevent containers from being tipped, to minimize spillage and container deterioration, and to facilitate cleaning around them.
 - (3) All garbage and residential solid waste shall be collected at least once weekly only from a location(s) designated by the Health Officer. Mobile home park owners shall be responsible for seeing that garbage and residential solid waste are deposited at the collection location(s). [**3-5-2019**]
- I. Pets. No owner or person in charge of a dog, cat, or other pet animal shall permit it to run at large or to commit any nuisance within the limits of any mobile home park (pursuant to RSA 466:30-a).
- J. Management.
- (1) Any person responsible for the operation of a mobile home park shall maintain a current register of all mobile homes located within the mobile home park and their owners. Such register shall be available for inspection to/by City officials.
 - (2) Said register shall contain pertinent information to properly identify the mobile home, location, and owners of each mobile home in the mobile home park, including the dates of arrival and the dates of departure of any mobile home which has arrived or departed within the past year.

- (3) According to the provisions of RSA 73:16-a, the owner of a mobile home park shall be responsible for filing with the City Assessor's office an inventory (description) of all mobile homes which locate in a park within 15 days of their arrival. Also under the provisions of RSA 73:16-a, the owner of a mobile home park may be held responsible for the payment of taxes due on individual mobile homes located within the park which have not been paid by their owners.
- (4) The management of a mobile home park shall assume responsibility for maintaining in good repair all buildings, streets, walks, sanitary facilities and utilities within the park and shall take such action as is necessary to eject from the grounds any person who willfully or maliciously fails to comply with these and other applicable regulations.

§ 135-5. Design standards. [Amended 2-3-2015; 3-5-2019]

During the development of any mobile home park, that portion of said park which is used, occupied, and/or made available for use and occupation of mobile homes shall be subject to these standards, and to the applicable standards of the New Hampshire Department of Environmental Services and the Sanitary Laws and Regulations of the New Hampshire Division of Public Health Services.

A. Mobile home lots.

- (1) Each mobile home lot shall contain a minimum of 10,000 square feet in area and shall have minimum frontage of 75 feet on a park road.
- (2) No mobile home with accessory buildings, garage, structures, storage building and paved parking spaces shall occupy in excess of 35% of a mobile home lot.

B. Park roads.

- (1) Mobile home park roads shall provide safe and convenient vehicular access from abutting public streets to all mobile home lots and community facilities. Driveway access to all mobile home lots shall be only from park roads, with no driveway access permitted directly from City streets.
- (2) Roads shall be adapted to topography, shall have suitable alignment and gradient for traffic safety, and shall have a properly designed storm drainage system. Except as herein modified, the design standards for minor streets in the Agricultural Zone contained in the Rochester Subdivision Regulations shall apply to the design of mobile home park roads.
- (3) Roads shall have a minimum right-of-way width of 40 feet and a minimum paved width of 22 feet. Roadway pavement shall be in accordance with the standards for minor streets in the Agricultural Zone contained in the Rochester Subdivision Regulations.
- (4) Road systems shall be developed with consideration given to the reasonable movement and placement of mobile homes on individual lots.

§ 135-6. Application for approval.

A. Procedure.

- (1) Before formal submission of a plan for a new mobile home park, a developer proposing construction of a mobile home park may first meet with the Planning Board to informally discuss the project.
- (2) A formal application for construction of a new mobile home park shall be submitted to the Rochester Planning Board. In reviewing the application, the Board shall follow the procedures and standards for the review of a major subdivision as spelled out in Section 2.3 of the Rochester Subdivision Regulations.
- (3) The Board shall submit the application to the Commissioner of the Rochester Department of Public Works for review of all road and utility plans which are a part of the proposed mobile home park.

B. Submission requirements. The application for approval of a mobile home park plan shall be prepared in accordance with the standards and requirements contained in Section 4 of the Rochester Subdivision Regulations. The application shall include all those items listed in said Section 4.

§ 135-7. Licensing.

A. General provisions.

- (1) It shall be unlawful for any person to operate or maintain a mobile home park within the limits of the City of Rochester unless he/she holds a valid license issued by the Director of Building, Zoning, and Licensing Services in the name of such person for the specific mobile home park.
- (2) Licenses shall be issued annually, and each license shall be in effect for a period of one year beginning January 1 of each year.
- (3) An application for an initial mobile home park license shall be filed with the Director of the Building, Zoning, and Licensing Services Department. The application shall be in writing, signed by the applicant, and shall include the following:
 - (a) The name and address of the person making the application.
 - (b) The location and legal description of the mobile home park.
 - (c) Plans and specifications of all improvements, buildings, streets, recreational areas, walks, sewer, water, and other facilities constructed or to be constructed within the park.
 - (d) The area and dimensions of the tract of land whereon the park is located.
 - (e) Written approval of the following City of Rochester officials indicating that the mobile home park complies with the requirements of this chapter:

- [1] Planning Board.
- [2] Commissioner of Public Works.
- [3] Fire Chief.
- [4] Health Officer.
- [5] Police Chief.
- [6] Zoning Administrator. [**Amended 3-5-2019**]
- [7] City Manager.

(f) Such further information as may be requested by the Director of the Building, Zoning, and Licensing Services Department to enable him/her to determine if the park complies with the provisions of this chapter and all other applicable legal requirements.

- (4) The application and five copies of all accompanying plans and specifications shall be filed with the Director of the Building, Zoning, and Licensing Services Department; two of said copies shall be filed with the Planning Office.

B. Issuance of license.

- (1) The Director of the Building, Zoning, and Licensing Services Department shall inspect the application and plans and specifications.
- (2) If the mobile home park is in compliance with all of the provisions of this chapter and all other applicable ordinances, statutes, and regulations, the Director of the Building, Zoning, and Licensing Services Department shall approve the application; provided, however, that if the Director of the Building, Zoning, and Licensing Services Department does not act to approve or deny within 90 days of receipt of the application, the application shall be automatically approved.

C. Renewal of license.

- (1) Application for the renewal of a license shall be made in writing on or before the first day of November of each year to the Director of the Building, Zoning, and Licensing Services Department by the holder of the license and shall contain the following:
 - (a) Any change in the information submitted since the time the original license was issued or the latest renewal granted.
 - (b) Copies of as-built plans for any and all sections of a mobile home park developed during the year in which application for renewal is made.
 - (c) Such other information as the Director of the Building, Zoning, and Licensing Services Department may require.
- (2) All mobile home parks in existence upon the effective date of this chapter shall within six months thereafter comply with the requirements of this chapter, except that the Director of the Building, Zoning, and Licensing Services Department, upon application of a park operator, may waive such requirements that require

prohibitive reconstruction costs if such waiver does not alter the health and sanitation requirements herein provided.

- (3) At his/her discretion, the Director of the Building, Zoning, and Licensing Services Department may issue a conditional license renewal, subject to the license holder complying with certain conditions as determined by the Director of the Building, Zoning, and Licensing Services Department. In such a case, the Director of the Building, Zoning, and Licensing Services Department shall list the specific conditions upon which the renewal is based and set a time for compliance with these conditions. Costs associated with enforcement of owner compliance with said specific conditions requiring correction shall be assessed by the Director of the Building, Zoning, and Licensing Services Department. If not in compliance, twenty-five dollars (\$25.) per inspection shall be assessed; said charge shall be in addition to any other penalty.
- (4) If the Director of the Building, Zoning, and Licensing Services Department does not act on an application for the renewal of a license by December 31, it shall automatically be approved.
- (5) Not more than four annual license renewals shall be issued for an approved mobile home park in which no substantial development has taken place.

D. Responsibility of the license holder.

- (1) The license certificate shall be conspicuously posted in the office of, or on the premises of, the mobile home park at all times.
- (2) A license shall be transferable after the holder of a valid license gives notice in writing to the Director of the Building, Zoning, and Licensing Services Department 15 days prior to any proposed sale, transfer, gift, or other disposition of interest or control of any mobile home park. Such notice shall include the name and address of the person succeeding to the ownership or control of such mobile home park.

§ 135-8. Administration and enforcement.

- A. Enforcement. Upon determination by the Director of the Building, Zoning, and Licensing Services Department that a violation of this chapter has occurred, he/she shall initiate enforcement procedures. If necessary, the Director of the Building, Zoning, and Licensing Services Department shall refer the matter to the City Solicitor for appropriate legal action.
- B. Inspection. The Director of the Building, Zoning, and Licensing Services Department, Police Chief, Health Officer, Fire Chief, Commissioner of Public Works, the Zoning Administrator, and other agents of the City as certified by the City Manager are hereby authorized to make periodic and reasonable inspections to determine the condition of mobile home parks within the City of Rochester and to determine if the requirements of this chapter are being observed. **[Amended 3-5-2019]**
- C. Violations and penalties; revocation of license.

- (1) A violation of, or violation from, the terms and conditions of this chapter and/or the conditions of the license to operate or maintain a mobile home park by the holder thereof or his/her agent shall be cause for the revocation of said license. Such revocation shall be made at the discretion of the Director of the Building, Zoning, and Licensing Services Department.
- (2) After revocation of the license has been ordered by the Director of the Building, Zoning, and Licensing Services Department, additional violations shall result in a fine not exceeding one thousand dollars (\$1,000.) in accordance with the provisions of RSA 47:17. This provision shall be in effect even should an appeal be taken from the Director's revocation order. [**Amended 3-5-2019**]

D. Appeals.

- (1) Any party whose application for approval of a mobile home park plan has been denied may appeal the decision of the Planning Board to the Superior Court in accordance with the provisions of RSA 677:15.
- (2) Any party whose application for a license has been denied or whose license has been revoked may appeal the decision of the Director of the Building, Zoning, and Licensing Services Department to the Zoning Board of Adjustment in accordance with the provisions of RSA 674:33.

E. Conflict with other ordinances. In any case where a portion of this chapter is found to be in conflict with the provisions of any zoning, building, fire, safety, or health ordinance or code of the State of New Hampshire or City of Rochester existing on the effective date of this chapter, the provisions which, in the judgment of the Planning Board, establish the higher standard for the promotion and protection of the health and safety of the people shall prevail.

F. Saving clause. If any section, subsection, paragraph, sentence, clause or phrase of this chapter should be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this chapter, which shall remain in full force and effect, and to this end the provisions of this chapter are hereby declared to be severable.

Chapter 149

NUISANCES

- § 149-1. Burning of refuse and garbage. § 149-3. Violations and penalties.
§ 149-2. Noise; use of public address system.

[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.]

GENERAL REFERENCES

Adult-oriented establishments — See Ch. 11.	Health and sanitation — See Ch. 94.
Animals — See Ch. 28.	Fires and fire safety — See Ch. 75.
Building construction and property maintenance — See Ch. 40.	Peace and good order — See Ch. 167.
	Solid waste — See Ch. 210.

§ 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.).

§ 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.)

Chapter 158

PARKS, RECREATION AND ARENA

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|---|---|
| § 158-1. Definitions. | § 158-4. Recreation and Arena Director. |
| § 158-2. Conduct prohibited in parks and Arena. | § 158-5. Use of Arena and parks. |
| § 158-3. Recreation and Arena Commission. | § 158-6. Appropriation; reports. |
| | § 158-7. Violations and penalties. |

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

GENERAL REFERENCES

Peace and good order — See Ch. 167.

Public buildings — See Ch. 183.

§ 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.

§ 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 by any act.
- B. Immorality and indecency. No person shall do any obscene or indecent act at the Arena or 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 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 or in any park unless authorized by a permit of the Director.

- D. Improper admission. No person shall gain improper admission to, or use of, or attempted admission to any Arena 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 or in any park, disobey a proper order of a police officer or an employee of the Arena 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 Arena or park 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 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.
- 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. No person shall enter the Arena or any park in an intoxicated condition, nor shall any person drink any alcoholic beverages of any kind or nature at the Arena or in any park or on any park grounds; provided, however, that a temporary waiver from the prohibition 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 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]**

Chapter 162

PAWNBROKERS

§ 162-1. Pawnbroker's license.

[HISTORY: Adopted by the City of Rochester 6-6-1995 as § 26.3 of the 1995 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Junk and secondhand dealers — See Ch. 110.

§ 162-1. Pawnbroker's license.

The provisions of RSA 398 relative to pawnbrokers are hereby accepted. A pawnbroker's license shall designate the place where the licensee may carry on his/her business and the licensee shall not carry on said business at any other location within the City. The fee for a pawnbroker's license or any renewal thereof shall be fifty dollars (\$50.) a year, payable in advance.

§ 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.

Chapter 171

PEDDLING AND SOLICITING

ARTICLE I

Hawkers, Peddlers and Itinerant Vendors

§ 171-1. Authority.

§ 171-2. License required.

§ 171-3. Definitions.

§ 171-4. Application for license.

§ 171-5. Restrictions on issuance of licenses.

§ 171-6. Licensing Board action.

§ 171-7. Transfer of license.

§ 171-8. Revocation of license.

§ 171-9. Appeals.

§ 171-10. Exhibition of license.

§ 171-11. Use of streets and sidewalks.

§ 171-12. Violations and penalties.

ARTICLE II

Soliciting Funds

§ 171-13. Permits.

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

GENERAL REFERENCES

Junk and secondhand dealers — See Ch. 110.

ARTICLE I

Hawkers, Peddlers and Itinerant Vendors [Adopted 6-6-1995 as Ch. 32 of the 1995 Code]

§ 171-1. Authority.

The provisions of this article are adopted pursuant to the authority granted by RSA 31:102-a and are in addition to any requirements imposed by the State of New Hampshire under either RSA 320 or 321.

§ 171-2. License required.

It shall be unlawful for any person to engage in the business of hawker, peddler, or itinerant vendor as defined in RSA 320:1 and 321:1 in the City of Rochester without first obtaining a license as provided herein.

§ 171-3. Definitions.

The words "hawker," "peddler," or "itinerant vendor" as used herein shall be defined as in RSA 320:1 and 321:1 and shall include any hawker, peddler, itinerant vendor, trader, farmer, merchant, or other person who sells, offers to sell, or takes orders for merchandise from

temporary or transient sales locations within the City or who goes from town to town or place to place within the City for such purposes.

§ 171-4. Application for license. [Amended 10-15-2013]

- A. Applicants for a license under this article must file with the Director of Building, Zoning, and Licensing Services a sworn application in writing (in duplicate) on a form to be furnished by the Director of Building, Zoning, and Licensing Services, which shall be filed with the Building, Zoning, and Licensing Services Department no later than seven days before the requested effective date of the license and shall give the following information:
- (1) Name and description of the applicant.
 - (2) Address (legal and local).
 - (3) A brief description of the nature of the business and the goods to be sold and, in the case of products of farm or orchard, whether produced or grown by the applicant.
 - (4) If the applicant is employed by another, the name and address of the employer, together with credentials establishing the exact relationship between them.
 - (5) The requested effective date of the license and the length of time for which the right to do business is desired.
 - (6) If a vehicle is to be used, a description of the same, together with license number or other means of identification.
 - (7) A copy of the state license issued to the applicant pursuant to the provisions of RSA 320:8 or a signed statement claiming exemption therefrom under the provisions of RSA 320:3.
 - (8) If a specific stationary location is to be used, the written permission of the property owner.
 - (9) A signed "release of information authorization" form authorizing the Rochester Police Department to conduct a criminal record check of the applicant and authorizing individuals to supply information to the Rochester Police Department in connection with such record.
- B. At the time of filing the application, a fee of twenty-five dollars (\$25.) per week or one hundred dollars (\$100.) per year shall be paid to the Director of Building, Zoning, and Licensing Services to cover the cost of processing the license.

§ 171-5. Restrictions on issuance of licenses. [Amended 12-3-1996]

No license shall be granted under this article to any hawker, peddler, itinerant vendor, trader, farmer, merchant or other person who sells, offers to sell, or takes orders for merchandise from any temporary or transient sales locations within the City if such temporary or transient sales location is or is related to a motor vehicle or a motor vehicle trailer weighing in excess

of 18,000 pounds when empty or the storage and display area of which is more than 125 square feet. The provisions of this section shall not apply to licenses for activities conducted at Cold Spring Park (Rochester Fairgrounds) within the confines of said park.

§ 171-6. Licensing Board action.

The City Licensing Board shall have full power to grant all licenses hereunder and shall consider whether, from the application and any investigation the Board deems it advisable to make, it appears that all provisions of state law and City ordinances have been and will be complied with and whether the safety and convenience of the public will be adversely affected.

§ 171-7. Transfer of license.

No license issued under the provisions of this article shall be used at any time by any person other than the one to whom it was issued.

§ 171-8. Revocation of license.

- A. Licenses issued under the provisions of this article may be revoked by the Licensing Board, after notice and hearing, for any of the following causes:
- (1) Fraud, misrepresentation or false statement contained in the application for license.
 - (2) Fraud, misrepresentation or false statement made in the course of carrying on his/her business as peddler, hawker, or itinerant vendor.
 - (3) Any violation of this article.
 - (4) Conviction of any crime or misdemeanor involving moral turpitude.
 - (5) Conducting the business of peddling in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the public.
- B. Notice of the hearing for revocation of a license shall be given in writing setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the licensee at his/her last known address at least five days prior to the date set for hearing.

§ 171-9. Appeals.

Any person aggrieved by the action of the Licensing Board in the denial of any application for a license as provided in § 171-6 of this article, or in the decision with reference to the revocation of a license as provided in § 171-8 of this article, shall have the right of appeal to the City Council. Such appeal shall be taken by filing with the Council, within 14 days after notice of the action complained of has been mailed to such person's last known address, a written statement setting forth fully the grounds for the appeal. The Council shall set a time

and place for a hearing on such appeal and notice of such hearing shall be given to the appellant in the same manner as provided in § 171-8 of this article for notice of hearing on revocation. The decision and order of the Council on such appeal shall be final and conclusive.

§ 171-10. Exhibition of license.

Hawkers, peddlers, and itinerant vendors are required to exhibit their licenses at the request of any citizen.

§ 171-11. Use of streets and sidewalks.

- A. No hawker, peddler, or itinerant vendor shall have any exclusive right to any location in the public streets and sidewalks, nor shall any be permitted at a stationary location, unless the license specifically grants a stationary location, nor shall any be permitted to operate in any congested areas where his/her operations might impede or inconvenience the public.
- B. For the purpose of this article, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced.

§ 171-12. Violations and penalties.

Any person violating any of the provisions of this article shall, upon conviction thereof, be punished by a fine not to exceed one hundred dollars (\$100.). A separate offense shall be deemed committed upon each day during which a violation occurs.

ARTICLE II

Soliciting Funds

[Adopted 6-6-1995 § 26.9 of the 1995 Code]

§ 171-13. Permits.

The actual issuance of permits in accordance with RSA 31:91 shall be exercised by the Licensing Board. There shall be no fee for such permits.

Chapter 176

PLANNING BOARD

§ 176-1. Creation and composition.

§ 176-2. Compensation; holding other municipal offices.

§ 176-3. Terms of office.

§ 176-4. Removal of members.

§ 176-5. Vacancies.

§ 176-6. Organization.

§ 176-7. Staff and finances.

§ 176-8. Master Plan.

§ 176-9. Miscellaneous duties.

§ 176-10. Zoning Commission.

[HISTORY: Adopted by the City of Rochester 6-6-1995 as Ch. 41 of the 1995 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Zoning — See Ch. 275.

§ 176-1. Creation and composition.

That there be created hereby a City Planning Board, to consist of nine members and up to five alternates appointed in accordance with the provisions of § 7-28 of the Code of the City of Rochester.

§ 176-2. Compensation; holding other municipal offices.

All members of the Planning Board shall serve without compensation. Appointed members shall not hold any other municipal office except that:

- A. One such appointed member may be a member of the Zoning Board of Adjustment.
- B. Either one appointed or one ex officio member may be a member of the Conservation Commission, if one exists in the City, in accord with RSA 36-A:3.
- C. Either one appointed or one ex officio member may be a member of the Historic District Commission, if one exists in the City, in accord with RSA 674:46-a. **[Amended 3-5-2019]**

§ 176-3. Terms of office.

The terms of ex officio members shall correspond to their respective official tenures, except that the term of the administrative official selected by the City Manager shall terminate with the term of the City Manager selecting him/her. The term of each appointed member shall be three years, except that the respective terms of the members first appointed shall be staggered.

§ 176-4. Removal of members.

Members of the Planning Board selected by the Council may, after a public hearing, be removed by the Council for inefficiency, neglect of duty or misfeasance in office. The City Manager may remove the administrative official and/or designee appointed by him/her without cause. The Council shall file with the City Clerk a written statement of reasons for such removal.

§ 176-5. Vacancies.

Vacancies in the membership of the Planning Board occurring otherwise than through the expiration of term shall be filled for the duration of the unexpired term by the Mayor and Council in accordance with the provisions of Section 74 of the Rochester City Charter in the case of members selected or appointed by them, and by the Council in the case of the Councilor member.

§ 176-6. Organization.

The Planning Board shall elect its Chairperson from amongst the appointed members and create and fill such other offices as it may deem necessary for its work. The term of the Chairperson shall be one year, with eligibility for reelection. The Planning Board shall hold at least one regular meeting in each month and shall adopt rules for the transaction of business and shall keep a record of its resolutions, transactions, findings and determinations, which record shall be public.

§ 176-7. Staff and finances.

The Planning Board may appoint such employees as it may deem necessary for its work, whose appointment, promotion, demotion and removal shall be subject to the same provisions of law as govern other corresponding civil employees of the City. The Planning Board may also contract with the City planners, engineers, architects and other consultants for such services as it may require. The expenditures of the Planning Board, exclusive of gifts, shall be within the amounts appropriated for the purpose by the Council.

§ 176-8. Master Plan.

It shall be the function and duty of the Planning Board to make and to perfect from time to time, so far as funds appropriated by the Council for such purpose will permit, a Master Plan for the development of the City. Such Master Plan, with the accompanying necessary maps, plats, charts and descriptive matter, shall be designed with the intention of showing as fully as is possible and practicable the Planning Board's recommendations for the desirable development of the territory legally and logically within the scope of its planning jurisdiction, including, on that basis, among other things, the general location, character and extent of streets, bridges, waterways, waterfronts, boulevards, parkways, roadways in streets and parks, playgrounds, squares, aviation fields, and other public ways, places, grounds and open spaces; sites for public buildings and other public property; routes of railroads, omnibuses and other forms of public transportation; and the general location and extent of public utilities and terminals, whether publicly or privately owned or operated, for water, light, heat, sanitation,

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

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

STORM DRAIN (sometimes termed "storm sewer") — A drain or sewer for conveying water, groundwater, subsurface water, or unpolluted water from any source.

SUSPENDED SOLIDS (SS) — Total suspended matter that either floats on the surface of or is in suspension in water, wastewater, or other liquids and that is removable by laboratory filtering as prescribed in Standard Methods for the Examination of Water and Wastewater and referred to as "nonfilterable residue."

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

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

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

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

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

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

§ 200-2. Plan of sewer systems.

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

§ 200-3. Use of public sewers required.

- A. It shall be unlawful for any person to place, deposit or permit to be deposited any human or animal excrement, garbage, or objectionable waste in any unsanitary manner on public or private property within the City of Rochester, or in any area under the jurisdiction of said City.
- B. It shall be unlawful to discharge to any natural outlet within the City of Rochester, or in any area under the jurisdiction of said City, any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with federal, state and local requirements.
- C. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater within the sewer service area. When a private wastewater disposal system is found to be in failure, it is the duty of the owner and/or his/her agent to contact the City to determine if the property falls within the sewer service area. **[Amended 3-5-2019]**
- D. The owner(s) of all houses, buildings, or property used for human occupancy, employment, recreation, or other purposes, situated within the City and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary sewer of the City, is hereby required at the owner's expense to install suitable toilet facilities therein and to connect such facilities directly with the proper public sewer in accordance with the provisions of this article, within 90 days after date of official notice to do so, provided that said public sewer is within 100 feet of the building. **[Amended 6-6-2017]**
- E. Structures within 100 feet of the public sewer and currently served by private wastewater disposal facilities shall connect to the public sewer within 90 days after an official notice to do so. The City may grant a waiver to this requirement for properties with existing adequate sewage disposal systems which can be proven by the property owner to comply with applicable state and local regulations, to have been designed by a designer licensed in New Hampshire and to have been approved for construction by the New Hampshire Department of Environmental Services after January 1, 1985. The cost of connection to the public sewer shall be borne by the property owner; however, if a sewer stub exists the cost of the portion of the connection within the public right-of-way shall be borne by the Rochester Sewer Enterprise Fund. For the purpose of this subsection, "structures" shall mean houses, buildings, or property used for human occupancy, employment, recreation, or other purposes. **[Amended 2-14-2017; 6-6-2017]**

§ 200-4. Private wastewater disposal.

- A. Where a public sanitary sewer is not available under the provisions of § 200-3D, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of state law.
- B. The type, capacities, location, layout and installation (including inspection) of a private wastewater disposal system shall comply with all requirements of the New Hampshire

Department of Environmental Services (DES). No permit shall be issued for any new private wastewater disposal system employing subsurface soil absorption facilities where the lot area is less than is required by subdivision lot size requirements of DES. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

- C. At such time as public sewer becomes available to a property served by a private wastewater disposal system, as provided in § 200-3D, after connection to the public sewer any septic tanks, cesspools, and similar private wastewater disposal facilities shall be cleaned of sludge and filled with suitable material. **[Amended 6-6-2017]**
- D. The owners shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times, at no expense to the City. All sludge removal from private disposal systems shall be performed by licensed operators and disposed of at state-licensed facilities. At no time should any quantity of industrial waste be discharged to a private wastewater disposal facility.
- E. No building permits or any final Planning Board approvals shall be issued without prior state approvals and permits being issued.
- F. No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the Health Officer pursuant to RSA 147:8.

§ 200-5. Application for service.

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

§ 200-6. Service installation and repair.

- A. The Department of Public Works or its agent or the developer's or property owner's contractor shall install all new sewer services.
- B. The property owner is responsible for the costs incurred for the repair and maintenance of all existing sewer services from the public sewer main to the building or structure.
- C. If a developer or property owner installs new services, the Department of Public Works must approve all materials and inspect the installation. All charges incurred during this work are the responsibility of the developer or property owner. If a developer's or property owner's contractor's installation is found to be incorrect, it shall be the developer's or property owner's responsibility to have it corrected.
- D. Annually, before any contractor or company shall install or repair any portion of a wastewater system within the City of Rochester, such contractor or company shall obtain an installation and repair license from the Department of Public Works authorizing such entity to perform installations or repairs to such system. Licenses shall be valid from January 1 through December 31 for any given year. The Department of Public Works shall issue such license only to contractors or companies which demonstrate the ability to perform wastewater system installation and repairs in a workmanlike manner, consistent with standards maintained by the Department of Public Works. All applicants shall be required to submit evidence of general liability insurance. The City Manager shall establish an annual fee for such license. This fee shall be listed in § 200-33, Wastewater Rate and Fee Schedule. **[Amended 3-5-2019]**
- E. Any contractor or company installing or repairing any portion of the wastewater system must receive written authorization from the Department of Public Works and may be required to provide a performance bond or escrow account in the name of the City for the total (100%) of the estimated cost of work.
- F. The Department of Public Works shall have an easement 10 feet on each side of the sewer service for its entire length for installation or repairs to the service.
- G. The customer shall be charged for all materials and labor associated with initial installation or subsequent repairs due to the negligence of the customer. The Department of Public Works shall do its best to return the easement to its prior condition; however, it will be the customer's responsibility to repair and replace any damaged property within the aforementioned easement.
- H. Ordinarily, no new service pipes or extensions of mains will be installed between December 1 and March 31. An additional charge shall be applied to the customer for road maintenance during these winter conditions if service or extension is allowed, consisting of the minimum charge listed in § 200-33, Wastewater Rate and Fee Schedule, or the actual cost associated with such road maintenance, if greater.

industries, occasional and continuing noncompliance with industrial pretreatment standards. All industries discharging to the City system shall allow unrestricted access to City, DES, and EPA personnel for the purposes of investigating and sampling discharges from the industries. Each industry will be billed directly for costs incurred for analysis of its wastewater. **[Amended 5-6-2008]**

- H. Investigations. The City shall investigate instances of noncompliance with industrial pretreatment standards and requirements.
- I. Public information. Information and data submitted to the City under this section relating to wastewater discharge characteristics shall be available to the public without restriction. Other such information shall be available to the public at least to the extent provided by 40 CFR 2.302. The City shall comply with the maintenance and records requirements of 40 CFR 2. **[Amended 5-6-2008; 3-5-2019]**
- J. Public participation. The City shall comply with the public participation requirements of 40 CFR Part 25 in the enforcement of industrial pretreatment standards and requirements, which shall include annual public notification, in the largest daily newspaper published in the City, of all industrial users which were in significant noncompliance with applicable pretreatment requirements.

§ 200-18. Arrest provision.

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

§ 200-19. Powers and authority of inspectors.

- A. The Commissioner and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing pertinent to discharge to the community system in accordance with the provisions of this article.
- B. The Commissioner and other duly authorized employees are authorized to obtain information concerning industrial processes which have a bearing on the kind and source of discharge to the public sewer. The industrial user may request that the Commissioner withhold from public disclosure any information deemed confidential in accordance with 40 CFR 403.14. The industrial user must establish that the revelation to the public of the information in question might result in an advantage to competitors.
- C. While performing the necessary work on private properties referred to in Subsection A, the Commissioner or duly authorized employees of the City shall observe all safety rules applicable to the premises established by the company, and the company shall be held harmless for injury or death to the City employees, and the City shall indemnify the company against loss or damage to its property by the City employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may

be caused by negligence or failure of the company to maintain safe conditions as required in § 200-16J. [Amended 6-26-2007]

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

§ 200-20. Violations and penalties.

- A. Any person found to be violating any provisions of this article except § 200-18, Arrest provision, including any National Pretreatment Standard, National Categorical Pretreatment Standard, or other pretreatment requirement shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. Violation of more than one standard or requirement shall be deemed a separate violation for each standard or requirement. The offender shall, within the period of time stated in such notice, permanently cease all violations. The City may, after informal notice to the person discharging wastewater to the public sewer, immediately halt or prevent any such discharge reasonably appearing to present an imminent endangerment to the health and welfare of person, or any discharge presenting, or that may present, an endangerment to the environment, or which threatens to interfere with the operation of the public sewer or wastewater treatment facilities. Actions which may be taken by the City include ex parte temporary judicial injunctive relief, entry on private property to halt such discharge, blockage of a public sewer to halt such discharge, or demand of specific action by the person. In addition, the City may terminate the sewer service and/or revoke the industrial discharge agreement of any person who violates any provision of this article.
- B. Any person who violates any provision of this article, including any National Pretreatment Standard, National Categorical Pretreatment Standard, or other pretreatment requirement, may be fined in an amount not to exceed one thousand dollars (\$1,000.) for each violation, even if he/she corrects such violation within the time period set forth in the notice issued pursuant to Subsection A. Each day in which any such violation shall continue shall be deemed a separate offense. Reference: RSA 31:39, I(f); RSA 47:17; RSA 149-I:6.
- C. In addition to the foregoing, any person who violates any provisions of this article which results in an increase in costs to the wastewater facility or wastewater treatment works, or which interferes with or harms treatment plant personnel, equipment, processes, or operation, shall be liable to the City in an amount equal to the additional costs incurred by the City as a result of such violation, including but not limited to court costs, attorneys' fees and fees related to sampling and analysis to assure compliance with applicable limitations. Such liability exists even if the person corrects such violation within the time set forth in the notice issued pursuant to Subsection A.

when due become a lien on the property by New Hampshire statutes. [**Amended 9-4-2007**]

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

§ 200-26. Appeals.

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

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

§ 200-27. Agreements.

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

§ 200-28. Miscellaneous bills. [Amended 9-4-2007]

Charges for labor and material, including installation costs, shall be billed upon completion of the work which the bill covers. If such bills are not paid within 30 days or a payment

agreement has not been made with the Business Office, a lien may be placed on the property. All late payments shall include interest charges. Collection procedures will be taken and any costs will be charged to the customer.

§ 200-29. Sale or transfer of property.

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

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

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

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

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

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

- A. Upon petition by citizens of the City or when deemed necessary or desirable for the protection and well-being of the City, the extension of existing public sewers in accepted roadways may be approved by a vote of the City Council.
- B. Where the construction and installation of public sewers is to be made in and upon existing streets and roads, and the public good requires it and/or undue hardships would result if cash payment were made, then and in such case the City may finance the construction through issuance of bonds or other financing method and pay the full

costs. The proportionate share of each abutter along the line of construction and installation based on the actual cost of construction per running foot or other equitable distribution of cost when petition, application, or late petition is made and granted shall become a lien on such abutting property as real estate taxes until payment of said proportionate share of full costs, including financing, is made.

C. Payment may be as follows:

- (1) The affected party may pay its proportionate share in cash for the full amount, at the time the obligation is incurred.
- (2) The affected party may enter into an agreement with the City that said proportionate share of all costs may be paid in equal installments over a period of time equal to the term of the bond or a lesser period. Such agreement is to be recorded with the Strafford County Register of Deeds at the expense of the affected party. In the event property is conveyed, the new owner(s) will be responsible for all unpaid bills and liens.
- (3) All funds relating to public sewer extensions under these provisions may be placed in a special fund for payment of bonds, interest, and charges pertaining thereto.

D. Any affected party dissatisfied with the determination of his/her proportionate share of costs may appeal said assessment as outlined in § 200-26.

§ 200-33. Wastewater Rate and Fee Schedule. [Amended 7-1-2000; 6-26-2007; 2-5-2008; 5-6-2008; 6-10-2008; 6-16-2009; 8-18-2009; 6-21-2011; 11-20-2012; 11-1-2016; 2-6-2018; 3-5-2019]

A. Quarterly wastewater rates.

- (1) Residential customers without exemption: six dollars and seventy-five cents (\$6.75) per 100 cubic feet of water use.
- (2) Residential customers with exemption: four dollars and forty-nine cents (\$4.49) per 100 cubic feet of water use.
- (3) Commercial and industrial customers: six dollars and seventy-five cents (\$6.75) per 100 cubic feet of water use.
- (4) High-volume customers (i.e., customers using more than 5,000 units** monthly): six dollars and eight cents (\$6.08) per 100 cubic feet of water use. **Note: For purposes of this section the word "unit" shall mean 100 cubic feet or 748 gallons of water use.
- (5) Unmetered residential customers:
 - (a) Per quarter per unit without exemption: two hundred fifteen dollars and ninety-one cents (\$215.91).
 - (b) Per quarter per unit with exemption: one hundred seven dollars and ninety-four cents (\$107.94).

- (6) Sewer metered customers: six dollars and seventy-five cents (\$6.75) per 100 cubic feet.
- (7) Minimum fee:
 - (a) Per quarter per unit without exemption: thirty-two dollars and twenty-eight cents (\$32.28).
 - (b) Per quarter per unit with exemption: twenty-five dollars and seventy cents (\$25.70).
- B. Septage discharge: fifty-two dollars (\$52.) per 500 gallons or portion thereof.
- C. RV septage discharge: fifteen dollars (\$15.) flat fee.
- D. Graywater disposal: twenty-eight dollars (\$28.) per 2,000 gallons or portion thereof.
- E. TKN surcharge:
 - (1) Ceiling limit: 60 pounds per day TKN.
 - (2) Surcharge fee: one dollar and eighteen cents (\$1.18) per pound of TKN.
- F. Fees.
 - (1) Permit and inspection fee: fifty dollars (\$50.).
 - (2) Wastewater discharge permit fee: fifty dollars (\$50.).
 - (3) Reserve capacity assessment: two dollars (\$2.) per gallon.
- G. Installation fees.
 - (1) Installation by City: three hundred dollars (\$300.) minimum or estimated cost of installation in advance.
 - (2) Charge for road maintenance for service installed between December 1 and March 31: two hundred dollars (\$200.) minimum or estimated cost of road maintenance in advance.
 - (3) Installation and repair license: one hundred dollars (\$100.) per year.
 - (4) Meter repair or testing: minimum charge of thirty dollars (\$30.) for the first half hour per visit plus cost of transportation of meter to testing facility and cost of testing.
 - (5) Meter damage: fifty dollars (\$50.).
- H. Temporary service. See installation fees; wastewater charges will be billed at above rates.
- I. Backflow prevention devices. All costs associated with installation, repair or inspection to be paid by owner. Inspection costs shall be not less than minimum service charge.
- J. Violations: All costs associated with investigation, enforcement and correction of violations to be paid by owner.

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

Chapter 210
SOLID WASTE

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| § 210-1. Definitions. | § 210-10. Removal of empty containers and debris. |
| § 210-2. Placement of residential solid waste and waste material for collection. | § 210-11. Construction and demolition debris. |
| § 210-3. Residential solid waste collection. | § 210-12. Collection for multifamily dwellings. |
| § 210-4. Unauthorized placement of residential solid waste on private property. | § 210-13. Bulky waste collection. |
| § 210-5. Collection schedule; restrictions. | § 210-14. Hazardous waste and unacceptable wastes. |
| § 210-6. Receptacles for residential solid waste. | § 210-15. Enforcement. |
| § 210-7. Use of approved containers required. | § 210-16. Violations and penalties. |
| § 210-8. Storage of containers and dumpsters. | § 210-17. Residential roadside recycling. |
| § 210-9. Prohibited activities. | § 210-18. Residential dropoff center. |
| | § 210-19. Yard waste and brush. |
| | § 210-20. Scavenging prohibited. |
| | § 210-21. Severability. |

[HISTORY: Adopted by the City of Rochester 6-6-1995 as Ch. 19 of the 1995 Code; amended 6-4-2005; 4-15-2008. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Building construction and property maintenance — See Ch. 40.
Health and sanitation — See Ch. 94.

Junk and secondhand dealers — See Ch. 110.
Nuisances — See Ch. 149.

§ 210-1. Definitions.

The following definitions shall apply in the interpretation and enforcement of this chapter:

ACCEPTABLE CONSTRUCTION AND DEMOLITION DEBRIS — Any material generated from minor renovation or demolition activities on primary personal residences within the City. Debris generated at apartment or condominium units not used as primary personal residence of the taxpayer shall not be accepted for free. Residents must bring any material to the dropoff themselves. Letters of authorization on the owner's behalf brought to the dropoff by nonresidents will not be accepted, unless approved by the City's contracted solid waste management company (the City's waste collection contractor). Residents requesting approval must submit an application to the Department of Building, Zoning, and Licensing Services. **[Amended 10-15-2013; 3-5-2019]**

BAGS — Specially marked bags (or stickers for bags up to 30 gallons in size) designed for refuse as approved by the City of Rochester Commissioner of Public Works. Bags (stickers) shall be sold by the City for waste that will not fit into the cart provided by the City's waste collection contractor for residential solid waste. **[Amended 3-5-2019]**

BULKY WASTE — Any acceptable municipal solid waste that is not capable of being placed in an approved container. Said waste shall include such items as oversized furniture, carpeting, large metal items and appliances. Bulky wastes must be less than 200 pounds, capable of being collected by two people and of a dimension no larger than six feet by six feet by four feet. Bulky waste shall not include appliances that contain or once contained CFCs.

BUNDLE — Bulky waste materials securely tied together forming an easily handled package not exceeding four feet in length or 50 pounds in weight.

CFCS (CHLOROFLUOROCARBONS) — Refrigerants used in appliances such as dehumidifiers, water coolers, freezers, refrigerators, and air conditioners.

CITY — Refers to the City of Rochester, New Hampshire.

CONTRACTOR — The individual, firm, partnership, joint venture, corporation or association performing refuse collection and disposal under contract with the City.

DISPOSAL SITE — A refuse depository for the processing or final disposal of refuse, including but not limited to sanitary landfills, transfer stations, incinerators and waste processing separation centers, licensed, permitted or approved by all governmental bodies and agencies having jurisdiction.

DUMPSTER — A commercially designed large metal container for refuse that has a closable top lid(s) and/or side slide doors.

FOOD WASTES — Animal, vegetable or mineral matter derived from the preparation or packaging of foodstuffs.

GARBAGE — Putrescible animal or vegetable wastes resulting from the handling, preparation, cooking, serving or consumption of food and including food containers.

HAZARDOUS WASTE and UNACCEPTABLE WASTES — Wastes classified as hazardous under federal, state or local law, and/or waste the acceptance of which in the City's waste collection contractor's judgment would pose a nuisance or threat to human health or the environment, and/or waste that cannot be accepted under the City's waste collection contractor's waste acceptance policy (waste acceptance policy) as amended from time to time. **[Amended 3-5-2019]**

HOUSEHOLD HAZARDOUS WASTE — Hazardous waste generated from noncommercial usage by persons in their residence.

MULTIFAMILY DWELLING — Any building or structure used and occupied for human habitation or intended to be so used which contains five or more suites of one or more rooms each suite having facilities for regular cooking. It also includes combinations of buildings upon a given property with five or more units.

NORMAL HOUSEHOLD ACTIVITIES — Any activity occurring at a household located within the City that may generate material that requires disposal, not including new home construction or demolition of primary personal residences.

PRIMARY PERSONAL RESIDENCE — A unit that a resident taxpayer claims as his/her residence for voting.

PUBLIC STREET — Refers to all streets and highways maintained by the City or state. Class VI and private roads are specifically excluded.

RECYCLABLE MATERIAL — Any material, including various glass, paper, cardboard, metal cans, plastics or other materials, that can be processed or treated at the Waste Management Material Recovery Facility in order to produce reusable materials.

REFUSE — Discarded waste materials in a solid or semi-liquid state, consisting of garbage, residential solid waste or a combination thereof. **[Amended 3-5-2019]**

RESIDENCE — A dwelling unit such as a home, manufactured housing, or multifamily dwelling and condominium, but not including commercial establishments, businesses, hotels, motels or campgrounds, that is located within the City.

RESIDENTIAL DROPOFF CENTER — Facility located at TREE for City of Rochester residents to bring acceptable waste from normal household activities. Hours for residential dropoff center shall be publicized. Recycling is mandatory at the residential dropoff center.

RESIDENTIAL RECYCLING CART — A specifically designated wheeled container or cart distributed by the City's waste collection contractor to be used for the storage of acceptable recyclables in the automated collection process. No other receptacles will be permitted for collection by the City's waste collection contractor. **[Amended 3-5-2019]**

RESIDENTIAL SOLID WASTE — All nonhazardous garbage, food wastes, residential solid waste, and trash resulting from the normal household activities. **[Amended 3-5-2019]**

RESIDENTIAL WASTE RECEPTACLE — The specifically provided or designated container distributed by the City's waste collection contractor. No other receptacles will be permitted. **[Amended 3-5-2019]**

TRASH — Combustibles such as paper, wood, fabric, etc., and noncombustibles such as metal, glass, stone, dirt, sawdust, etc. **[Amended 3-5-2019]**

SPECIAL WASTE — As defined in 40 CFR 240.101(z). **[Added 3-5-2019]**

TREE — Turnkey Recycling and Environmental Enterprises facility located on Rochester Neck Road in the City of Rochester.

WHITE GOODS and SCRAP METAL — Materials include the following:

- A. Light iron; a magnet will stick to it.
- B. White goods: stoves, washers, dryers, etc.
- C. Aluminum.
- D. Metals with contaminants attached, including but not limited to bicycles, small motors with fluids drained, and small appliances that do not or have not contained CFCs.

E. Metal strapping.

YARD WASTE — Any soft leaf, grass, brush or vegetable wastes generated from residences within the City of Rochester. The City will operate semiannual roadside collections of leaves, brush, grass clippings and other yard wastes. The Commissioner of Public Works will announce the collection schedules. Brush shall be properly bundled as defined above. **[Amended 3-5-2019]**

§ 210-2. Placement of residential solid waste and waste material for collection. [Amended 3-5-2019]

No person, firm or corporation shall place any residential solid waste, cans, iron, wood, special or hazardous wastes, including but not limited to flammables, toxic or rubber dust, liquid or fecal waste, sludge, demolition materials, animals and animal parts, yard waste and other waste material upon or near a City street or highway for collection except in accordance with the following provisions of this chapter.

§ 210-3. Residential solid waste collection. [Amended 3-5-2019]

The City of Rochester shall only collect residential solid waste on public streets or highways. For those properties served by streets other than public streets or highways, including but not limited to mobile home parks, condominiums, or streets not yet accepted by the City, residential solid waste shall not be placed within the public street for collection unless agreed to by the Commissioner of Public Works or his/her designee and the City's waste collection contractor.

§ 210-4. Unauthorized placement of residential solid waste on private property. [Amended 3-5-2019]

No person, firm or corporation shall place or cause to be placed garbage, refuse or residential solid waste, yard waste, bulky waste or construction and demolition debris in or on private property unless authorized by the owner of the property and except in accordance with any applicable state law.

§ 210-5. Collection schedule; restrictions. [Amended 3-5-2019]

Residential solid waste collection will be made Monday through Friday of each week, except those weeks in which a holiday occurs, when a revised pickup schedule will be announced by the Commissioner of Public Works. Residents shall place their residential solid waste and recycling to be collected along the roadside or street side where normally the curbing would be no earlier than the evening before, or by 7:00 a.m. on their scheduled pickup day.

§ 210-6. Receptacles for residential solid waste. [Amended 3-5-2019]

All residential solid waste shall be placed in suitable receptacles, as defined under § 210-1. Residential solid waste that does not fit in the approved receptacle shall not be collected

unless such waste is recyclable materials as defined in § 210-1 and placed at roadside as described in § 210-17.

§ 210-7. Use of approved containers required.

The contractor shall not be required to collect solid waste unless it is in approved containers, as described in § 210-1 of this chapter.

§ 210-8. Storage of containers and dumpsters. [Amended 3-6-2018]

Except on the day scheduled for collection and during the time period provided in § 210-5 of this chapter, no person shall place or store any refuse in any street, alley or other public place or upon any private property within the City of Rochester unless such refuse is placed in proper containers/dumpsters.

§ 210-9. Prohibited activities.

It is prohibited to bring materials from outside of Rochester into the City of Rochester for disposal or recycling by the City.

§ 210-10. Removal of empty containers and debris. [Amended 3-5-2019]

Residential solid waste containers, once emptied, must be removed by the owner from the roadside within 24 hours. Any debris strewn from this residential solid waste by animals, wind, etc., will be cleaned up by the owner within 24 hours. Residential solid waste collection crews will be responsible for any debris they drop or spill on the ground and will clean it up before moving on to the next stop.

§ 210-11. Construction and demolition debris. [Amended 3-5-2019]

Acceptable construction and demolition debris as defined in § 210-1 may be brought to an approved residential dropoff center at no cost. Debris generated at apartment or condominium units not used as the primary personal residence of the taxpayer shall be charged the same fees as any other commercial user.

§ 210-12. Collection for multifamily dwellings.

The owners of any multifamily dwelling as defined in § 210-1 of this chapter shall supply a dumpster or cart sufficient to provide storage for all solid waste generated within the multifamily dwelling. The owner is responsible for cost of collection.

§ 210-13. Bulky waste collection. [Amended 3-5-2019]

Bulky waste, white goods and scrap metal as defined in § 210-1 may be placed at roadside for collection by the contractor. The schedule shall be as determined by the Department of Public Works and publicized.

§ 210-14. Hazardous waste and unacceptable wastes. [Amended 3-5-2019]

Hazardous waste and unacceptable wastes, as defined in § 210-1, the definition of "hazardous waste and unacceptable wastes," will not be accepted for roadside pickup by the contractor.

§ 210-15. Enforcement. [Amended 10-15-2013]

This chapter shall be enforced by the Police Department, the Public Works Department or the Department of Building, Zoning, and Licensing Services or their duly authorized agents.

§ 210-16. Violations and penalties. [Amended 3-5-2019]

Any person, firm or corporation found to be in violation of any provision of this chapter shall be guilty of a violation punishable by a civil penalty up to three thousand dollars (\$3,000.).

§ 210-17. Residential roadside recycling. [Amended 3-5-2019]

Recyclable material will be collected from residences (as defined by § 210-1) on the same day as residential solid waste collection. Recyclable material must be placed in the approved residential recycling receptacles (as defined by § 210-1). The approved residential recycling receptacles must be placed at the roadside on the evening before or by 7:00 a.m. on the scheduled pickup day. Unacceptable material found in the approved residential recycling receptacles will not be collected.

§ 210-18. Residential dropoff center. [Amended 3-5-2019]

Rochester residents may purchase the City's approved bags (stickers) for residential solid waste to be brought to an authorized residential dropoff center. Recycling is mandatory at the residential dropoff center.

§ 210-19. Yard waste and brush. [Amended 3-5-2019]

Residential roadside collection of leaf and yard waste shall be scheduled in the spring and fall. The schedule shall be determined by the Public Works Department and shall be publicized. Such materials shall be placed in paper bags or bundled as defined in § 210-1 of this chapter.

§ 210-20. Scavenging prohibited. [Amended 3-5-2019]

No person other than an agent of the City acting in the course of his/her employment shall collect or pick up or cause to be collected or picked up any recyclable material, as defined in § 210-1, placed at roadside.

§ 210-21. Severability.

Should any provision or section of this chapter be held invalid for any reason, such holding shall not be constructed as affecting the validity of the remaining provisions or sections.¹

1. Editor's Note: Original § 19.22, Savings clause, which immediately followed this section, was repealed 3-5-2019.

Chapter 223

STREETS AND SIDEWALKS

ARTICLE I General Regulations

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- § 223-2. Repair of highway, bridge or sidewalk.
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- § 223-6. Fire Chief to be notified.
- § 223-7. Moving of buildings through streets.
- § 223-8. Conduct on public streets and highways.
- § 223-9. Proposal for new street or highway or public improvements; sewer and water assessments.
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- § 223-15. Prohibited use of poles.
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ARTICLE II Newsracks and Public Way Obstructions

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- § 223-21. Prohibited acts.
- § 223-22. Permit required; application for permit.
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- § 223-25. Hold harmless agreement; insurance.
- § 223-26. Removal of newsrack or public way obstruction.
- § 223-27. Severability.
- § 223-28. Injunction.
- § 223-29. Damage to newsracks and public way obstructions.
- § 223-30. Violations and penalties.

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

GENERAL REFERENCES

Parades — See Ch. 22, Art. III.
Peddling and soliciting — See Ch. 171.

Vehicles and traffic — See Ch. 254.

ARTICLE I

General Regulations**[Adopted 6-6-1995 as Ch. 15 and § 26.7 of the 1995 Code]****§ 223-1. Definitions. [Amended 3-5-2019]**

The following definitions shall be applicable for the purpose of this article:

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

COMMITTEE — The subcommittee of the City Council (Public Works and Building Committee) having responsibility for overseeing expenditures, maintenance and control of public buildings, streetlights, public parks, sewerage, streets and highways and residential solid waste/recycle disposal. The Committee members shall be designated by the Mayor and shall enjoy membership according to rules and regulations as established by the City Council. The responsibilities of this Committee shall be enumerated by the City Council and shall further be as set forth within this article, and this Committee shall be referred to throughout this article as "Committee."

§ 223-2. Repair of highway, bridge or sidewalk. [Amended 3-2-2004]

Whenever any highway, bridge, or sidewalk shall, from want of necessary repair, or because of any repairs or construction being made therein by the Highway Division of the Department of Public Works, become unsafe for travel, the Commissioner, upon instruction of the City Manager, shall erect a suitable fence or railing to exclude all travelers from passing over the same and shall maintain at night such lights as may be necessary to warn the traveler of the hazard. If said repairs or construction is being made by any other department or person, the head of such other department or person shall erect and maintain the same guard fence, rails and lights.

§ 223-3. Prohibiting use of highways.

The Commissioner may make rules and regulations prohibiting the use of any or all highways to such vehicles as he/she may prescribe in order to prevent the use of said highways when said highways are unsuitable for travel thereon. Such rules and regulations shall be posted on each highway so regulated and at two other public places in the City. Any person violating the provisions of such posted rules and regulations shall be fined not more than one hundred dollars (\$100.) and shall be liable for all damage occasioned thereby.

§ 223-4. Elevation.

The datum from which all elevations for street and other City work shall be calculated shall be that of the U.S. Geodetic Survey, as given on the standard discs of the survey.

§ 223-5. Permit for excavation upon highway or sidewalk.

- A. No person shall break or dig up the ground, stone or concrete in any street, lane or alley, or in any sidewalk or common in the City, or erect any staging for building, or fence off any portion of said street or sidewalk, or place or deposit any stone, brick, timber, or other building material thereon, without first obtaining a written permit from the Commissioner and complying in all respects with conditions said Commissioner may impose. Whenever any street, lane, alley, sidewalk, or other public place in the City shall, under any permit granted, be dug up, obstructed or encumbered, and thereby rendered unsafe or inconvenient for travelers, the person so digging up, obstructing or encumbering shall put, and at all times keep up, a suitable railing or fence around the section or parts of any street, lane, alley, or sidewalk or other public place so dug up, obstructed or encumbered, so long as the same shall be, or remain, unsafe or inconvenient as aforesaid, and shall also keep such fence adequately illuminated every night from dusk until dawn so long as such railing or fence shall be kept standing. He/she shall also, at his/her expense, to the acceptance of the Commissioner, and within such reasonable time as the Commissioner shall direct, repair such street, lane, alley, sidewalk or public place. **[Amended 3-5-2019]**
- B. For a period of five years, beginning with the date of completion of the final paving of a public street or way relating to the construction or reconstruction of said street or way, no person, firm or corporation or any agent or servant thereof shall excavate, construct or in any way encumber the paved or traveled portion of the street or way in the City of Rochester at any time, except for emergencies as may be deemed necessary by the Commissioner of Public Works and then only upon the posting by such entity of sufficient security, as determined by the Commissioner of Public Works and the agreement of such entity, to pay the cost of restoring such street or way to its original condition or with the approval by majority vote of the City Council. For one year after being notified of the completion of such restoration by such entity, the Commissioner may reduce the amount of the security posted by such entity; however, the Commissioner shall retain sufficient security to ensure that such restoration has been performed in a manner that will ensure that said street or way has been restored to its original condition. One year after being notified of the completion of such restoration, the Commissioner shall inspect the area restored and shall release such security if, in the judgment of the Commissioner, such restoration is satisfactory. **[Amended 3-2-2004; 4-7-2015; 4-5-2016]**
- C. Any other provision of this article notwithstanding, any person, firm or corporation or any agent or servant thereof that shall violate the provisions of this section shall be subject to a fine of not more than five hundred dollars (\$500.).

§ 223-6. Fire Chief to be notified.

Any person or corporation or department of the City, before digging up, obstructing or encumbering in any way any street, lane, alley, sidewalk, or other public place in the City, shall, before beginning such work, notify the Fire Chief as to where such work is to be done and shall, immediately upon the completion of such work and the restoration of the place to its normal condition, notify the Fire Chief.

§ 223-7. Moving of buildings through streets. [Amended 3-5-2019]

- A. No person shall move, or assist in moving, any house, shop or other building through any street, lane, or alley without first obtaining a written license from the Licensing Board. Whenever the Licensing Board shall as aforesaid grant permission to any person to encumber any street, sidewalk, or public square for the purpose of erecting, altering or moving buildings or to dig up or encumber the same in any other manner, it may, as a condition to granting such permission, require the party obtaining the same to furnish a bond of indemnity to the City of Rochester, in such sum and with such securities as the Licensing Board may deem proper.
- B. The fee for such license shall be twenty-five dollars (\$25.).

§ 223-8. Conduct on public streets and highways.

The following conduct with respect to the use of the City streets and highways shall be regulated as more fully set forth below:

- A. No person shall place, establish, or maintain any sign, awning or shade before his/her place of business, dwelling house or tenement, over any part of any street or sidewalk, unless the same is safely fixed and supported so as in no way to endanger persons passing upon such street or sidewalk, and so that the lowest part of such sign, awning or shade shall be at least seven feet above the sidewalk; nor shall any person hang, affix, fasten, place or allow to remain upon the outer edge of any sidewalk any sign or showcase whatever, or there display any goods, merchandise, or samples of any business calling, trade, art or craft, so as to obstruct the free passage and view to and from the street and sidewalk.
- B. No person shall sell at auction or otherwise upon any street or public square in the City any furniture, goods, wares or merchandise whatever, or place or in any manner encumber such street or square therewith, without first obtaining a permit from the City Manager and obtaining a secondhand dealer's/hawker's license from the Department of Building, Zoning, and Licensing Services. **[Amended 5-1-2007; 10-15-2013]**
- C. No person shall draw or cause to be drawn, move or cause to be moved, upon any public highway or street in said Rochester, any harrow, plow, or other instrument or implement liable to cause injury to the surface of said public highway or street, unless the same is being carried or transported upon a drag, vehicle or other conveyance.
- D. No theatrical or dramatic representation shall be performed or exhibited, and no parade or procession upon any public street or way, unless a special license shall first be obtained from the Licensing Board. (See Chapter 22, Amusements and Entertainment, Article III, Public Dances, Circuses and Parades.) **[Amended 3-5-2019]**
- E. Dumping on highways. No person shall deposit or dump bottles, glass, crockery, cans, scrap metal, junk, paper, garbage, old automobiles, automobile parts, or any other stones, snow, residential solid waste, dirt, ashes, lumber or any other thing either in or upon any highway, street, lane, alley, sidewalk, or other public place within the City limits of Rochester. **[Amended 12-5-1995; 3-5-2019]**

§ 223-9. Proposal for new street or highway or public improvements; sewer and water assessments.

No proposed new street or highway or new public sewer, water, street surfacing, or other public improvements, or any combination of the above, shall be laid out, accepted or constructed on behalf of the City by the City Council which is not subject to review by the Planning Board under Rochester Subdivision Regulations until the following requirements have in all respects been complied with:

- A. The person or persons offering said street or highway layout or requesting new public sewer, water, street surfacing or other public improvements, or any combination of the above, shall proceed as follows:
- (1) Make written petition to the Planning Board, which shall provide the following:
 - (a) A description of or reference to a map or plan, showing the starting points, courses, and termini of the street or highway, and requested sewer, water, street surfacing and other public improvements, as may be necessary.
 - (b) A description of the lands affected by said street and public improvements.
 - (c) The names of the owners of such lands.
 - (d) The estimated cost for the construction of said streets or highways and other necessary public improvements.
 - (e) A separate form of sewer or water agreement, providing that a person shall pay for the total cost of any sewer or water extensions, which said costs shall be determined by the Commissioner of Public Works, and each agreement shall further provide for the payment of the total cost of said sewer or water extensions plus full payment of interest on account of any debt to be incurred by the City in the construction of said sewer or water extensions. Each agreement shall further provide that the total cost of said sewer or water extensions and payment in full of the interest on any debt to be incurred by the City in the construction of said sewer or water extensions shall be paid by the person desiring such construction by means of a special sewer or water assessment and shall constitute a lien on all land of said person. Said lien shall be transferable upon the conveyance of said improved land, provided that all prior installments thereon have been paid. Each agreement shall further provide that said special sewer or water assessment shall be based upon the total cost of the construction plus the payment of interest on any debt incurred by the City, and may further provide that said cost and interest may be prorated over a period not exceeding 10 years. Each agreement shall further provide that in the event of a transfer or sale by the original petitioner of the property serviced by said extension, the balance then owing to the City for said extension shall be paid in full. Said agreement shall be recorded in the Strafford County Registry of Deeds, and said lien shall have the full force and effect of a tax lien and be collectable as such as provided by RSA 80:88 to 80:91 as presently enacted or the corresponding provisions of any recodification or amendment of these sections. Said agreement shall also be signed and shall be duly witnessed and acknowledged. Any agreement for sewer or water

shall be limited to individual owners of residential homes only, who shall be reimbursed for any payment made as above provided in the event that Phase II of the Water Pollution Abatement Program of the City of Rochester is adopted. Any commercial, industrial or real estate development owners shall pay their pro rata share of such sewer and water improvements in cash prior to construction. **[Amended 3-5-2019]**

- (2) Said street or highway shall be a minimum of 50 feet in width.
 - (3) Give a warranty or other satisfactory fiduciary deed of conveyance describing said property to the City of Rochester.
- B. The Planning Board shall review said petition and agreement and shall report in writing to the City Council and to the Commissioner of Public Works the following:
- (1) The need of such street or highway and any necessary public improvements.
 - (2) The character of the proposed street layout and necessary public improvements and their relationship to the future development of the City as a whole.
 - (3) The necessity, if any, for sewer, water, street surfacing and other public improvements.
- C. The Commissioner of Public Works shall report in writing to the City Council the following:
- (1) The estimated cost of final surfacing for any of said street or highway by the City.
 - (2) The estimated cost for any necessary sewer, water or other public improvements.
 - (3) The estimated period of time required to complete said street or highway surfacing and to construct said sewer, water and other necessary public improvements.
- D. The City Council shall proceed as follows:
- (1) Review the petition and agreement of the person or persons offering said street or highway and each person desiring necessary sewer, water or other public improvements; review the action and recommendations of the Planning Board; and examine the report of the Commissioner of Public Works. The petition of the person or persons, the action and recommendations of the Planning Board, if any, and the report of the Commissioner of Public Works shall be first accepted by the City Council by a majority vote of the entire membership of the Council.
 - (2) If the above petition, action and report are all accepted by a majority vote of the City Council, the City Council shall require each person to provide the City with a written agreement, signed and duly witnessed and acknowledged, in which each person agrees to pay his/her pro rata share of the special assessment hereinabove provided. No agreement and no deed shall be accepted by the City without a two-thirds roll call vote of the Council. Said two-thirds roll call vote shall be based upon the entire membership of the City Council.

- (1) For every 10 feet of right-of-way frontage within the Special Downtown District of the City of Rochester, as defined in Chapter 275, Zoning, of the Code of the City of Rochester, there shall be an individual number assigned.
- (2) For every 50 feet of right-of-way frontage outside of the Special Downtown District of the City of Rochester, as defined in Chapter 275, Zoning, of the Code of the City of Rochester, there shall be an individual number assigned.
- (3) Streets shall be numbered so that even numbers are located on the left side of the right-of-way and odd numbers are located on the right side of the right-of-way. The right and left sides of the right-of-way shall be determined by the relationship of the right-of-way to a person facing away from the center of the City of Rochester at the statue of Parson Main.
- (4) The numbering for culs-de-sac shall begin at the intersection of the cul-de-sac and the collector right-of-way and shall proceed from the right-hand side of the collector right-of-way from right to left around the cul-de-sac.
- (5) Mobile home parks and condominium and apartment complexes shall, to the extent possible, as determined by the committee established in § 223-10C(3) above, name their private streets and number each unit consistent with the E-911 standards set forth in this section.
- (6) Each apartment building shall be given one street number and each apartment unit within such building shall be assigned that street number and unit number.
- (7) Existing numbering patterns for existing streets, highways and rights-of-way which do not allow for the assignment of additional numbers for future development may be assigned new numbers by the Planning and Development Director or his/her designee.
- (8) All new buildings and/or structures, as defined in Chapter 275, Zoning, Article 2, of the Code of the City of Rochester, or additions to existing buildings and/or structures, shall be required to obtain and file with the Department of Building, Zoning, and Licensing Services a foundation certification plan in accordance with the requirements of Chapter 40, Building Construction and Property Maintenance, § 40-15.
- (9) The beginning of a street shall be that end which intersects with a collector street and, so far as possible, shall be that end closest in distance to the statue of Parson Main.
- (10) Any building or structure for which a number has been designated shall have such number affixed thereto in such manner as to be plainly visible from the street which abuts the main entrance to the property. Such numbers shall be a minimum height as to meet current Fire Code requirements.
- (11) The owner of any building or structure who shall fail to affix an assigned number to his/her mail box and building or structure within 30 days of written notice from the Planning and Development Director shall be fined not more than twenty-five dollars (\$25.) for each day that such number is not affixed. Any number affixed in accordance with this subsection shall be visible from the street.

With respect to new structures, failure to display an assigned number in the manner set forth above shall be grounds for denial of a certificate of occupancy.

- B. The assignation or alteration of numbers by the Planning and Development Director pursuant to the provisions of Subsection A above shall be provisional only until such time as such assignation or alteration of numbers shall be confirmed by the Planning and Development Director after the holding of a public hearing by the City Council in accordance with the provisions of RSA 231:133-a.

§ 223-12. Construction of sidewalks.

All sidewalks built by the City of Rochester shall be constructed under the supervision of the Commissioner. Preference in order of construction of cement sidewalk shall be given to petitioners who by written application shall agree to pay a portion of the cost of construction of said sidewalk, said portion not exceeding 1/2 of the said cost, payment to be made over a period not to exceed 10 years. The portion of the cost to be borne by the petitioner shall be both reasonable and proportional to the benefits according to the land upon which such assessment is made.

§ 223-13. Obstruction of sidewalks.

No person shall unnecessarily place any obstruction on any foot pavements or sidewalks. No person shall be permitted to construct a ramp up to and across the sidewalk adjacent to his/her property or place any other obstructions thereon without first securing a permit from the Commissioner to do so.

§ 223-14. Streetlighting. [Amended 3-5-2019]

The Commissioner shall have supervision of all municipal lighting and location of electric light and utility poles within the City limits and is authorized to prescribe rules and regulations for the marking or painting of any poles, crossarms or supporting fixtures which are located within the public highway. All persons owning or using said poles, crossarms or supporting fixtures shall paint or mark at their own expense said poles, crossarms, or supporting fixtures in accordance with the rules, regulations and directions of said Commissioner.

§ 223-15. Prohibited use of poles.

No person shall use said poles for the posting of bills or other advertising purposes or for any other purpose except that for which permission is given by the Commissioner.

§ 223-16. "Adopt-A-Spot" areas. [Amended 3-2-2004; 5-1-2007]

The City Manager, in the exercise of duties relative to the oversight of all real and personal property owned by the City of Rochester, as specified in Section 14 of the Rochester City Charter, from time to time, designates certain areas of the City, primarily areas included within or closely related to the highways servicing the City of Rochester, as "Adopt-A-Spot"

areas. "Adopt-A-Spot" areas are maintained, landscaped and/or otherwise beautified by designated individuals and/or entities that volunteer to perform such functions for the purpose of improving the appearance of the "Adopt-A-Spot" areas, as well as the appearance of the City of Rochester as a whole. The City Manager shall annually, on or about May 1 of each year, establish a list of "Adopt-A-Spot" areas for the ensuing calendar year beginning on such May 1 and ending on the following April 30. A copy of such list shall be maintained in the City Manager's office and in the office of the City Clerk. In the event that the City Manager fails to update the "Adopt-A-Spot" list on or about May 1 of a given year, the "Adopt-A-Spot" list then on file in the office of the City Manager shall be controlling for the purposes of this section. No person shall, within any "Adopt-A-Spot" area, erect or maintain any sign or other advertising material whether for political purposes or otherwise, except for such advertising material and/or device as has been previously authorized in writing by the City Manager or his/her designee. Any person failing to comply with the provisions of this section shall be guilty of a violation.

§ 223-17. Bonds.

The Commissioner may require any person seeking to perform any work affecting any highway, bridge, sidewalk or other public property to furnish a bond of indemnity to the City of Rochester in such sum and with such sureties as the Commissioner may deem proper.

§ 223-18. Violations and penalties.

Except as otherwise provided herein, whoever is in violation of any of the provisions of this article shall be subject to a fine of not more than one hundred dollars (\$100.).

ARTICLE II

Newsracks and Public Way Obstructions [Adopted 6-6-1995 as Ch. 35 of the 1995 Code]

§ 223-19. Purpose.

The purpose of this article is to promote the public health and safety through the regulation of the placement of newsracks and public way obstructions.

§ 223-20. Definitions.

As used in this article, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

CITY — The City of Rochester.

NEWSPAPER or NEWS PERIODICAL — A daily or weekly publication containing all of the following: current news, editorials, feature articles and advertising. **[Amended 3-5-2019]**

NEWSRACK — Any self-service or coin-operated box, container, storage unit or other dispenser installed, used, or maintained for the display and sale of newspapers or news periodicals.

PARKWAY — That area between the sidewalk and the curb of any street, and where there is no sidewalk, that area between the edge of the roadway and the property line adjacent thereto. "Parkway" shall also include any area within a roadway which is not open to vehicular travel.

PUBLIC WAY OBSTRUCTION — Any object other than a newsrack which obstructs the free passage of pedestrians or vehicles on the streets, sidewalks, parkways or roadways. The term "public way obstruction" shall include, but not be limited to, signs and planters.

ROADWAY — That portion of a street improved, designed, or ordinarily used for vehicular travel.

SIDEWALK — Any surface provided for the exclusive use of pedestrians on any public right-of-way under the jurisdiction of the City.

STREET — All that area dedicated to public use or public street purposes and shall include, but not be limited to, roadways, parkways, alleys, sidewalks, garages, parking lots, parks and playgrounds. **[Amended 3-5-2019]**

§ 223-21. Prohibited acts.

- A. No person shall install, use, attach or maintain any newsrack or public way obstruction which projects onto, into or over any part of the roadway of any public street or which rests, wholly or in part, upon, along or over any portion of the roadway of any public street.
- B. No person shall install, use, attach or maintain any newsrack or public way obstruction which in whole or in part rests upon, in or over any public sidewalk or parkway when such installation, use or maintenance endangers the safety of persons or property, or when such site or location is used for public utility purposes, public transportation purposes or other uses, or when such newsrack or public way obstruction unreasonably interferes with or impedes the flow of pedestrian or vehicular traffic, including any legally parked or stopped vehicle, the ingress or egress for any residence or place of business, or the use of poles, posts, travel signs or insignias, hydrants, mailboxes or other objects permitted at or near said location.
- C. Within 60 days of the passage of this article every person or other entity shall comply with the provisions of this article with respect to each newsrack and/or public way obstruction owned by it within the City. **[Amended 3-5-2019]**

§ 223-22. Permit required; application for permit.

- A. No person shall install or maintain any newsrack or public way obstruction which in whole or in part rests upon, in or over any public sidewalk or parkway without further applying for and being granted a permit from the Licensing Board. The permit application shall include the following:
 - (1) The physical dimensions of each newsrack or public way obstruction to be installed or maintained in the City by the person;

- (2) The name, address, and telephone number of the person or entity to whom or to which the permit is to be issued; and
 - (3) A diagram showing the location of the newsrack or public way obstruction and the dimensions of the sidewalk, if any, upon which it is to be located.
- B. Newsracks shall require the submission of a permit application, but the permit shall be granted by the Licensing Board on a ministerial basis provided that the proposed newsrack as installed will not violate the provisions of § 223-21 above.

§ 223-23. Standards for installation, maintenance and operation.

Any newsrack or public way obstruction which in whole or in part rests upon, in, or over any public sidewalk or parkway shall comply with the following standards:

- A. All newsracks and public way obstructions must be individually permitted by location.
- B. No newsrack or public way obstruction shall be chained, bolted or otherwise attached to any public property, or to any private property, without the written permission of the City, the owner, or the person in possession of the property to which the attachment is to be made.
- C. Newsracks and public way obstructions shall not be chained or otherwise attached to one another.
- D. The City shall issue a proof of permit in the form of a sticker or decal which shall be attached to the newsrack or public way obstruction at all times.
- E. All permits must be renewed annually prior to July 1.
- F. Unlicensed newsracks or public way obstructions will be considered abandoned and subject to removal without notice.
- G. All permits are nontransferable.
- H. The annual fee for each permit shall be fifty dollars (\$50.), regardless of when during a year such permit is issued.
- I. Any permit may be revoked at any time, by action of the Licensing Board; provided, however, that any revocation initiated by the Licensing Board shall entitle the owner of the newsrack and/or public way obstruction to a pro rata refund of the annual permit fee paid pursuant to the preceding Subsection H of this section.

§ 223-24. Identification required.

Within 30 days after this article becomes effective, every person or other entity which places or maintains a newsrack or public way obstruction on the streets of the City shall have his/her/its name, address and telephone number affixed thereto in a place where such information can be easily seen.

§ 223-25. Hold harmless agreement; insurance. [Amended 3-5-2019]

Every person or other entity which places or maintains a newsrack or public way obstruction on a public sidewalk, parkway, roadway or street in the City shall file a written statement with the Licensing Board, satisfactory to the City Attorney, whereby he/she/it agrees to indemnify and hold harmless the City, its officers, City Council members and employees from any loss or liability or damage, including expense and costs for bodily injury or damage to private or public property sustained by any person as a result of the installation, use or maintenance of a newsrack or public obstruction within the City. A certificate of insurance in a form approved by the City Attorney indicating no less than one million dollars (\$1,000,000.) in general liability insurance coverage and naming the City as an additional insured shall be maintained on file with the Licensing Board by each such person or entity.

§ 223-26. Removal of newsrack or public way obstruction.

The City Manager or his/her designee shall remove any newsrack or public way obstruction placed on any street, sidewalk, parkway or roadway in violation of this article.

§ 223-27. Severability.

The provisions of this article are severable. If any provision of this article or its application to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this article without the invalid provisions or applications.

§ 223-28. Injunction.

Any violation of this article is hereby declared to be a nuisance. In addition to any other relief provided by this article, the City Attorney may apply to a court of competent jurisdiction for an injunction to prohibit the continuation of any violation of this article. Such application for relief may include the seeking of a temporary restraining order, preliminary injunction and/or permanent injunction.

§ 223-29. Damage to newsracks and public way obstructions.

Any damage to newsracks or public way obstructions, whether or not properly licensed, by any cause whatsoever, including snowplowing and removal, shall be at the sole expense of the owner.

§ 223-30. Violations and penalties.

Any person, firm or corporation violating any provision of this article shall be fined one hundred dollars (\$100.) for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues to occur.

§ 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.

§ 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.² 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

2. **Editor's Note: Throughout this article, references to the Code Enforcement Department were amended to the Building, Zoning, and Licensing Services Department 10-15-2013.**

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. 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.

Chapter 260

WATER

ARTICLE I Use Regulations and Rates

- § 260-1. Agreement.
- § 260-2. Definitions.
- § 260-3. Policy statement.
- § 260-4. Application for service.
- § 260-5. Size of service and meter required.
- § 260-6. Service installation and repair.
- § 260-7. Pipes and fixtures.
- § 260-8. Meters.
- § 260-9. Sewer deduct meter.
- § 260-10. Meter repairs.
- § 260-11. Meter testing.
- § 260-12. Sealing of meter.
- § 260-13. Tampering with meter.
- § 260-14. Outside reader.
- § 260-15. Inspections.
- § 260-16. (Reserved)
- § 260-17. Establishment of water rates.
- § 260-18. Billing and payment.
- § 260-19. Appeals.
- § 260-20. Agreements and shutoffs.
- § 260-21. Miscellaneous bills.
- § 260-22. Turning on and off.
- § 260-23. Swimming pools.
- § 260-24. Transfers.
- § 260-25. Violations.
- § 260-26. Interruption of service.
- § 260-27. Claims for damages and liability.
- § 260-28. Utility Advisory Board.

- § 260-29. Construction/extension of water mains for new development.
- § 260-30. Regulation of water usage during emergency.
- § 260-31. Extension of existing water mains in accepted roadways.
- § 260-32. Private fire protection.
- § 260-33. Water Rate and Fee Schedule.

ARTICLE II Cross-Connections

- § 260-34. Purpose.
- § 260-35. Definitions.
- § 260-36. Authority.
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- § 260-38. Duties of Department of Public Works.
- § 260-39. Requirements of owner.
- § 260-40. Administration.
- § 260-41. Degree of hazard.
- § 260-42. Auxiliary water sources.
- § 260-43. Permits.
- § 260-44. Existing backflow prevention devices.
- § 260-45. Installation.
- § 260-46. Periodic testing.
- § 260-47. Conflicting provisions; severability.
- § 260-48. Interpretation.
- § 260-49. Appeals.
- § 260-50. Additional rules and regulations; amendments.
- § 260-51. When effective; repealer.

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

GENERAL REFERENCES

Building construction and property maintenance — See
Ch. 40.

Health and sanitation — See Ch. 94.
Sewers — See Ch. 200.

ARTICLE I

Use Regulations and Rates

[Adopted 6-6-1995 as Ch. 17 of the 1995 Code]

§ 260-1. Agreement. [Amended 5-5-1998]

The following rules and regulations, and such regulations as may be hereafter established by the Rochester Department of Public Works, shall be considered a part of the contract with every customer who uses water supplied by the Rochester Department of Public Works and such customer by taking water shall be considered as expressing his/her assent to be bound thereby.

§ 260-2. Definitions.

As used in this article, the following words and terms shall have the meaning set forth below:

APPLICATION FOR WATER SERVICE — The form signed by the owner or his/her designated representative to obtain water from the distribution water mains which will become the contract between the Department of Public Works and the applicant.

BUSINESS OFFICE — The Business Office of the City of Rochester, New Hampshire, as represented by its Finance Director, or duly authorized employee.

CITY — The City of Rochester, New Hampshire.

COMMISSIONER — The Commissioner of Public Works or his/her designee. See § 7-18A of the City Code. **[Amended 3-5-2019]**

CURB STOP — The shutoff valve located on the water service line from the water main to the structure.

CUSTOMER — The party who has made an application for a water service for the dwelling unit described in the application, or the subdivision supplied with water service by the City of Rochester, or the owner or agent thereof for the property being serviced. This includes any private person, commercial business, corporation, industry or governmental division.

DEPARTMENT OF PUBLIC WORKS — The Department of Public Works of the City of Rochester, New Hampshire, as represented by its Commissioner of Public Works or duly authorized employee or agents.

- B. Meters are installed for measurement of all water supplied to consumer. Customers shall provide a clean, dry, warm, safe and accessible place (always free from debris) for installation of a meter. The location shall be easily accessible by a person in the upright position for reading, maintaining and changing.
- C. All persons shall avoid unnecessary waste of water. Water shall not be left running to prevent freezing unless required by the Department of Public Works. All customers taking water must keep their own fixtures, and service pipes within their property lines, in good repair, and fully protected from injury by frost, and all such pipes and connections shall conform to the Rochester Plumbing Code.

§ 260-9. Sewer deduct meter. [Amended 5-5-1998; 4-2-2008]

Upon application and approval by the Department of Public Works, a customer may install a meter to measure water that will not be disposed of in the City's sewer system. The purpose of this meter would be to meter water uses, including but not limited to in-ground sprinkler systems and commercial air-conditioning systems. The cost of this meter inspection of the installation by the City is entirely the responsibility of the customer. The meter will fully meet the requirements of § 260-8 of this chapter except that the sewer deduct meter shall not be required to have a separate exterior shutoff valve.

§ 260-10. Meter repairs.

- A. All meters shall be kept in repair by the Department of Public Works except when damaged by the customer or by his/her negligence, including freezing. In case of any such damage, the cost of repairs shall be charged to the owner of the premises.
- B. If the reader is out of repair or fails to register, the customer will be charged at the average daily consumption as shown by the reader when in order or the flat rate structure, whichever is less. Subsequently, if the actual amount of water used is determined to be different than the amount previously estimated, the charge will be on the subsequent billing by the difference between the two.
- C. If a customer, after being so notified, does not allow access to the Department of Public Works in order to test and/or correct a faulty meter or reader, the customer's subsequent bill will be 1.5 times the average daily consumption as historically shown on the meter.
- D. No person, except the duly authorized agent of the Department of Public Works, shall be allowed to reset, take off, or repair a meter. **[Amended 5-5-1998]**

§ 260-11. Meter testing.

- A. Only the Department of Public Works shall replace or remove and test all meters. No meter shall be placed in service or permitted to remain in service if the error of registration exceeds 2% or as established by the latest American Water Works Association (AWWA) meter standards, whichever is less.
- B. The Department of Public Works may test a meter for accuracy in registration upon complaint of the water consumer. There shall be a minimum service charge for any

complaint-driven service call. The minimum service charge shall be as listed in § 260-33, Water Rate and Fee Schedule. Any meter found to be accurate in accordance with this article will not be replaced by the Public Works Department due to a complaint.

- C. Should the meter in question be found to be within the accuracy limits established by the latest AWWA meter standards, all applicable fees associated with testing shall be paid by the customer. If the meter in question is found to be inaccurate, all fees will be waived.
- D. The percent of error of registration shall be taken as the average of the error at the intermediate and maximum rates of test flow. Any determination of charges shall be based on this average error. **[Amended 5-5-1998; 4-2-2008]**

§ 260-12. Sealing of meter. [Amended 5-5-1998]

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

§ 260-13. Tampering with meter.

- A. No customer or his/her agent shall perform a tampering event with regard to a meter without having first received the written consent and authorization of the Commissioner of Public Works and/or his/her designee to take such action. In the event that the Commissioner of Public Works and/or his/her designee shall determine that a customer and/or his/her agent has performed a tampering event with respect to a meter, such customer shall be subject to the following charges: **[Amended 5-5-1998]**
 - (1) A charge in an amount based upon the actual water usage metered to such meter prior to the tampering event, if determinable.
 - (2) A charge in an amount based upon twice the estimated water usage for the premises serviced by the meter in question during the preceding billing period(s) or the corresponding billing period(s) during the year immediately preceding such tampering event, whichever is greater.
 - (3) A charge for all costs associated with the repair and/or replacement of such meter.
 - (4) A reconnection fee as listed in § 260-33, Water Rate and Fee Schedule.
- B. Anything in Subsection A above to the contrary notwithstanding, should a customer or his/her agent, as a result of an emergency or other circumstances beyond his/her control, perform a tampering event with respect to a meter, without having received the prior written consent and authorization of the Commissioner of Public Works, such customer may, upon appeal to the Utility Advisory Board in accordance with the provisions of § 260-19 and within its discretion, be relieved of any or all of the charges listed in Subsection A(1) through (4) above, provided that such customer shall have

§ 260-19. Appeals. [Amended 5-5-1998]

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

- A. Notification. The aggrieved user shall notify the Business Office in writing that said bill is contested before the next payment is due for water service. The notification shall explain why the bill is contested and provide the information necessary to determine the validity of the claim. The Finance Director may require the use of forms to expedite the appeals process.
- B. Resolution. Upon receipt of a notification under Subsection A, the Finance Director shall submit the claim to the Utility Advisory Board with a recommendation on the validity of the claim. The decision of the Utility Advisory Board shall be final, except that the City Manager shall have the authority to veto or modify any action of the Utility Advisory Board. Aggrieved parties shall be allowed only one appeal per claim. **[Amended 3-5-2019]**
- C. Disposition of appeals. For appeals found to be valid, the date of the billing shall be revised to the date of the Utility Advisory Board's decision. Revised charges shall become due and payable as specified in § 260-18. For appeals not found to be valid, the date of the billing shall be as originally issued, and charges and interest shall be as computed as specified in § 260-18.

§ 260-20. Agreements and shutoffs.

- A. An agreement between the City Finance Director and the customer may be signed, on a form provided in the Business Office, if the customer is unable to satisfy his/her water bill in full at the due date. A water shutoff notice and agreement procedure shall be established by the Finance Director and approved by the City Manager. **[Amended 5-5-1998]**
- B. Unpaid bills of over 30 days shall constitute cause for water shutoff. If on the day of the shutoff the customer pays the outstanding water bill after City personnel arrive at the customer's service to execute the shutoff, the customer will be assessed a minimum service charge. This charge is as listed in § 260-33, Water Rate and Fee Schedule.

§ 260-21. Miscellaneous bills. [Amended 5-5-1998; 3-5-2019]

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

§ 260-22. Turning on and off. [Amended 5-5-1998; 3-5-2019]

Forty-eight hours' advance notice is normally required for turning on and shutting off water. The requested service will be provided as soon as possible thereafter. All expenses involved

will be the responsibility of the customer. Overtime charges at the rate of time and 1/2 will be charged before or after duty hours, with a minimum of a three-hour charge.

§ 260-23. Swimming pools. [Amended 5-5-1998]

The Department of Public Works does not use its equipment to fill private swimming pools. Private companies must obtain written authority from the Department of Public Works to use water from the water system. Customers desiring an abatement of sewer charges while filling their pools must call the Business Office for instructions prior to filling the pool. There will be no abatement if the Business Office has not been contacted.

§ 260-24. Transfers.

On sale or transfer of property, the customer must give notification to the Business Office of such sale or transfer in order that a final meter reading can be taken and proper charges made to the proper owner. A minimum of 24 hours' notice is required. If an apartment building, or other structure, or dwelling unit becomes a condominium, notification must be given to the Business Office in writing. The new owner shall complete a water service application and be responsible for any fees or charges from the Department of Public Works and any private plumber necessary to provide a separate service and meter.

§ 260-25. Violations.

- A. Should any customer violate any regulations established by the Division of Water Supply Works, or fail to pay rates or other charges when due, his/her supply shall be shut off, or terminated, and it shall not be resumed until causes of complaint are removed and/or all charges paid. **[Amended 5-5-1998; 3-5-2019]**
- B. Any violation of the rules and regulations hereby established or failure on the part of any customer taking water to promptly pay any and all claims of the Department shall be considered sufficient cause for cutting off the water supply of such customer and such supply shall not be turned on again until all such cause of complaint shall have been removed, including any additional work or costs incurred for the turning on of the water.
- C. Where two or more customers take water through one service pipe, the provision in regard to cutting off the supply shall be applicable to all such customers although one or more of them may be innocent of any cause of offense.

- (1) Level 1 water restriction. There are no penalties as this is voluntary.
- (2) Level 2 and 3 water restrictions.
 - (a) First violation will be issued a warning.
 - (b) Second violation shall be punishable by a fine of one hundred dollars (\$100.).
 - (c) Third violation shall be punishable by a fine of one hundred dollars (\$100.).
 - (d) Additional violations shall be punishable by a fine of five hundred dollars (\$500.) to ten thousand dollars (\$10,000.) and discontinuance of water service. A service reactivation fee, as defined by § 260-33B, will be charged before water service is restored.
- (3) Level 4 water restriction. Each violation shall be punishable by a fine of five hundred dollars (\$500.) to ten thousand dollars (\$10,000.) and discontinuance of water service. A service reactivation fee, as defined by § 260-33B, will be charged before water service is restored.

§ 260-31. Extension of existing water mains in accepted roadways.

- A. Upon petition by citizens of the City or when deemed necessary or desirable for the protection and well-being of the City, the extension of water mains in accepted roadways may be approved by a vote of the City Council. **[Amended 5-5-1998]**
- B. Where the construction and installation of water mains is to be made in and upon existing streets and roads, and the public good requires it and/or undue hardships would result if cash payment were made, then and in such case the City of Rochester may finance the construction through the issuance of bonds or other financing method and pay the full costs. The proportionate share of each abutter along the line of construction and installation based on the actual cost of construction per running foot or other equitable distribution of cost when petition, application, or late petition is made and granted shall become a lien on such abutting property as real estate taxes until payment of said proportionate share of full costs, including financing, is made.
- C. Payment may be as follows:
 - (1) The affected party may pay his/her proportionate share in cash for the full amount, at the time the obligation is incurred; or
 - (2) The affected party may enter into an agreement with the City of Rochester that said proportionate share of all costs may be paid in equal installments over a period of time equal to the term of the bond or a lesser period. Such agreement is to be recorded with the Strafford County Register of Deeds at the expense of the affected party. In the event property is conveyed, the new owner(s) will be responsible for all unpaid bills and liens.

§ 260-32. Private fire protection.

- A. Private fire services may be permitted at the discretion of the Commissioner of Public Works and Fire Chief. All applications for private fire protection services must follow the provisions of § 260-4, Application for service. **[Amended 5-5-1998]**
- B. Fees for private fire hydrants shall be as listed in § 260-33, Water Rate and Fee Schedule.

§ 260-33. Water Rate and Fee Schedule. [Amended 6-26-2007; 6-10-2008; 6-16-2009; 7-5-2011; 11-20-2012; 2-4-2014; 9-15-2015]

- A. Quarterly water rates. **[Amended 11-1-2016; 2-6-2018]**
 - (1) Residential customers without exemption: five dollars and fifty-five cents (\$5.55) per 100 cubic feet of water use.
 - (2) Residential customers with exemption: two dollars and forty cents (\$2.40).
 - (3) Commercial and industrial customers: five dollars and fifty-five cents (\$5.55).
 - (4) Unmetered residential customers:
 - (a) Per quarter per unit without exemption: one hundred forty-eight dollars and fifty-three cents (\$148.53).
 - (b) Per quarter per unit with exemption: seventy-four dollars and twenty-five cents (\$74.25).
 - (5) Minimum fee:
 - (a) Per quarter per unit without exemption: twenty-one dollars and nine cents (\$21.09).
 - (b) Per quarter per unit with exemption: sixteen dollars and ninety-one cents (\$16.91).
- B. Fees.
 - (1) Installation: a minimum of three hundred dollars (\$300.) or estimated cost of installation, in advance one hundred dollars (\$100.).
 - (2) Installation and repair license: one hundred dollars (\$100.) per year.
 - (3) Bad check: twenty-five dollars (\$25.) plus all associated fees.
 - (4) Service reactivated following payment when shut off due to nonpayment: sixty dollars (\$60.).
 - (5) Service shutoff or turn on by request: thirty dollars (\$30.).
 - (6) Temporary service: see installation fees; water charges will be billed accordingly.
 - (7) Private fire protection service: see installation fees.

- (8) Private fire hydrant service connection: one hundred fifty dollars (\$150.) per hydrant per fiscal year. For purposes of this subsection, a private fire hydrant shall mean any fire hydrant located outside the public right-of-way and/or located on property other than that owned by the City of Rochester but which is connected to the public water system. Any private hydrant located behind a water meter on that property shall be exempt from this charge.
- (9) Swimming pools: fees based on volume used times unit rate.
- (10) Meter repair or testing: thirty dollars (\$30.) per visit plus cost of transportation of meter to testing facility and cost of testing.
- (11) Meter damage: fifty dollars (\$50.).
- (12) Backflow prevention devices: all costs associated with installation, repair, or inspection paid by owner. Inspection costs shall be not less than minimum service charge.
- (13) Violations: all costs to correct violation paid by owner.
- (14) Minimum service charge: thirty dollars (\$30.) per visit.
- (15) Meter tampering charge: a reconnection fee of not less than one hundred dollars (\$100.) nor more than five hundred dollars (\$500.).
- (16) Minimum charge for road maintenance between December 1 and March 31: two hundred dollars (\$200.).

ARTICLE II

Cross-Connections

[Adopted 4-2-2013 (Ch. 18 of the 1995 Code); amended in its entirety 12-3-2013]

§ 260-34. Purpose.

- A. New Hampshire Code of Administrative Rules Part Env-Dw 505 requires that the City of Rochester take appropriate actions to prevent the reverse flow of water previously delivered to customers or the backflow of harmful substances into the public water system. Each public water system serving 1,000 or more persons must have a written cross-connection control program ordinance. **[Amended 3-5-2019]**
- B. Cross-connections between water supplies and non-potable sources of contamination represent one of the most significant threats to health in the water supply industry. This program is designed to accomplish the following:
 - (1) To protect the City of Rochester, New Hampshire, public potable water supply from contamination by isolating, within its customers' internal distribution systems, contaminants that could backflow or backsiphon into the public water system.
 - (2) To promote the elimination or control of existing cross-connections, actual or potential, between the customer's in-plant potable and non-potable water systems

by isolating those contaminants that could backflow or backsiphon into the customer's internal distribution system.

- (3) To provide for the maintenance of a continuing program of cross-connection control that will systematically and effectively prevent the contamination of potable water systems via cross-connections.
- (4) To supplement the regulations promulgated and revised by the New Hampshire Department of Environmental Services as listed in § 260-36 below.

§ 260-35. Definitions.

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

AIR GAP (approved for both high- and low-hazard protection) — An unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture, or other device and the flood level rim of the receptacle. Physically defined as a distance equal to twice the diameter of the supply side pipe but never less than one inch.

APPROVED BACKFLOW PREVENTION DEVICE — A backflow prevention device that has been:

- A. Manufactured to allow for accurate testing and inspection so as to allow verification of performance; and
- B. Tested and certified by the University of Southern California, Foundation for Cross-Connection Control and Hydraulic Research.

APPROVED SOURCE — A source of water utilized by a public water system for distribution to the public for consumption purposes and which is approved by the New Hampshire Department of Environmental Services, Water Division, for said use following a required and/or approved treatment process. **[Amended 3-5-2019]**

ATMOSPHERIC VACUUM BREAKER — A device which prevents backsiphonage by creating an atmospheric vent when there is either a negative pressure or sub-atmospheric pressure in a water system.

AUXILIARY WATER SUPPLY — Any water supply on, or available to, a premises other than the City's approved public potable water supply. **[Amended 3-5-2019]**

BACKFLOW — The flow of water or other liquids, mixtures, or substances into the distribution pipes of a potable water supply from any source or sources other than the intended source.

BACKFLOW PREVENTER WITH INTERMEDIATE ATMOSPHERIC VENT — A device having two independently operating check valves separated by an intermediate chamber with a means for automatically venting it to the atmosphere. The check valves are force loaded to a normally closed position and the venting means is force loaded to abnormally open position.

BACKFLOW PREVENTION DEVICE — A device or means designed to prevent backflow or backsiphonage. Most commonly categorized as air gap, reduced pressure principle device,

double check valve assembly, pressure vacuum breaker, atmospheric vacuum breaker, hose bib vacuum breaker, residential dual check, double check with intermediate atmospheric vent, and barometric loop.

BACKFLOW PREVENTION DEVICE INSPECTOR, CERTIFIED — A person who has proven his/her competency to inspect and test backflow prevention devices by the possession of a valid backflow prevention device certification issued by the New England Water Works Association or other equivalent certification approved by New Hampshire Department of Environmental Services.

BACK PRESSURE — Pressure created by mechanical means or other means causing water, liquids, or other substances to flow or move in a direction opposite of what is intended.

BACKSIPHONAGE — The flow of water or other liquids, mixtures, or substances into the distribution pipes of a potable water system from any source other than its intended source, that is caused by negative or reduced pressure in the potable water system.

BAROMETRIC LOOP — A section of pipe rising at least 35 feet at its topmost point above the highest fixture it supplies. It is utilized in water supply systems to protect against backsiphonage (only).

CHECK VALVE — A self-closing device which is designed to permit the flow of fluids in one direction and to close if there is a reversal of flow.

CONTAINMENT PHILOSOPHY — The method and philosophy of backflow prevention which requires a backflow preventer at the service entrance which isolates the customer's facility from the public water supply.

CONTAMINANT — As defined in RSA 485:1-a, II, any physical, chemical, biological or radiological substance or matter in water.

CROSS-CONNECTION — Any actual or potential physical connection or arrangement between two otherwise separate systems, one of which contains potable water and the other of which contains water of unknown or questionable safety and/or steam, chemicals, gases, or other contaminants whereby there may be a flow of an unapproved water or other substance to a potable water system.

CUSTOMER (OWNER) — Any person who has legal title to or license to operate or habitat in a property at which a cross-connection inspection is to be made or at which a cross-connection is present.

DEPARTMENT — The City of Rochester Department of Public Works.

DEVICE UPGRADE — The replacement of an existing backflow prevention device with another appropriate device designed for a higher-hazard duty when the degree of hazard is increased.

DIVISION — Division of Water, New Hampshire Department of Environmental Services.

DOUBLE CHECK VALVE ASSEMBLY or DCA (approved for low-hazard protection only) — An assembly of two independently operating spring-loaded check valves with tightly closing shutoff valves on each side of the check valves, plus properly located test cocks for the testing of each check valve.

FIXTURE ISOLATION PHILOSOPHY — A more complex isolation approach whereby protective devices are placed at individual fixtures within a facility as well as where cross-connections exist at the last free-flowing outlet to ensure occupants of a facility are protected within.

HIGH DEGREE OF HAZARD — A condition where, if a backflow were to occur, the resulting effect on the water supply could cause injury, illness or death if consumed by humans. The foreign substance may be hazardous to humans from a chemical, biological, physical, or radiological standpoint. The effects of the contaminant may result from short- or long-term exposure.

HOSE BIBB VACUUM BREAKER — A device which is attached to a hose bibb and which acts as an atmospheric vacuum breaker. **[Amended 3-5-2019]**

LOW DEGREE OF HAZARD — A condition where, if a backflow were to occur, the resulting effect on the water supply would be a change in aesthetic qualities. The foreign substance must be non-toxic and non-hazardous to humans.

PERMIT — A document issued by the Department that allows the use of a backflow preventer.

PERSON — As defined in RSA 485:I-a, XIII, any individual, partnership, company, public or private corporation, political subdivision or agency of the state, department, agency or instrumentality of the United States, or any other legal entity.

POTABLE WATER — Water from a source that has been approved by the New Hampshire Department of Environmental Services. **[Amended 3-5-2019]**

PREMISES — The industrial, commercial or residential facility or dwelling connected to the public water supply. **[Amended 3-5-2019]**

PRESSURE VACUUM BREAKER or PVB (approved for low-hazard protection only) — A device containing one or two independently operating spring-loaded check valves and an independently operating spring-loaded air inlet valve located on the discharge side of the check or checks. The device includes tightly closing shutoff valves on each side of the check valves plus properly located test cocks for the testing of each of the check valve(s).

PUBLIC WATER SYSTEM — As defined by RSA 485:1-a, XV, a system for the provision to the public of piped water for human consumption, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year. Such term includes any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system, and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. Any water system which meets all of the following conditions is not a public water system:

- A. Consists only of distribution and storage facilities (and does not have any collection and treatment facilities);
- B. Obtains all of its water from, but is not owned or operated by, a public water system; and
- C. Does not sell water to any person.

REDUCED PRESSURE ZONE PRINCIPLE BACKFLOW PREVENTION DEVICE or RPZ (approved for both high- and low-hazard protection) — An assembly consisting of two independently operating approved check valves together with a hydraulically operating, mechanically independent pressure differential relief valve located between the two check valves and below the first check valve. These units are located between two tightly closing, resilient-seated shutoff valves as an assembly and equipped with properly located resilient-seated test cocks for the testing of the check valves and the relief valve.

RESIDENTIAL NO. 7 DUAL CHECK — An assembly of two independently operating, spring-loaded check valves without tightly closing shutoff valves and test cocks. Generally employed immediately downstream of the water meter to act as a containment device. This is a non-testable device.

SITE SURVEYS — Initial site surveys of existing commercial and industrial properties are required to determine degree of compliance with the regulations herein. Such activities shall be executed by the Department either using its own resources or contracted resources. Activities shall include on-site surveys of commercial and industrial users of the public water supply which in the judgment of the Department may present risk of cross contamination.

SUPPLIER — Any person who controls, owns, or generally manages a public water supply system.

WATER SERVICE ENTRANCE — The point in the customer's water system beyond the sanitary control of the Department; generally considered to be the outlet end of the water meter and always before any unprotected branch. **[Amended 3-5-2019]**

WATER TREATMENT CHIEF OPERATOR — The Water Treatment Chief Operator of the City of Rochester, New Hampshire, Water Treatment Facility, Department of Public Works, or his/her designated representative, who is vested with the authority and responsibility for implementation of a cross-connection control program and for enforcement of the provisions of Article I of this chapter and these regulations.

WATER UTILITY — The suppliers of water.

§ 260-36. Authority. [Amended 3-5-2019]

The authority for this article is derived from the New Hampshire Administrative Rules Part Env-Dw 505, Backflow Prevention, and the City of Rochester public water system rules and regulations, as adopted.

§ 260-37. Responsibilities of Department.

The Department is responsible for protecting the public potable water distribution system from contamination due to the backflow or backsiphon of contaminants through the water service connection.

§ 260-38. Duties of Department of Public Works.

- A. The Department will determine if an approved backflow prevention device is required at the City's water service connection to any customer's premises.

- B. The Department may, directly or through a designated representative, give notice in writing to any such customer to install an approved backflow prevention device at each water service connection to his/her premises.
- C. The Department will issue permits for all new backflow prevention devices and amended permits for any upgrades to such devices for higher-hazard duty. No permit will be issued by the Department without an application from the owner.
- D. Permits shall have a duration based upon degree of hazard for the protective device. High-hazard device permits shall have a duration of six months to coincide with semiannual inspection and testing requirements. Low-hazard device permits shall have a duration of 12 months to coincide with annual inspection and testing requirements. All permits shall automatically renew following certification from owner that periodic inspection and testing has been completed on schedule.
- E. There will be no fees for permits issued.
- F. Existing commercial and industrial properties at the time of the issuance of this article shall be the subject of site surveys conducted by the Department to determine the need for backflow prevention devices.
- G. The Department will not allow any cross-connection to remain unless it is protected by an approved backflow preventer for which a permit has been issued and which will be regularly tested per required schedule to ensure satisfactory operation.
- H. If the Department determines at any time that a serious threat to the public health exists, the water service will be terminated immediately.
- I. The Department will maintain records to include all applications for backflow prevention devices, installation, inspection and testing certification forms, notices of inspection/test requirement and permits.
- J. The Department will monitor for permit compliance. Permits shall lapse and become void if inspection and testing are not certified on schedule. A void permit shall constitute grounds for discontinuation of water.
- K. The Department will inform the owner by letter of any failure to comply with scheduled inspection and testing and resulting permit violation. The Department will allow an additional 14 days past the original due date for completion of inspection and testing and owner certification. In the event that the owner fails to provide the certification within the additional 14 days, the Department will inform the owner, by letter, that the water service to the owner's premises will be terminated. In the event that the owner informs the Department of extenuating circumstances as to why the certification has not been made on schedule, a time extension may be granted by the Department, but in no case will exceed an additional 30 days.
- L. All new single-family residential water services will be required to install a residential No. 7 dual check device immediately downstream of the water meter. [**Amended 3-5-2019**]
- M. Installation of a residential dual check valve results in a potential closed plumbing system within the residence. As such, provisions shall be made by the owner to provide

for thermal expansion within the closed loop system, i.e., the installation of thermal expansion devices and/or pressure relief valves.

- N. New and retrofit installations of reduced pressure zone principle devices and double check valve backflow preventer include the installation of strainers located immediately upstream of the backflow device. The installation of strainers will preclude fouling of backflow devices due to both foreseen and unforeseen circumstances occurring to the water supply system such as water main repairs, water main breaks, fires, periodic flushing and cleaning of mains, etc. These occurrences may stir up debris within the water main that will cause fouling of backflow devices installed without the benefit of strainers.

§ 260-39. Requirements of owner. [Amended 3-5-2019]

- A. The owner shall be responsible for the elimination or protection of all cross-connections on his/her premises.
- B. The owner shall ensure the protection of the water supply within his/her premises by the installation of approved backflow prevention devices, where necessary, or by fixture isolation techniques. All testing, inspection and maintenance shall be the responsibility of the owner. Those devices internal to the facility will not be regulated by the Department.
- C. The owner, after having been informed by letter from the Department, shall at his/her expense install, maintain, and test, or have tested, any and all backflow preventers on his/her premises.
- D. On new commercial and industrial installations, the owner or his/her qualified agent supplying the device(s) shall propose the type of backflow preventer, if any, that will be required. The owner shall supply a complete application for the installation of a backflow prevention device and provide it to the Department for permit issuance. The Department shall approve proposed devices.
- E. The owner shall inform the Department of any proposed or modified cross-connections and also of existing cross-connections of which the owner is aware but may not be known by the Department.
- F. The owner shall not install a bypass around any backflow preventer unless there is a backflow preventer of the same type on the bypass. Owners who cannot shut down operation for testing of the device(s) must supply additional devices necessary for testing to take place.
- G. The owner shall install backflow devices with the minimum requirements as provided herein in a manner approved by the Department or its designee and in accordance with approved plumbing regulations. All new devices shall be tested satisfactorily upon installation.
- H. The owner shall install only a backflow preventer approved by the Department and the Division.

- I. Any owner having a private well or other private water source shall not connect ("hard pipe") to the Department's system. The owner may be required to install a backflow preventer at the service entrance if a private water source is maintained, even if it is not cross-connected to the Department's system.
- J. In the event the owner installs plumbing to provide potable water for domestic purposes which is on the Department's side of the backflow preventer, such plumbing must have its own backflow preventer installed.
- K. The owner shall be responsible for the payment of all fees for device installation or replacement, annual or semiannual device inspection and testing, re-testing in the case that the device fails to operate correctly, and second reinsertions for noncompliance with Department rules and regulations.
- L. Should a backflow prevention device be required or an upgraded device, whether determined by the Department or otherwise the owner, the owner shall be responsible for submitting an application for such device to the Department.
- M. There will be no fee for applications submitted.
- N. Owners shall certify the installation of new or upgraded backflow prevention devices in writing to the Department within 90 days of issuance by the Department of the permit.
- O. Failure, refusal, or inability on the part of the owner to install the required initial or upgrade device(s) and provide certification to the Department within 90 days shall constitute grounds for discontinuing water service to the premises until such time as the required certification of compliance is received by the Department.
- P. Owner shall be responsible for providing certification of inspection and testing to the Department within 14 days of regularly scheduled periodic inspection and testing, and retesting following initial test failure if applicable. Failure to submit the certification within 14 days shall void the permit and constitute grounds for discontinuing water service to the premises.
- Q. The owner shall correct at his/her cost any malfunction of the backflow preventer which is revealed by periodic testing. Corrections that impact the required certification schedule above shall be communicated to the Department at the earliest possible time.

§ 260-40. Administration. [Amended 3-5-2019]

- A. Philosophy. The City will administer the program on the theory of containment, the approach of which utilizes a minimum of backflow devices and isolates the customer from the public water supply so that contamination of the public water system does not occur. If he/she so desires, the owner may utilize public health officials or private consultants to assist in the survey of his/her facilities and to assist in the selection of proper fixture isolation devices and the proper installation of these devices.
- B. The owner shall allow his/her property to be inspected for possible cross-connections and shall follow the provisions of the Department's program and the Division's regulations if a cross-connection is required.

§ 260-41. Degree of hazard.

The Department recognizes the threat to the public water system arising from cross-connections. These threats are classified as follows in this section:

- A. Low hazard. If a backflow were to occur, the resulting effect on the water supply would, at the most, be a change in its aesthetic qualities. The foreign substance(s) must be non-toxic to humans. All threats classified as "low hazard" will require, at a minimum, the installation of an approved double check valve assembly.
- B. High hazard. If a backflow were to occur, the resulting effect on the water supply could cause illness, injury or death if consumed by humans. The foreign substances may be hazardous to humans from a physical, chemical, biological, and/or radiological standpoint. The effects of the contaminants may result from short- or long-term exposure. All threats classified as "high hazard" will require the installation of approved reduced pressure zone principle backflow prevention devices or air gaps.

§ 260-42. Auxiliary water sources. [Amended 3-5-2019]

- A. Where a single- or dual-family residential customer served by the public water supply system has or proposes to install an auxiliary water supply (i.e., well, cistern, spring, etc.), the supplier of the water shall protect the public water supply against backflow by requiring the customer to perform one of the following:
 - (1) Permanently disconnect the auxiliary water supply from any direct connection to the public water supply system. An inspection to determine compliance with this requirement shall be made by the supplier of the water, local Director of Building, Zoning, and Licensing Services, or his/her designee. The frequency of the inspections shall be at the time of the disconnection and at periodic intervals thereafter (i.e., every three to five years).
 - (2) Abandon the auxiliary water supply in a manner acceptable to the water supplier.
- B. The Department shall not permit a cross-connection within the public water supply system unless it is considered necessary and that it cannot be eliminated.
 - (1) The customer shall install an approved reduced pressure zone (RPZ) device at the public water supply service connection.
 - (2) The customer shall provide the water supplier with backflow prevention device test results per required schedule or the customer's water service from the water provider will be shut off until the data is supplied to the water supplier.

§ 260-43. Permits. [Amended 3-5-2019]

- A. Cross-connection permits that are required for backflow prevention devices are obtained from the Department. A permit will be issued for each individual device. There will be no fees for initial permits and subsequent renewals. Permits shall be issued with a duration which coincides with the inspection and testing schedule of the device. High-hazard devices shall have permits with durations of six months; low-hazard devices shall have durations of 12 months. Failure of the owner to provide certification of

inspections and testing on the required schedule shall void the permit and constitute grounds for discontinuation of water.

- B. Amended permits shall be issued for any premises whereby there are any increases in degree of hazard such as to supersede the effectiveness of the present backflow preventer. Owners are responsible for submitting applications for the amended permits.
- C. The permit shall contain the information required in New Hampshire Administrative Rules Part Env-Dw 505, Backflow Prevention.
- D. Permits are subject to revocation for cause by the Department and become immediately revoked if the owner should so change the type of cross-connection or degree of hazard associated with the service without proper notification to the Department.
- E. Fixture isolation devices internal to a facility will not be regulated by the Department and permits are not required.

§ 260-44. Existing backflow prevention devices. [Amended 3-5-2019]

Any existing backflow preventer shall be allowed by the Department to continue in service if in good working order unless the degree of hazard is such as to supersede the effectiveness of the present backflow preventer or result in an unreasonable risk to the public health. Permits for existing devices shall be issued with durations to coincide with the required schedule of inspection and testing. Where the degree of hazard has increased, as in the case of a residential installation converting to a business establishment, an existing backflow preventer must be upgraded to an approved device, or an approved device must be installed in the event that no backflow device is present.

§ 260-45. Installation. [Amended 3-5-2019]

- A. Installation requirements. Initial installations, replacements and upgrades shall be performed by an individual with a current backflow prevention device inspector/tester certification from the New England Water Works Association (NEWWA).
- B. Reduced pressure zone backflow prevention devices.
 - (1) The reduced pressure zone backflow prevention device shall be installed on the owner's side of the water meter on the potable water supply line.
 - (2) For "in-plant" protection, lines for safety showers and lines for eye wash units must be taken off the upstream side of the reduced pressure zone backflow prevention device.
 - (3) The reduced pressure zone backflow prevention device shall be located so as to permit easy access and provide adequate and convenient space for maintenance, inspection, and testing. The device must be protected from freezing, flooding, and mechanical damage.
 - (4) The reduced pressure zone backflow prevention device and shutoff valves must be installed in a horizontal alignment between three and four feet from the floor to the bottom of the device and a minimum of 12 inches from any wall, unless

the device is approved by the Department of Public Works or its designee for vertical installations.

- (5) Tightly closing valves must be installed at each end of the device and must be immediately accessible unless otherwise approved by the Department of Public Works or its designee.
- (6) A drain is to be provided for a relief valve port. There must be an approved air gap separation between the port and the drain line. To be approved, the air gap must be at least twice the internal diameter of the discharge line, or two inches minimum.
- (7) Backflow prevention devices are not allowed to be installed below grade or other location that may be prone to unit inundation and/or submergence.

C. Double check valve assemblies.

- (1) The double check valve assembly shall be installed on the owner's side of the water meter on the potable water supply line.
- (2) For "in-plant" protection, lines for safety showers and lines for eye wash units must be taken off the upstream side of the double check valve assembly.
- (3) The double check valve assembly shall be located so as to permit easy access and provide adequate and convenient space for maintenance, inspection, and testing. The device must be protected from freezing, flooding, and mechanical damage.
- (4) The double check valve assembly and shutoff valves must be installed in a horizontal alignment and the top of the double check valve assembly must be between 30 inches and 53 inches from the floor to the bottom of the device and a minimum of 12 inches from any wall, unless the device is approved by the Department of Public Works or its designee.
- (5) Tightly closing valves must be installed at each end of the device and be immediately accessible unless otherwise approved by the Department of Public Works or its designee.
- (6) Double check valve assemblies must be provided with suitable connections and appurtenances for testing.

§ 260-46. Periodic testing. [Amended 3-5-2019]

- A. Backflow prevention devices shall be inspected and tested at least semiannually for high-hazard applications and at least annually for low-hazard applications. All new devices in new facilities shall be tested for positive operation upon installation. Responsibility for ensuring inspections and testing and providing certification to the Department shall be the owner's. Failure to certify inspections and testing on the required schedule shall void the permit and be grounds for discontinuation of water service.
- B. Testing and inspection of all devices, to include reduced pressure principle backflow devices, testable double check valve assemblies, and testable pressure vacuum breakers,

shall be performed by an individual with a current backflow prevention device inspector/tester certification from the New England Water Works Association (NEWWA).

- C. Any backflow preventer which fails during a periodic test shall be repaired or replaced. When repairs are necessary, upon completion of the repair, the device shall be re-tested at the owner's expense to ensure correct operation. High-hazard situations shall not be allowed to continue unprotected if the backflow preventer fails the test and cannot be repaired immediately. The owner is responsible for spare parts, repair tools, or a replacement device. Parallel installation of two devices is an effective means of ensuring that uninterrupted water service during testing and repair of devices is maintained and is strongly recommended when the owner desires such continuity.
- D. Backflow devices will be tested more frequently than specified in Subsection A above in cases where there is a history of test failures and the Department feels that, due to the degree of hazard involved, additional testing is warranted. Cost of the additional testing will be borne by the owner.
- E. Failure to test a backflow prevention device as required, or failure to repair a device when needed, shall result in immediate termination of the water service.⁴

§ 260-47. Conflicting provisions; severability.

- A. If a provision of this article is found to be in conflict with any provision of a zoning, building, safety or health or other ordinance or code of the City of Rochester, or the State of New Hampshire, or the federal government, existing on or subsequent to the effective date of this article, that provision which in the judgment of the City of Rochester establishes the higher standard of safety and protection shall prevail.
- B. The invalidity of any section, clause, sentence, or provision of this article shall not affect the validity of any other part of this article that can be given effect without such invalid part or parts.

§ 260-48. Interpretation.

The provisions of this article with respect to the meaning of technical terms and phrases, the classification of different plumbing devices, the regulations with respect to installing, inspecting, or testing backflow prevention equipment, and other technical matters shall be interpreted and administered by the Department acting in and for the City of Rochester, New Hampshire.

⁴ Editor's Note: Original § 18.16, Records, and § 18.17, Reports, which immediately followed this section, were repealed 3-5-2019.

ZONING

- § 275-12.8. Uses allowed.
- § 275-12.9. Conditional use approvals.
- § 275-12.10. Dredge and fill permits.
- § 275-12.11. Mitigation.
- § 275-12.12. Prohibited uses and activities.
- § 275-12.13. Board of Adjustment.
- § 275-12.14. Very poorly drained soils.
- § 275-14.11. Historic District demolition permit.
- § 275-14.12. Historic District relocation permit.
- § 275-14.13. Determination of hardship.
- § 275-14.14. Demolition by neglect.
- § 275-14.15. Appeals.
- § 275-14.16. Enforcement.

ARTICLE 13

Flood Hazard Overlay District (FHOD)

- § 275-13.1. Authority and purpose.
- § 275-13.2. Regulatory floodway boundaries.
- § 275-13.3. Definitions.
- § 275-13.4. Restrictions in regulatory floodway zone.
- § 275-13.5. Standards.
- § 275-13.6. Variances and appeals.

ARTICLE 14

Historic Overlay District (HOD)

- § 275-14.1. Table of contents.
- § 275-14.2. Purpose and intent.
- § 275-14.3. Applicability.
- § 275-14.4. Historic District Commission.
- § 275-14.5. Definitions.
- § 275-14.6. Designation of Historic District.
- § 275-14.7. Identification of Historic District.
- § 275-14.8. Delineation of Historic District.
- § 275-14.9. Effect of inclusion in Historic District.
- § 275-14.10. Development involving property within Historic District.

ARTICLE 15

Special Downtown Overlay District (SDOD)

- § 275-15.1. Boundaries.
- § 275-15.2. Regulations and restrictions.

ARTICLE 16

(Reserved)

ARTICLE 17

(Reserved)

ARTICLE 18

Use Regulations

- § 275-18.1. Applicability of use regulations.
- § 275-18.2. Use tables.
- § 275-18.3. Permitted uses.
- § 275-18.4. Conditional uses.
- § 275-18.5. Special exceptions.
- § 275-18.6. Uses not permitted/prohibited uses.
- § 275-18.7. Accessory uses.
- § 275-18.8. Uses not listed.
- § 275-18.9. Most specific description to apply.

ARTICLE 19

Dimensional Regulations

- § 275-19.1. Overview.
- § 275-19.2. Dimensional provisions.

ROCHESTER CODE

ARTICLE 20
Standards for Specific Permitted Uses

- § 275-20.1. General provisions.
- § 275-20.2. Conditions for particular uses.

ARTICLE 21
Conditional Uses

- § 275-21.1. General provisions.
- § 275-21.2. Procedures.
- § 275-21.3. Base criteria.
- § 275-21.4. Conditions for particular uses.

ARTICLE 22
Special Exceptions

- § 275-22.1. General provisions.
- § 275-22.2. Base criteria.
- § 275-22.3. Conditions for particular uses.

ARTICLE 23
Accessory Uses

- § 275-23.1. General provisions.
- § 275-23.2. Standards for specific accessory uses.

ARTICLE 24
Home Occupations

- § 275-24.1. Requirements for all home occupations.
- § 275-24.2. Home occupation-1.
- § 275-24.3. Home occupation-2.
- § 275-24.4. Home occupation-3.
- § 275-24.5. Review process without special exception.
- § 275-24.6. Review process with special exception.

§ 275-24.7. Prohibited home occupations.

ARTICLE 25
(Reserved)

ARTICLE 26
Roads and Parking

- § 275-26.1. Minimum parking requirements.
- § 275-26.2. Driveways, curb cuts and parking design.
- § 275-26.3. Commercial vehicles.
- § 275-26.4. Private roads.
- § 275-26.5. Shared driveways.
- § 275-26.6. Class VI roads.

ARTICLE 27
Miscellaneous Provisions

- § 275-27.1. Buffers for residential property.
- § 275-27.2. Cemeteries.
- § 275-27.3. Impact fees.
- § 275-27.4. Lots split by municipal boundaries.
- § 275-27.5. Rivers and shoreland protection.
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- § 275-27.7. Temporary noncompliance.
- § 275-27.8. Planned unit developments.

ARTICLE 28
Performance Standards

- § 275-28.1. Purpose.
- § 275-28.2. General provisions.
- § 275-28.3. Noise.
- § 275-28.4. Other specific standards.
- § 275-28.5. Administration.

§ 275-1.15. Headings.

Under this chapter, many sections, and subsections, are preceded by a heading. These are provided to facilitate use of this chapter only. Only the language in the sections and subsections which follow the headings should be construed as the actual language of this chapter.

§ 275-1.16. Conditional uses and special exceptions.

Many departures from stated standards are allowed by conditional use or by special exception. These departures are articulated throughout the chapter. See Article 21, Conditional Uses, and Article 22, Special Exceptions, for criteria in evaluating these departures from standards.

ARTICLE 2

**Definitions and Terminology
[Amended 2-3-2015; 7-7-2015]****§ 275-2.1. General provisions.**

- A. When used in this chapter, the words, terms, and phrases listed in § 275-2.2 and the acronyms and abbreviations listed in § 275-2.3 of Article 2, Definitions and Terminology, shall have the meanings ascribed to them therein, unless a contrary meaning is clearly indicated or implied.
- B. Ordinary meanings. Words, terms, and phrases that are not defined in Article 2, Definitions and Terminology, shall have their ordinary accepted meanings or those that the context may clearly imply.
- C. Regulations. In cases where there is a conflict in the definition of a word, term, phrase, or acronym given herein and that given in the City of Rochester Site Plan Regulations or City of Rochester Subdivision Regulations, the definition given herein shall be determining.
- D. Interpretations; dictionary. The Director of Building, Zoning, and Licensing Services, or his/her designee, shall have the authority to interpret or define words, terms, and phrases used in this chapter that are not defined in Article 2, Definitions and Terminology. In case of conflicting definitions from various general dictionaries the definitions given in the Random House Webster's Unabridged Dictionary shall be determining.
- E. Designations in this chapter. For the purposes of this chapter, the words "this chapter" refer to this entire Zoning Ordinance, Chapter 275 of the City of Rochester General Ordinances. The words "this article" refer to a specific portion of this chapter, as designated by an article number (such as "Article 1" or "Article 2"). The words "this section" refer to a specific portion of an article designated by a section number (such as "§ 275-1.1" or "§ 275-3.2"). The words "this subsection" refer to a specific portion of a section as designated by a letter or number [such as "A" or "(1)" or "(a)"]. **[Amended 3-5-2019]**

- F. Specific words. The words "shall" and "must" are mandatory, the word "may" is permissive, and the word "should" indicates a preferred or encouraged but not necessarily a required course of action. The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular. "Occupied" or "used" shall be considered as though followed by "or intended, arranged or designed to be occupied or used." "Includes" (or "including") means "includes, but is not limited to." The word "person" includes an individual, firm, association, condominium association, organization, partnership, trust, entity, company or corporation as well as an individual.
- G. Other sections. Specialized sets of definitions are given in other sections in this chapter. In case of conflict between a definition given in a section and that given in another section, the definition given in the other section shall apply only within that specific section. Additional definitions are provided in the following sections: Aquifer Protection Overlay District (§ 275-10.3), Aviation Overlay District (§ 275-11.1), Conservation Overlay District (§ 275-12.6), Flood Hazard Overlay District (§ 275-13.3), Historic Overlay District (§ 275-14.6), and signs (§ 275-29.11).

§ 275-2.2. Definitions.

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

ABUTTER — Pursuant to RSA 672:3 "Abutter" means any person whose property is located in New Hampshire and adjoins or is directly across the street or stream from the land under consideration by the local land use board. For purposes of receiving testimony only, and not for purposes of notification, the term "abutter" shall include any person who is able to demonstrate that his/her land will be directly affected by the proposal under consideration. For purposes of receipt of notification by a municipality of a local land use board hearing, in the case of an abutting property being under a condominium or other collective form of ownership, the term "abutter" means the officers of the collective or association, as defined in RSA 356-B:3, XXIII. For purposes of receipt of notification by a municipality of a local land use board hearing, in the case of an abutting property being under a manufactured housing park form of ownership as defined in RSA 205-A:1, II, the term "abutter" includes the manufactured housing park owner and the tenants who own manufactured housing which adjoins or is directly across the street or stream from the land under consideration by the local land use board.

ACCESSORY APARTMENT — An independent dwelling unit subordinate to a single-family house. (See Article 23, Accessory Uses.)

ACCESSORY STRUCTURE —

- A. A building or structure that:
- (1) Is not attached to the principal building or structure on a lot or tract;
 - (2) Accommodates a use customarily or reasonably associated with the use of the principal building or structure;
 - (3) Is incidental and subordinate to the primary building, structure, or use; and
 - (4) Is located on the same lot or tract as the principal building, structure, or use.

B. Examples include garages, driveways, parking lots, sheds, signs, fences, and light poles.

ACCESSORY USE — A use that:

- A. Is customarily or reasonably associated with the principal use;
- B. Has hours of operation the same as or less than the principal use;
- C. Is incidental and subordinate to the principal use; and
- D. Is located on the same lot or tract as the principal use. (For determinations whether a proposed use is an accessory use see Article 23, Accessory Uses.) (See also "secondary use.")

ADAPTIVE REUSE — The development of a new use for an older building or for a building originally designed for a different purpose.

ADULT DAY-CARE CENTER — A facility providing day or evening time care for five or more persons over 16 years of age who are in need of supervision or assistance or a facility that is not located in the home of the provider.

ADULT DAY-CARE HOME — Daytime care in the home of the provider for up to four persons (at any one time) over 16 years of age who are in need of supervision or assistance and who are not related to the provider.

ADULT-ORIENTED ESTABLISHMENTS — Includes, without limitation, adult bookstores, adult motion-picture theaters, adult mini-motion-picture theaters, adult cabarets, and/or massage parlors. When used in connection with the phrase "adult-oriented establishments," the following words and phrases shall have the following meanings ascribed to them:

- A. **ADULT BOOKSTORE** — An establishment having a substantial or significant portion of its stock and trade in books, films, video cassettes, DVDs, any digital or electronic media or magazines and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas as defined below, for sale, rental, or display to patrons thereof, including but not limited to establishments having facilities for the presentation of adult entertainment, as defined below, including adult-oriented films, movies or live entertainment, for observation by or display to patrons therein.
- B. **ADULT CABARET** — A nightclub, bar, restaurant or similar establishment which, during a substantial portion of the total presentation time, features live performances involving adult entertainment.
- C. **ADULT MOTION-PICTURE THEATER** — An enclosed building with a capacity of 50 or more persons regularly used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined below, for observation by patrons therein.
- D. **ADULT MINI-MOTION-PICTURE THEATER** — An enclosed building with a capacity of fewer than 50 persons regularly used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined below, for observation by patrons therein.

- E. **ADULT ENTERTAINMENT** — Any exhibition of any adult-oriented motion pictures, live performance, display or dance or any type performance which has as a significant or substantial portion of such performance any actual or simulated performance of specified sexual activities or exhibition and viewing of specified anatomical areas, removal of articles of clothing or appearing unclothed, pantomime, modeling, or any other personal services offered customers.
- F. **MASSAGE PARLOR** — An establishment or place primarily in the business of providing non-therapeutic massage services which involve performance of specified sexual activities and/or the touching or manipulation of specified anatomical areas (in contrast to a legitimate massage studio employing licensed massage therapists).
- G. **SPECIFIED SEXUAL ACTIVITIES** —
- (1) Human genitals in a state of sexual stimulation or arousal.
 - (2) Acts of human masturbation, sexual intercourse or sodomy.
 - (3) Fondling or erotic touching of human genitals, pubic region, buttocks or female breasts.
- H. **SPECIFIED ANATOMICAL AREAS** —
- (1) Less than completely and opaquely covered:
 - (a) Human genitals, pubic region;
 - (b) Buttocks;
 - (c) Female breasts below a point immediately above the top of the areola; and
 - (2) Human male genitals in a discernibly tumescent state, even if completely opaquely covered.

AGENT (OF OWNER) — Any person who can show written evidence that he/she is acting on behalf of the property owner.

AGRICULTURE — See "farm."

AIRPORT — A facility used for landings and takeoffs by commercial and private fixed wing or rotary wing aircraft. It typically includes aircraft storage and service facilities.

ALLOWED USE — A use permitted by right, by conditional use, by special exception, or by another approval process.

ALTERNATE TOWER STRUCTURE (or STEALTH FACILITY) — Innovative siting techniques that shall include man-made trees, inclusion in or on bell steeples, clock towers, hose towers, existing light poles, and similar alternative-design mounting methods that camouflage or conceal the presence of antennas.

ANTENNA — See "tower."

ANTENNA SUPPORT STRUCTURE — A building, pole, telescoping mast, tower, or other such structure which supports an antenna or radio frequency spectrum repeaters.

ANTIQUÉ SHOP — See "retail establishments."

issuing notices of violation, cease-and-desist orders, fines and penalties, local land use citations, injunctions, or warnings; withholding of permits or approvals, where applicable; seeking to negotiate a reasonable solution with the alleged violator; or referring the alleged violations to the City Solicitor or the City of Rochester Police Department, or to other local, state, and federal agencies. See RSA 676:15 to 676:17-b.

- D. The owner of record of a property is responsible for ensuring that his/her/its property complies in full with all provisions of this chapter.
- E. Any person, partnership, association, company, corporation or individual who or which violates, disobeys, omits, neglects, or refuses to comply with the provisions of this chapter shall be deemed guilty of a misdemeanor if a natural person or guilty of a felony if any other person and, upon conviction thereof by a court of competent jurisdiction, shall be punished by a civil fine as set forth in RSA 676:17.
- F. Every violation of these regulations shall be a separate and distinct offense.
- G. Safe site conditions. Any person, company, or other entity who or which has been served with a notice and ceases any work or other activity shall not leave any structure or lot in such a condition as to be a hazard to public health or safety or a detriment to the general welfare.
- H. Where any successful legal action is brought by the City to enforce this chapter, the City may recover its out-of-pocket costs and reasonable attorneys' fees actually expended in pursuing the legal action (in accordance with RSA 676:17, II).

§ 275-3.5. Amendments.

- A. Procedure. The procedure for amending this chapter is specified in RSA 675:2 and 675:7. Amendments to this chapter may be initiated by any citizen, the Planning Board, the City Council, the Mayor, the City Manager, or any department or other City board or commission in accordance with this chapter. The chronological steps for enacting zoning amendments are as follows:
 - (1) Petition form. A blank petition form is obtained from the Planning and Development Department.
 - (2) Submission.
 - (a) The petition is completed and returned to the City Clerk's office along with a fee of one hundred dollars (\$100.) and any other pertinent materials. In the case of text amendments (see Subsection B below) the petition shall include specific proposed language.
 - (b) The fee is not charged, and the formal petition form need not be used, for amendments initiated by any board, commission, department, or other City official acting in an official capacity.
 - (3) The City Clerk's office forwards a copy of the petition to the Planning and Development Department.
 - (4) Deadline. See RSA 675:2 and 675:7.

- (5) Council consideration.
 - (a) The petition is placed on the City Council agenda for consideration. At its discretion, the Council may deny the petition at this stage. If acceptable, it is sent to the City Attorney to place it into legal form.
 - (b) At the discretion of the City Manager, this step may be skipped and the petition may be sent directly to the City Attorney to place into legal form.
- (6) Legal form. The City Attorney places the petition into legal form.
- (7) First reading. City Council holds first reading on the petition. At its discretion the Council may deny the petition at this stage. When a petition is denied at any stage, the Council may elect to initiate an alternative amendment or to request that the Planning Board formulate an alternative amendment.
- (8) Planning Board recommendation.
 - (a) The Planning Board makes a formal recommendation on the petition. The Board must make its recommendation within 45 days of first reading. At its discretion, the City Council may extend this time frame up to an additional 30 days.
 - (b) If the Planning Board recommends against a zoning amendment, a two-thirds vote of the City Council shall be required to adopt the amendment. If the Planning Board does not submit a recommendation within 45 days of first reading (or as may be extended by the City Council) or if it does not make a recommendation, then it shall be deemed a favorable recommendation for the purpose of this subsection herein.
 - (c) Where the Planning Board initiates an amendment, the proposal shall not be sent to the Board for a recommendation.
- (9) Public hearing. A public hearing is held, either by the full City Council or by a subcommittee of the City Council. The public notice must be placed in a newspaper of general circulation at least 10 days prior to the public hearing and it must be posted in at least two public locations. The full text of the proposed amendment need not be included in the notice if an adequate statement describing the proposal is stated in the notice.
- (10) Second reading.
 - (a) Second reading is held and the amendment is either adopted or denied. Any proposed amendment shall require a majority affirmative vote of Council members present in order to pass except where the Planning Board has recommended denial (as discussed above). The City Council shall take final action on any petition within 120 days of first reading (except in the case of protest petitions; see Subsection C below).
 - (b) The Council may make minor changes to the proposed amendment at second reading/adoption, provided the amendment remains substantially the same as that which was advertised for the public hearing.

- (b) Location. Within the OC District parking is allowed in rear yards only but may be permitted in side yards upon a finding that off-street parking is appropriate in this situation, rear yard parking is not practical, the side yard parking will be completely screened, and there will be no significant adverse impact on the streetscape.
 - (c) Fronting on the street. New off-street parking areas on lots fronting on the street, situated in front yards, or visible in any prominent manner from the street are not permitted. In the course of site plan review for new applications any existing parking areas or lots that do not meet this requirement shall be mitigated to the extent fair and practical (see Article 30, Nonconforming Property).
 - (d) Driveways. Where driveways are approved, parking is permitted within the driveway portion located in front and side yards.
- (4) Driveways. No part of any driveway or curb cut may be located in front of the front facade of any primary building; rather, they must be situated along or in close proximity to side lot lines, unless otherwise approved by the Planning Board, Building, Zoning, and Licensing Services Department, or Department of Public Works. **[Amended 3-5-2019]**
 - (5) New buildings. The architectural regulations under the Site Plan Regulations should be strictly applied.

§ 275-6.5. Highway Commercial District (HC).

A. District location.

- (1) The HC District tends to be located further from the City center and is oriented toward larger parcels, larger buildings, high-value development, and retail sales (i.e., "big box development," large shopping centers, and franchise development). The HC District may include parcels of land located on both the easterly and westerly sides of the main traffic artery. These parcels will benefit from any improvements to be made to the main traffic artery.
- (2) Parcels located on the side of the main traffic artery may have direct contact with, and benefit from, the service road planned to be built alongside the main traffic artery and intersections connecting to this service road, if and when opportunities for construction of this service road and these intersections develop.

B. Objectives.

- (1) The HC Districts are geared toward high-volume automobile traffic and, accordingly, less stringent design standards are appropriate.
- (2) Provide landowners and developers with flexible yet clearly defined requirements.
- (3) Minimize infrastructure cost to the City through good planning for the district as a whole rather than based upon individual lots.

- (4) Maximize the developable areas on the parcels within the district through creation of flexible dimensional requirements.
- (5) Minimize traffic impacts to the main traffic artery through implementation of a service road and shared intersections with the main traffic artery.

C. Development standards.

- (1) Architectural renderings, landscaping, signage, and lighting shall be required in the HC commercial corridors.
- (2) The HC District includes older, tighter and more built-out commercial strips with smaller lots, smaller buildings, and less room for new development. The full range of conventional automobile-oriented uses is permitted in the HC District, fast food, drive-through restaurants, car washes, and retail stores, along with warehouses and light industry. The HC District is the only district in which the sale of exclusively used automobiles (without also requiring sales of new automobiles) is permitted.
- (3) The HC District permits larger signs and taller light poles.
- (4) Parking. Parking in front of buildings and large lots fronting the road is acceptable within the HC Districts.

D. HC District pavement dimensional regulations. For new construction, the setbacks shown in the table below shall apply to pavement used for parking and interior accessways. Driveways into the site from the service road are exempt from these setbacks. These setbacks guarantee a minimum ten-foot wide area for landscaping around the perimeter of the site (five feet plus five feet for adjoining lots along the side lot lines). This subsection shall supersede perimeter landscaping buffer requirements (15 feet along the front and 10 feet along the side lot lines) established in the Site Plan Regulations.

	Minimum Property Line Setbacks (in feet)		
	Front	Side	Rear
Pavement	10	5	10

E. HC District service road regulations. The following requirements apply to those lots situated alongside the main traffic artery, on which the planned service road and access roads leading to or from the service road are to be situated.

- (1) Rights-of-way. To the extent practical and appropriate, as determined by the Planning Board, as part of any proposed site plan or subdivision plan, each landowner/developer shall incorporate into his/her plan, on the subject land, a sixty-foot wide right-of-way for the construction of the service road and/or access road(s). The right-of-way shall traverse the subject lot from the southerly lot line to the northerly lot line, as appropriate, and in the case of any access road, from the easterly to the westerly lot line, as appropriate, in accordance with the layout of the planned service road and access road(s).

- (2) Temporary termination. Where the service road has not been built on the lot adjacent to the subject property, a temporary cul-de-sac shall be built on the subject property to provide for an appropriate turnaround and future connection to the service road on that adjacent lot. Appropriate provisions may be established by the Planning Board to facilitate seamless connection of that cul-de-sac in the future to a service road on the adjacent lot, when that road may be constructed. The temporary cul-de-sac shall conform to the City of Rochester Subdivision Regulations.
- (3) Intersections with the main traffic artery. As part of any site plan or subdivision plan, the landowner/developer shall incorporate predetermined access points onto the main traffic artery into his/her plan.
- (4) NHDOT. Developers shall coordinate with the New Hampshire Department of Transportation (NHDOT) regarding the design of the access roads and any intersections with the main traffic artery, where it is a state highway.

F. HC District road design standards. **[Amended 3-5-2019]**

- (1) Service and access roads for new construction shall comply with the following standards:
 - (a) Right-of-way: 60 feet.
 - (b) Lane width (each): 12 feet.
 - (c) Paved shoulder (each): four feet.
 - (d) Sidewalk (bituminous): five feet.
 - (e) Grass strip: five feet (between road and sidewalk).
 - (f) Curb: determined by site plan review.
 - [1] Sloped: side without sidewalk.
 - [2] Vertical: side with sidewalk.
 - (g) Cross-sectional requirements:
 - [1] Wearing course: one inch (NHDOT Item 403.11).
 - [2] Bearing course: two inches (NHDOT Item 403.11).
 - [3] Crushed gravel: six inches (NHDOT Item 304.3).
 - [4] Bank-run gravel: 12 inches (NHDOT Item 304.2).
- (2) All materials shall be installed in compliance with NHDOT specifications and the City of Rochester Subdivision Regulations.

G. HC District stormwater management requirements.

- (1) Stormwater controls for each individual site plan shall be designed in compliance with the New Hampshire Stormwater Manual Volume 2, or the most recent version. To ensure adequate stormwater control given the more flexible

dimensional regulations, these design guidelines shall be followed regardless of any requirement imposed as part of the New Hampshire Department of Environmental Services alteration of terrain permitting (for 100,000 square feet + \- of disturbed surface).

- (2) The Planning Board shall consider proposals for use of innovative stormwater control structures, such as porous pavement, bioretention areas, gravel wetlands, etc. If the Board concludes that use of these structures is in order, then:
 - (a) It may be appropriate to allow for interior landscaped islands within parking lots to be constructed without perimeter curbing if the curbing would interfere with the routing of the stormwater.
 - (b) The Planning Board is hereby empowered to adjust parking requirements specified in Article 26, Roads and Parking, herein.

H. HC District utility standards for new construction.

- (1) All utilities shall be underground.

I. HC District parking lot interconnections.

- (1) Where practical, and not impeded by wetlands or other physical constraints, parking lots shall be interconnected between sites.
- (2) Appropriate cross easements shall be developed between properties to accommodate parking lot interconnections.

J. HC District design standards.

- (1) Trash and delivery areas. The lots situated between the service road and the main traffic artery call for special treatment because they have double frontages.
 - (a) Whenever practical, and not impeded by wetlands or other physical constraints, trash and delivery areas shall be located off of a shared access driveway between sites.
 - (b) The access driveway may be located at/along the side lot line(s), with each lot having its own trash and delivery area located off this access driveway.
 - (c) Trash, delivery, and loading areas shall be well screened from the main traffic artery.
- (2) Facade treatment. Building facades fronting on the service road and the main traffic artery shall both be treated as front facades, both thereby meriting attractive treatment, under the architectural standards included in the City of Rochester Site Plan Regulations.
- (3) Outdoor seating. Restaurant proprietors are encouraged to include seasonal outdoor seating.
- (4) Signage. All provisions of Article 29, Signage, herein shall apply.

the westerly side of Route 11/Farmington Road may have direct contact with, and benefit from, the service road planned to be built on the westerly side of Route 11/Farmington Road and intersections connecting to this service road, if and when opportunities for construction of this service road and these intersections develop.

§ 275-8.3. Pavement dimensional regulations.

The setbacks shown in the table below shall apply to pavement used for parking and interior accessways. Driveways into the site from the service road are exempt from these setbacks. These setbacks guarantee a minimum ten-foot-wide area for landscaping around the perimeter of the site (five feet plus five feet for adjoining lots along the side lot lines). This section shall supersede perimeter landscaping buffer requirements (15 feet along the front and 10 feet along the side lot lines) established in the Site Plan Regulations.

	Minimum Property Line Setbacks (in feet)		
	Front	Side	Rear
Pavement	10	5	10

§ 275-8.4. Granite Ridge Development Study.

This article was created pursuant to the March 2009 "Granite Ridge Development Study, Farmington Road, Rochester, New Hampshire," prepared by CLD Consulting Engineers. This study should be referred to for reference in designing, reviewing, and approving proposed site plans and subdivision plans.

§ 275-8.5. Service road regulations.

The following requirements apply to those lots situated on the westerly side of Route 11/Farmington Road, on which the planned service road and access roads leading to or from the service road are to be situated.

- A. Rights-of-way. To the extent practical and appropriate, as determined by the Planning Board, as part of any proposed site plan or subdivision plan, each landowner/developer shall incorporate into his/her plan, on the subject land, a sixty-foot-wide right-of-way for the construction of the service road and/or access road(s). The right-of-way shall traverse the subject lot from the southerly lot line to the northerly lot line, as appropriate, and in the case of any access road, from the easterly to the westerly lot line, as appropriate, in accordance with the layout of the planned service road and access road(s).
- B. Temporary termination. Where the service road has not been built on the lot adjacent to the subject property, a temporary cul-de-sac shall be built on the subject property to provide for an appropriate turnaround and future connection to the service road on that adjacent lot. Appropriate provisions may be established by the Planning Board to facilitate seamless connection of that cul-de-sac in the future to a service road on the adjacent lot, when that road may be constructed. The temporary cul-de-sac shall conform to the City of Rochester Subdivision Regulations.

- C. Route 11 intersections. As part of any site plan or subdivision plan, the landowner/developer shall incorporate predetermined Route 11 access points into his/her plan.
- D. NHDOT. Developers shall coordinate with the New Hampshire Department of Transportation (NHDOT) regarding the design of the access roads and any intersections with Route 11.

§ 275-8.6. Road design standards. [Amended 3-5-2019]

- A. Service and access roads shall comply with the following standards:
 - (1) Right-of-way: 60 feet.
 - (2) Lane width (each): 12 feet.
 - (3) Paved shoulder (each): four feet.
 - (4) Sidewalk (bituminous): five feet.
 - (5) Grass strip: five feet (between road and sidewalk).
 - (6) Curb: granite.
 - (a) Sloped: side without sidewalk.
 - (b) Vertical: side with sidewalk.
 - (7) Cross-sectional requirements:
 - (a) Wearing course (minimum): one inch (NHDOT Item 403.11).
 - (b) Bearing course: two inches (NHDOT Item 403.11).
 - (c) Crushed gravel: six inches (NHDOT Item 304.3).
 - (d) Bank-run gravel: 12 inches (NHDOT Item 304.2).
- B. All materials shall be installed in compliance with NHDOT specifications and the City of Rochester Subdivision Regulations.

§ 275-8.7. Stormwater management requirements.

- A. Stormwater controls for each individual site plan shall be designed in compliance with the New Hampshire Stormwater Manual Volume 2. To ensure adequate stormwater control given the more flexible dimensional regulations, these design guidelines shall be followed regardless of any requirement imposed as part of the New Hampshire Department of Environmental Services alteration of terrain permitting (for 100,000 square feet +/- of disturbed surface).
- B. The Planning Board shall consider proposals for use of innovative stormwater control structures, such as porous pavement, bioretention areas, gravel wetlands, etc. If the Board concludes that use of these structures is in order, then:

§ 275-10.17. When effective.

This article shall be effective upon adoption by the Rochester City Council.

ARTICLE 11

Aviation Overlay District (AOD)**§ 275-11.1. Definitions.**

As used in this article, unless the context otherwise requires, the following terms shall have the meanings indicated:

AIRPORT — Any area of land or water, whether constructed or not, which has been approved as a site for landing and taking off of aircraft or utilized by the public as a point of arrival or departure by air, hereinafter referred to as "Skyhaven Airport."

AIRPORT APPROACH ZONE —

- A. For Runway 33, an area which is 1,000 feet wide at a point 200 feet from the end of the pavement and 4,000 feet wide at a point 10,200 feet from the end of the pavement, or future pavement extended.
- B. For Runway 15, an area which is 1,000 feet wide at a point 200 feet from the end of the pavement and 1,500 feet wide at a point 5,200 feet from the end of the pavement, or future pavement extended.
- C. The center line of these areas shall coincide with the center line of the landing strips extended.

AIRPORT HAZARD — Any structure, tree, smoke, steam, dust, or other substance which obstructs the aerial approaches of Skyhaven Airport or impairs the reasonable visibility in the vicinity thereof; electrical impulses and disturbances which interfere with radio aids or communications; and lights which might result in glare in the vision of pilots or aircraft or be confused with airport lights.

BUILDING RESTRICTION LINE — A line parallel to the center line of the runway which limits the location of any permanent structure. The location of the building restriction line is shown and described on the Airport Layout Plan.

NONCONFORMING USE — Any structure, tree, or use of land which does not conform to a regulation prescribed in this article or an amendment thereto as of the effective date of such regulations.

PERSON — Any individual, firm, copartnership, corporation, company, association, joint-stock association, or body politic, and includes any trustee, receiver, assignee, or similar representative thereof.

STRUCTURE — Any object constructed or installed by man, including such objects although regulated or licensed by other provisions of law.

TREE — Any object of natural growth.

§ 275-11.2. Land subject to restrictions.

In order to carry out the purposes of this article, all of the land within the boundaries of the approach zones and all of the land within a distance of 12,000 feet from the airport reference point shown on the Rochester Airport Approach Plan dated December 16, 1983 (attached hereto and made a part hereof),¹³ is hereby declared subject to the restrictions of this article.

§ 275-11.3. Height limits.

No structure or tree shall be erected, altered, or allowed to grow within the areas described in § 275-11.2 hereof above a slope ratio of 34 feet to one foot measured from the end of Runway 33 or a ratio of 20 feet to one foot measured from the end of Runway 15 or above a slope ratio of seven feet to one foot measured from the side of the landing strips and the approaches, or within an ellipse formed by connecting the ends of two semicircles having radii of 10,000 feet from points located 200 feet beyond the ends of pavement on center line extended at each end of Runways 15/33 above a height of 150 feet above the airport elevation, except that the Zoning Board of Adjustment shall have the power to grant a variance of this regulation where literal application or enforcement of the same would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but do substantial justice and be in accordance with the spirit of this article.

§ 275-11.4. Use restrictions.

Notwithstanding any other provisions of this chapter, no use may be made of the land described in § 275-11.2 hereof in such manner as to create electrical interference with radio aids or communications between airport and aircraft, make it difficult for flyers to distinguish between airport lights and others, result in glare in the eyes of flyers using the airport, impair visibility in the vicinity of the airport by the creation and discharge of smoke, steam, dust, or other obstructions to visibility, or otherwise endanger the landing, taking off, or maneuvering of aircraft.

§ 275-11.5. Nonconforming uses.

The regulations prescribed in §§ 275-11.3 and 275-11.4 hereof shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as of the effective date hereof or otherwise interfere with the continuance of any nonconforming use. Nothing herein contained shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this article and is diligently prosecuted and completed within two years thereof.

13. Editor's Note: The Airport Approach Plan is included at the end of this article.

§ 275-11.6. Variances.

Any person desiring to erect any structure or increase the height of any structure, or permit the growth of any tree, or use his/her property not in accordance with the regulations prescribed

and public water supply, which may arise because of the inappropriate use of land within the CO District.

- C. Minimize impacts to existing land uses and lots (see § 275-12.5, Exemptions; preexisting residential structures, uses and lots).
- D. Prevent the destruction of, or significant changes to, those wetland areas, related water bodies and adjoining land which provide flood protection; protect persons and property against the hazards of flood inundation by assuring the continuation of the natural flow patterns of streams and other watercourses; and provide for nutrient attenuation and augmentation of stream flow during dry periods.
- E. Encourage those uses that can be appropriately and safely located within the CO District.
- F. Protect native wildlife habitat and natural vegetation upon which a variety of upland and aquatic species are dependent for purposes of breeding or sustenance.

§ 275-12.2. Overlay district defined.

The overlay district shall include rivers, lakes, ponds, perennial streams, vernal pools, all jurisdictional wetlands and the surrounding upland areas of each of these resources.

§ 275-12.3. Buffer defined.

In all cases the more restrictive buffer shall be used.

Buffer	Location
75 feet	Cocheco River, Salmon Falls River and Isinglass River from the ordinary high-water mark of the river
50 feet	Named streams and surface water from the ordinary high-water mark listed in Table I below ¹⁴
50 feet	Edge of jurisdictional wetland consisting of very poorly drained soils ¹
50 feet	Edge of jurisdictional wetland consisting of poorly drained soils ¹
50 feet	Vernal pools ²

Notes:

1. The precise location of a wetland boundary in any particular case must be determined by on-site inspection by a New Hampshire certified wetland scientist.
2. Vernal pools that shall be identified by a New Hampshire certified wetland scientist and may be subject to review by the Conservation Commission.

14. Editor's Note: Table I is included at the end of this article.

§ 275-12.4. Delineation process. [Amended 3-5-2019]

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

§ 275-12.5. Exemptions; preexisting residential structures, uses and lots.

The following are exempt:

- A. All wetlands less than 1/2 acre in size, except vernal pools.
- B. Wetland conditions resulting from the following: constructed drainage structures, including but not limited to swales, ditches, and basins; actively maintained agricultural/irrigation ponds; and septage lagoons.
- C. Notwithstanding other provisions of this article, the construction of additions and extensions to one- and two-family dwellings and accessory residential uses shall be permitted within the CO District provided that:
 - (1) The dwelling or residential use lawfully existed prior to the original adoption of the Conservation Overlay District on October 7, 2003;
 - (2) The proposed construction conforms to all other applicable ordinances and regulations of the City of Rochester; and
 - (3) The dwelling or use continues in its present use.
- D. Lots of record, except that any lot requiring subdivision (i.e., that creates two or more lots) or minor site/site plan review must meet the requirements of this article.
- E. Preexisting subdivisions and site plans. Exemptions:
 - (1) Subdivisions, site plans and planned unit developments approved by the Planning Board and existing at the time of passage of this article shall be exempt from this article, as governed by the provisions of RSA 674:39.
 - (2) Completed applications approved by the Planning Board are exempt from this article herein.
 - (3) Condominium conversions where there are no improvements proposed to the site are exempt from this article.
- F. This article becomes applicable in the following situations:
 - (1) Nonresidential site plans for additions, expansions, or changes in use.
 - (2) Site plans for new commercial, industrial, or multifamily development.
 - (3) New subdivisions.

§ 275-12.6. Definitions.

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

BUFFER — The protected upland areas adjacent to wetlands and surface waters in the Conservation Overlay District other than the wetlands themselves.

ORDINARY HIGH-WATER MARK — The line on the shore, running parallel to the main stem of the river, established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the immediate bank, shelving, changes in the character of soil, destruction of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas. Where the ordinary high-water mark is not easily discernible, the ordinary high-water mark may be determined by the Department of Environment Services. Source: Comprehensive Shoreland Protection Act, page 7 from the State of New Hampshire web page, 1998.

OVERLAY DISTRICT — A zoning district superimposed on one or more established underlying zoning districts to impose supplemental restrictions on uses in these districts.

POORLY DRAINED SOIL — As defined by high-intensity soil maps for New Hampshire sponsored by the Society of Soil Scientists of Northern New England Special Publication No. 1, September 2002. **[Amended 3-5-2019]**

VERNAL POOLS —

- A. Temporary bodies of water that flood each year for a few months during the spring and summer. Vernal or "spring" pools fill up with melting snow and early rains, then usually dry up by mid to late summer. Some relatively deep pools may remain flooded for a few years but become completely dry in seasons with very low rainfall. Autumnal pools fill during the fall with rising groundwater.
- B. Because vernal pools are not permanently flooded, they do not support fish populations and thus provide safe breeding sites for several amphibian and invertebrate species, including wood frogs, spotted salamanders, and fairy shrimp. These species have evolved life cycles that depend on temporary pools.
- C. Vernal pools vary in size, ranging from several square feet to several acres. They can be found in a variety of sites, such as isolated depressions in the woods, kettle holes, and gravel pits. Many are within larger wetlands, such as oxbows in river floodplains and pools in forested swamps or scrub-shrub wetlands. Their common characteristics are the absence of fish, temporary flooding regime, and the presence of vernal pool species. Suitable pools must have enough leaf litter and other debris to provide food sources and cover for the species that breed in them. Source: ASNH Conservation Fact Sheet: Vernal Pools.

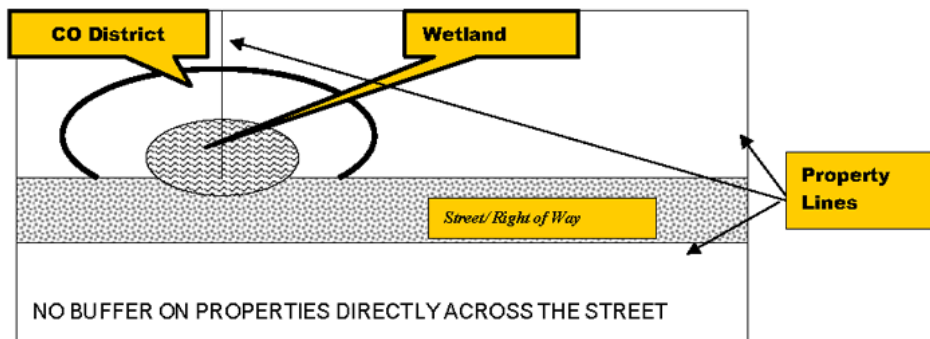
VERY POORLY DRAINED SOIL — As defined by high-intensity soil maps for New Hampshire sponsored by the Society of Soil Scientists of Northern New England Special Publication No. 1, September 2002. **[Amended 3-5-2019]**

WETLAND — As defined by the National Food Security Act Manual (Soil Conservation Service, 1994) and the Corps of Engineers Wetlands Delineation Manual (1987) and the most recent version of the Regional Supplement to the Corp of Engineers Wetland Delineation

Manual: Northcentral and Northeast Region, those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for a life in saturated soil conditions. Wetlands include, but are not limited to, swamps, marshes, bogs and similar areas. [Amended 3-5-2019]

§ 275-12.7. Buffer application.

Buffers are applied irrespective of lot lines and municipal boundaries, except (as shown in the below diagram) that when a wetland is bounded by City Class V or a state or federal highway, existing at the time of passage of this article, buffers are not applied to properties directly across the right-of-way.



§ 275-12.8. Uses allowed.

- A. The CO District is an overlay district. Where the provisions of this article conflict with those of the underlying zoning district, the more restrictive standards shall apply.
- B. The following uses are allowed in this district:
 - (1) Wildlife habitat development and management.
 - (2) Conservation areas and nature trails, provided that the Planning Board, in consultation with the Conservation Commission, reviews and approves plans of such areas and trails prior to their development.
 - (3) Recreation, including open-air recreational uses consistent with the purpose and intent of this article, such as cross-country skiing, ice skating, hiking, and photography.
 - (4) Education, including natural and environmental science walks, wildlife and botanical studies and similar activities.
 - (5) Seasonally permitted hunting and fishing, as regulated by New Hampshire Fish and Game Department.

- (3) The variance is the minimum necessary, considering the flood hazard, to afford relief.
- C. The Zoning Board of Adjustment shall notify the applicant in writing that the issuance of a variance to construct below the base flood level will result in increased premium rates for flood insurance up to amounts as high as twenty-five dollars (\$25.) for one hundred dollars (\$100.) of insurance coverage and such construction below the base flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions.
- D. The community shall maintain a record of all variance actions, including their justification for their issuance, and report such variances issued in its annual or biennial report submitted to FEMA's Federal Insurance Administrator.

ARTICLE 14
Historic Overlay District (HOD)
[Amended 3-5-2019]

§ 275-14.1. Table of contents.

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§ 275-14.2. Purpose and intent.

- A. This article is established by the Rochester City Council pursuant to and in accordance with NH RSA 673:4 and 674:44a through 674:50. The purpose of the Rochester Historic Overlay District is to promote the general welfare of the community by:
 - (1) Safeguarding the cultural, social, political, and economic heritage of the City;

- (2) Fostering the preservation, restoration, and rehabilitation of structures and places of historic, architectural, and community value;
 - (3) Fostering civic pride in the beauty and noble accomplishments of the past;
 - (4) Furthering the attractiveness of the City of Rochester to home buyers, tourists, visitors, and shoppers, thereby providing economic benefit to the City;
 - (5) Conserving and improving the value of property in the District; and
 - (6) Enhancing opportunities, where applicable, for financial benefits for owners of historic properties through grants, low interest loans, tax credits, and other tax benefits.
- B. New construction is an essential process in a vital community, representing the current phase of an evolution that has been ongoing since the settlement of Rochester. There are a number of ways of designing new buildings and additions that will meet the objectives of this article. State of the art contemporary architecture is appropriate, and encouraged, provided that it is respectful of the historic fabric of the District.

§ 275-14.3. Applicability.

This article applies to all properties located within the boundaries of the Historic Overlay District.

§ 275-14.4. Historic District Commission.

A. Membership.

- (1) **Composition.** The Historic District Commission shall consist of seven regular members and up to five alternate members. Two seats among the regular members are designated for one member of the City Council and one member of the Planning Board, respectively. Likewise, two seats among the alternate members are designated to one member of the City Council and to one member of the Planning Board, respectively, which two alternate members may only sit for the regular City Council and Planning Board members, respectively. All Commission members shall be appointed in accordance with the provisions of Section 74 of the Rochester City Charter.
- (2) **Qualifications.** All members shall be residents of the City of Rochester. In reviewing the qualifications of a candidate for the Commission, the Council/Planning Board shall consider his/her demonstrated interest and experience in, and knowledge of, historic preservation and his/her ability to administer this article consistent with its purpose and intent. To the extent that such persons are available the Council/Planning Board shall seek members with backgrounds or interest in the fields of architecture, planning, historic preservation, history, archaeology, anthropology, engineering, construction, real estate, and law. At least one member shall live or work in the Historic District.

- (3) Appointments. The members of the Historic District Commission shall be appointed for terms of three years. Initial appointments shall be staggered so that subsequent terms will not be coterminous.
- B. Powers and duties. The Historic District Commission shall have the following powers and duties:
- (1) Applications. Reviewing and approving, approving with conditions, or denying applications for certificates of approval.
 - (2) Consultation. Calling upon City staff, citizens, abutters to applicants, and professionals, as it sees fit, for input, consultation, and recommendations on matters before the Commission.
 - (3) Surveys. Conducting small area or community-wide surveys of historic, architectural, and cultural resources.
 - (4) National register. Nominating structures and districts for listing in the National Register and reviewing all proposed National Register nominations within the City; keeping a record of all properties which are included in the local historic districts, listed in the National Register, and determined eligible for National Register listing.
 - (5) Planning. Preparing historic resources components of local master plans and ensuring that historical resources are considered at every level of local decision-making.
 - (6) Advice and advocacy. Advising other agencies of local, state, and federal government regarding, and advocating on behalf of, the identification, protection, and preservation of local historic, architectural, archaeological, and cultural resources.
 - (7) Liaison. Acting as a liaison between local government and individuals or organizations concerned with historic preservation.
 - (8) Other applications. Commenting on applications for site plan/subdivision approval, zoning amendments, variances, special exceptions, and other approvals affecting property in the Historic District or other historic resources.
 - (9) Amendments. Investigating and recommending to the Planning Board and City Council amendments to this article and appropriate areas for designation as historic districts.
 - (10) Education. Educating individual members of the Commission, municipal officials, property owners, and the public about the historic district and historic preservation.
 - (11) Signage and recognition. Developing and administering a system of markers and monuments recognizing individual properties and the district and acknowledging special contributions toward historic preservation by members of the community.

- (12) Budget. Developing and submitting an annual request for funds to the City Council if desired. Subject to the availability of funds, the Commission may retain consultants.
- (13) Rules and regulations. Adopting, and from time to time amending, rules and regulations which are consistent with the intent of this article and appropriate state statutes.
- (14) Other. Undertaking any other appropriate action or activity necessary to carry out its mission as embodied in this article.

§ 275-14.5. Definitions.

The following definitions apply to this article only.

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

CONTRIBUTING PROPERTY (STRUCTURE OR SITE) — Also known as an "historic property." A property that contributes positively to the Historic Overlay District's architectural quality and integrity as a result of its location, design, history, condition, quality, age, materials, workmanship, feeling, and/or association.

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

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

HISTORIC OVERLAY DISTRICT — Also known as "Historic District" and "District." An overlay zone district as described in this chapter.

MASSING — The shapes, sizes, and arrangement of the three-dimensional forms that compose a building.

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

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

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

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

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

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

§ 275-14.6. Designation of Historic District.

- A. Procedures for designation. The Rochester Historic District functions as a zoning overlay district. It is the role of the Historic District Commission to evaluate properties within the overlay district and to designate specific properties as contributing properties. The District boundaries may be amended and new historic districts may be designated and delineated following the amendment procedure described in this chapter¹⁵ with the provision that:
- (1) The Historic District Commission may initiate such amendments;
 - (2) The Historic District Commission shall have an opportunity to comment on any such proposed amendments prior to enactment by the Codes and Ordinances Commission and by City Council; and
 - (3) The Historic District Commission designate individual lots or parcels of land within the overlay district as contributing property upon determination by the Historic District Commission that the criteria for designation within this section are met.
- B. Criteria for designation. Any building, group of buildings, site, property, group of properties, or area (collectively referred to herein as "site") proposed for inclusion in the Rochester Historic District should generally (but not necessarily) be at least 50 years old and possess one or more of the features listed below. These criteria should be considered when the Commission, Planning Board and/or City Council deliberate the enlargement or reduction of an existing district or the creation of a new district. In any district which contains multiple properties or structures, not every property or structure need meet these criteria; rather the district overall should embody a meaningful degree of continuity, cohesiveness, integrity, and a prevailing conformance with one or more of the criteria.
- (1) The site embodies distinguishing characteristics of, or high quality in, design, detailing, materials, craftsmanship, or a particular architectural style.

15. Editor's Note: See § 275-3.5, Amendments.

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

§ 275-14.7. Identification of Historic District.

- A. This district may be referred to as the "Historic Overlay District, "HOD," or "Rochester Historic District." A Zoning Map of the Rochester Historic District," as amended, which shows the Historic Overlay District, is hereby incorporated as part of this article and is on file with the City Clerk. Within the District are contributing and noncontributing buildings as identified by the Historic District Commission and on file with the City of Rochester Planning Department. The Zoning Map and all the notations, references, district boundaries, and other information shown thereon shall be as much a part of this article as if all were fully described therein. See § 275-14.8 which lists properties in the district by Assessor's Map and lot numbers.
- B. Surveys, maps and historic context papers. The Planning Director or designee shall conduct or cause to be conducted such preliminary surveys, studies or investigations as deemed necessary or advisable to adequately inform the Historic District Commission of those properties located within the City which represent Rochester's history. The Planning Director or designee shall memorialize the results of surveys, studies and investigations in a series of historic inventory forms, maps and/or historic context papers. Said inventory forms, maps, and context papers shall be maintained by the Planning Department and shall be made available for public inspection at all reasonable times. These resources shall be referenced by the Historic District Commission when reviewing applications for changes or boundary adjustments within the Historic Overlay District.

§ 275-14.8. Delineation of Historic District.

The Rochester Historic District is defined as that area made up of the lots listed below as delineated on the Rochester Tax Maps. Unless otherwise noted or shown on the map, all of the land composing each lot shall be considered to lie within the District. The District also includes all City property necessary to make a contiguous district. (Note that in the case of

discrepancy between the Zoning Map and this list of lots, the Zoning Map shall be determining.) Lots in the District include:

- A. Tax Map 116, Lots 156-162, and 201-204;
- B. Tax Map 120, Lots 322-324, 332-340, 342, 342-1, 343, 346, 347, 351, 352, 354, 355, 358-367, 379-381, 383-390, 392-408, and 419-422;
- C. Tax Map 121, Lots 9-18, 28, 29, 361-364, 366-368, 368-1, 369-400; and
- D. Tax Map 125, Lots 1, 181, 182, and 202-204.

§ 275-14.9. Effect of inclusion in Historic District.

- A. Approvals required. Any development involving properties included within the boundaries of the Historic Overlay District, unless determined exempt, requires the approval of a certificate of no negative effect or a certificate of approval before a building permit or any other work authorization will be issued by the City.
- B. Design guidelines.
 - (1) The Historic District Commission has adopted design guidelines, hereinafter referred to as "the guidelines." These guidelines set forth the standards necessary to preserve and to maintain the historic and architectural character of the Historic Overlay District. The standards apply to the exterior features of properties within the District and are intended to offer assistance to property owners undertaking construction, rehabilitation, alterations, or other exterior changes. The guidelines will be periodically reviewed by the Historic District Commission and amended at a public hearing as needed.
 - (2) The guidelines will be used in the review of requests for certificate of no negative effect or certificates of appropriateness. Conformance with applicable guidelines is strongly recommended for the approval of any proposed project.
 - (3) The guidelines effectively replace the architectural regulations under the site plan regulations for properties located within the Historic Overlay District. The architectural regulations and site plan regulations and associated reviews do not apply.
- C. Special consideration for contributing and noncontributing buildings within the Historic District. To preserve and maintain the historic and architectural character of the District, the Historic District Commission or City Council may approve variations from the requirements set forth in the Land Use Code and may make recommendations to the Chief Building Official who has the authority to grant certain exceptions from the International Building Code (IBC) through the provisions of the International Existing Building Code (IEBC).
- D. To the extent practicable and appropriate, as determined by City staff and the Commission, applicants may file applications for various permits, to the Planning Board, Zoning Board of Adjustment, Building Department, etc., simultaneously, or in any appropriate order, in order to save time. This provision, however, shall not be

construed in a manner which would prevent the Commission from conducting a thorough review as it sees fit.

- E. All City authorities, including the Historic District Commission and City Council, are authorized to grant economic and developmental benefits to historic properties within the Historic District.
- F. In cases where the Historic District Commission has purview, the Planning Board shall not have jurisdiction over architectural design. The architectural regulations under the site plan regulations shall not apply. Nonetheless, the Planning Board shall review all other elements of a site otherwise subject to its review.
- G. Property owned by the City of Rochester shall be subject to review and approval by the Commission in like manner to all other property in the City situated within the district; provided, however, that a vote by 2/3 of the total membership of the Rochester City Council may override any vote of the Commission pertaining to land or property owned by the City of Rochester.

§ 275-14.10. Development involving property within Historic District.

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

- A. Exempt activity. A certificate of appropriateness or certificate of no negative effect shall not be required for the following activities. A project may be subject to other requirements within this chapter.
 - (1) Work completed on a single-family or duplex building within the Historic Overlay District.
 - (2) Structures which are not buildings as defined in this article (such as light poles, street furniture, and fences).
 - (3) Work performed on the interior of buildings that does not effect the exterior appearance.
 - (4) Land uses. Land uses are not be regulated through this article herein nor by the Commission. Permitted uses are set forth elsewhere in this chapter. However, in cases where the applicant is unable or unwilling to develop a design which conforms to the guidelines and requirements herein because of unusual constraints in the nature of the proposed use, the Commission is by no means required to issue a certificate of approval simply to accommodate that permitted use. (Example: A gasoline station might be permitted in the Historic District, but if no design is presented for which the appearance of the canopy and the pump stations meet the standards of this article, then the application should be denied, even though this specific permitted use may thereby be precluded.)

- (5) Elements which are appurtenant to a building but which are not integral to the building, including antennas, satellite dishes, flagpoles, mailboxes, window air conditioning units, and similar elements.
- (6) Installation or removal of any plants.
- (7) Color of paint or stain of wood siding with the condition that the paint color or stain is from an approved historic paint color palette. Refer to the City of Rochester Planning Staff for approved historic paint color palettes.
- (8) Installation of pavement or other impervious or semi-impervious material in an already established parking area.
- (9) Minimally intrusive work that does not adversely affect the historic character of the property or District as determined by Planning Staff.

B. Certificate of no negative effect.

- (1) An application for a certificate of no negative effect may be made to the City of Rochester Planning Department for approval of work that has no adverse effect on the physical appearance or character-defining features of a property located within the Historic Overlay District. An application for a certificate of no negative effect may be approved by the Planning Director or designee with no further review if it meets the requirements set forth below.
 - (a) The Planning Director or designee shall issue a certificate of no negative effect within 14 days after receipt of a complete application if:
 - [1] It is determined that the activity is an eligible work item and meets the City Historic Preservation Design Guidelines; and
 - [2] Any modifications to the proposed work requested by the Planning Director or designee are agreed to by the owner/applicant; and
 - [3] The proposed work will not diminish, eliminate or adversely affect the significant historic and/or architectural character of the subject property or Historic District in which it is located.
 - (b) An application for a certificate of no negative effect shall include the following:
 - [1] Elevations or drawings of plans not less than 1/8 inch showing the proposed work.
 - [2] Photographs, building material samples and other exhibits, as needed, to accurately depict location, extent and design of proposed work.
 - [3] Demonstrated compliance with applicable design guidelines.
 - (c) The following work shall be considered for a certificate of no negative effect:
 - [1] Replacement of architectural features which creates no change to the exterior physical appearance of the building or structure.

- [2] Installation of awnings on historic properties.
 - [3] Signs.
 - [4] Alterations to noncontributing buildings within the Historic Districts that have no adverse effect on its historic or architectural character.
 - [5] Alterations to non-street-facing facades on contributing buildings within the Historic District that have no adverse effect on its historic or architectural character.
 - [6] Small structures or additions of 250 square feet or less in size.
 - [7] Installation of site improvements, such as walkways, patios, decks, or similar significant features.
- (2) In the event that the Planning Director or designee determines that the issuance of a certificate of no negative effect is not appropriate or the design guidelines are not met, the owner may apply for a certificate of appropriateness from the HDC.
- C. Certificate of approval. An application for a certificate of approval shall be submitted to the Rochester Historic District Commission through the Planning Department no fewer than 10 days prior to a Commission meeting. However, upon an affirmative vote of at least four members of the Commission this deadline may be reduced on a case-by-case basis for good cause.
- (1) Intent. It is the intent of this article to make the review process as simple and pleasant as practical. The applicant need only submit those materials which the Commission reasonably determines are necessary to conduct an appropriate review.
 - (a) On small or straightforward projects submission of the application, a letter of intent, a verbal description, and/or one or more sketches drawn by the applicant may suffice.
 - (b) In the case of more elaborate proposals or those potentially having a significant impact upon sensitive properties, any or all of the materials listed below may be required as the Commission sees fit. While the use of an architect is not required under this article, there will be many situations where it will be difficult to provide appropriate drawings and to meet the objectives of this article without the use of an architect, particularly where new construction or additions are involved.
 - (c) Applicants are encouraged to speak with the Planning Department prior to preparing an application package to get a preliminary sense of which of the items below might not be needed.
 - (2) Application requirements.
 - (a) The application package may include any or all of the items listed below as stipulated by the Historic District Commission:
 - [1] A completed application form as provided by the City shall include:

- [a] The purpose of the proposed project.
 - [b] The nature and scope of the work to be performed.
 - [2] Site plans drawn to scale clearly depicting existing conditions and proposed work.
 - [3] Elevation drawings to scale of each affected facade of the building clearly depicting existing conditions and proposed work.
 - [4] Detail drawings of appropriate elements (such as the balustrade for a handicapped ramp).
 - [5] Photographs of each impacted side of the building.
 - [6] Sample, swatch, and/or manufacturer's cut sheet of materials to be used (such as a brick), as appropriate.
 - [7] A written description of how the project meets the applicable design guidelines.
 - [8] Any other items which the Commission may reasonably need to conduct its review.
- (b) No fees of any kind shall be charged for applications to the Commission or to cover any of the costs of reviewing the application.
- (3) Procedures for review of the application. Recognizing that a lengthy approval process can be costly to landowners, developers, and business owners, the Commission shall seek to take final action at its earliest reasonable opportunity, which in many cases will be at the first regular meeting of the Commission at which the application is presented.
- (a) The Planning Director or designee shall review the application materials submitted for certificate of appropriateness approval and request additional information as necessary.
 - (b) Staff shall review the submittal material and prepare a report that analyzes the project's conformance with the design guidelines and other applicable Land Use Code sections. This report will be transmitted to the HDC with relevant information on the proposed project and a recommendation to continue, approve, disapprove or approve with conditions and the reasons for the recommendation. The HDC will review the application, the staff analysis report and the evidence presented at the hearing to determine the project's conformance with the design guidelines.
 - (c) Action by Historic District Commission.
 - [1] The Historic District Commission shall take action, i.e., to approve, approve with conditions, or deny, on all applications within 65 days of the meeting at which the Commission accepts the application as complete. This time frame may be extended either by consent or request of the applicant or upon formal request from the Commission

to, and written authorization from, the City Manager for an additional period not to exceed 65 days.

- [2] Failure by the Commission to act within the period of time specified above (with or without extensions) shall be deemed to constitute approval of the application as submitted. A certificate of approval shall be effective for two years after the date of approval. If an applicant has not secured a building permit within that time frame, or has not substantially commenced work in cases where no building permit is required, the certificate shall lapse. The Commission may grant extensions as it reasonably determines appropriate.
 - (d) Meetings of the Historic District Commission are public meetings and may require notice to the public as specified in New Hampshire State Statute and the City of Rochester Municipal Code. The public is encouraged to attend. When notice is required, the Planning Department shall process notices for public hearings.
 - (e) The Commission may seek advice from such professional, educational, cultural, or other resources as is deemed necessary.
 - (f) The HDC may approve, disapprove, approve with conditions or continue the application to obtain additional information necessary to make a decision to approve or deny. The Commission may make nonbinding recommendations to the applicant on elements outside of its purview, such as on paint, color of wood, parking lot layout, or planting materials. The Commission shall notify the applicant of its decision. When an application is rejected as being incomplete or denied, the reason(s) for the decision shall be conveyed to the applicant and clearly stated in the record of proceedings of the Commission. Any steps recommended to remedy deficiencies or flaws in the proposal shall also be conveyed to the applicant.
 - (g) A monitoring committee comprised of two representatives from the Commission shall be assigned to the approved project to oversee and approve amendments that may arise during construction.
- D. Amendments. There are two processes for amending plans approved pursuant to a certificate of appropriateness. All requests for amendments must be in writing and accompanied by drawing(s) and elevations as specified below.
- (1) Insubstantial amendments.
 - (a) Insubstantial amendments are minor modifications to HDC approved plans that:
 - [1] Address circumstances discovered in the course of construction that could not have been reasonably anticipated during the approval process; or
 - [2] Are necessary for conformance with building safety or accessibility codes and do not materially change the approved plans; or

- [3] Approve specific building materials, finishes, design of ornamental trim and other such detail not provided in the HDC approved plans:
or
 - [4] Change the shape, location or material of a building element or feature but maintain the same quality and approximate appearance of that found in the approved plans.
- (b) The Planning Director or designee and the monitoring committee may authorize amendments to approved plans. Decisions of the Planning Director or designee or monitoring committee are binding.
- (2) Other amendments. The Planning Director or designee or monitoring committee may determine that the proposed changes do not meet the design guidelines and remand the matter to the HDC for a decision by the Commission. Approval of amendments by the Planning Director or designee and the monitoring committee shall be reported to the HDC at their regularly scheduled meetings.

§ 275-14.11. Historic District demolition permit.

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

A. Exempt activity.

- (1) Demolition of a single-family or duplex building within the Historic Overlay District.
- (2) Demolition of structures which are not buildings as defined in this article (such as light poles, street furniture, and fences).
- (3) Demolition work performed on the interior of buildings that does not effect the exterior appearance.
- (4) Demolition of elements which are appurtenant to a building but which are not integral to the building, including antennas, satellite dishes, flagpoles, mailboxes, window air-conditioning units, and similar nonhistoric elements.

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

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

- [1] Written documentation that the Director of Building, Zoning and Licensing Services has determined the building an imminent hazard that cannot be repaired; or
 - [2] Narrative text, graphic illustrations or other exhibits that provide evidence that the building, structure or object is of no historic or architectural value or importance.
- (b) The staff shall review the submittal material and prepare a staff report that analyzes the request relative to the criteria for approval.
- (2) Review procedures.
- (a) Criteria to be met.
 - [1] The HDC shall review the application, the staff report and hear evidence presented by the property owners and parties of interest to determine if the standards for demolition approval have been met. Demolition shall be approved if it is demonstrated that the application meets any one of the following criteria:
 - [a] The property has been determined by the City to be an imminent hazard to public safety and the owner/applicant is unable to make the needed repairs in a timely manner; or
 - [b] The structure is not structurally sound despite evidence of the owner's efforts to properly maintain the structure; or
 - [c] The structure cannot practically be moved to another appropriate location in Rochester; or
 - [d] No documentation exists to support or demonstrate that the property has historic, architectural, archaeological, engineering or cultural significance.
 - [2] Additionally, for approval to demolish and to grant a historic district demolition permit, all of the following criteria must be met:
 - [a] The structure does not contribute to the significance of the Historic Overlay District; and
 - [b] The loss of the building, structure or object would not adversely affect the integrity of the Historic Overlay District or its historic, architectural or aesthetic relationship to adjacent historic properties; and
 - [c] Demolition of the structure will be inconsequential to the historic preservation needs of the area.
 - (b) The HDC shall approve, disapprove, approve with conditions or continue the application to obtain additional information necessary to consider the demolition request.

- (c) If the demolition request is denied because it does not meet the aforementioned standards, the applicant may request demolition approval based upon approval of a determination of hardship as set forth below.
- (d) Before a demolition permit will be issued, a certificate of approval for the redevelopment as described above, must be approved. When a demolition permit must be issued because the building is an imminent hazard or because of the issuance of a determination of hardship, the permit may be received prior to the receipt of a certificate of approval.

§ 275-14.12. Historic District relocation permit.

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

A. Exempt activity.

- (1) Relocation of a single-family or duplex building.
- (2) Relocation of structures which are not buildings as defined in this section (such as light poles, street furniture, and fences).
- (3) Relocation of elements which are appurtenant to a building but which are not integral to the building, including antennas, satellite dishes, flagpoles, mailboxes, window air-conditioning units, and similar nonhistoric elements.

B. Application. An application for relocation shall include:

- (1) A written description and/or graphic illustrations of the building, structure or object proposed for relocation.
- (2) A written explanation of the type of relocation requested (temporary, on-site or off-site) and justification for the need for relocation.
- (3) A written report from a licensed engineer or architect regarding the soundness of the building, structure or object, its ability to withstand the physical move and its rehabilitation needs, once relocated.
- (4) A conceptual plan for the receiving site providing preliminary information on the property boundaries, existing improvements and site characteristics and the associated planned improvements.
- (5) If the applicant does not own the receiving site, proof from the site's property owner of the willingness to accept the relocated building, structure or object.
- (6) Evidence that the applicant has or is seeking the necessary approvals to place the building on the identified receiving site.
- (7) Evidence of the financial ability to undertake the safe relocation, preservation and repair of the building, structure or object; site preparation and construction of

necessary infrastructure through the posting of bonds or other financial measures deemed appropriate.

- (8) Supplementary materials to provide an understanding of the larger context for the relocated property and its impact on adjacent properties, the neighborhood or streetscape.
- (9) Additional information may be requested by the Historic District Commission as needed to complete the review.

C. Procedures for the review of historic district relocation permit.

- (1) The Planning Director or designee shall review the application materials submitted for relocation approval. Upon determination of a complete application, the project shall be scheduled before the HDC.
- (2) Staff shall review the submittal material and prepare a report that analyzes the project's conformance with the standards for relocation approval set forth below, the City Historic Preservation Design Guidelines and other applicable Land Use Code sections. This report will be transmitted to the HDC with relevant information on the proposed project and a recommendation to continue, approve, disapprove or approve with conditions and the reasons for the recommendation. The HDC will review the application, the report and the evidence presented at the hearing to determine if the standards for relocation have been met.
- (3) The HDC shall approve, disapprove, approve with conditions or continue the application to obtain additional information necessary to make a decision to approve or deny.

D. Standards for relocation.

- (1) Relocation for a building will be approved if it is determined that it meets any one of the following standards:
 - (a) It does not contribute to the overall character of the historic district or parcel on which it is located and its relocation will not have an adverse impact on the Historic District or property; or
 - (b) The owner has obtained a determination of hardship; or
 - (c) The relocation activity is demonstrated to be an acceptable preservation method given the character and integrity of the building and its move will not adversely affect the integrity of the Historic District in which it was originally located or diminish the historic, architectural or aesthetic relationships of adjacent designated properties; and
- (2) Additionally, for approval to relocate and to grant a historic district relocation permit all of the following criteria must be met:
 - (a) It has been determined that the building, structure or object is capable of withstanding the physical impacts of relocation:
 - (b) An appropriate receiving site has been identified; and

- (c) An acceptable plan has been submitted providing for the safe relocation, repair and preservation of the building, structure or object, including the provision of the necessary financial security.

§ 275-14.13. Determination of hardship.

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

- A. Standard of review. The standard of review for a determination of economic hardship will be whether refusing to allow the property owner to demolish the property would result in a violation of the prohibitions of the United States and New Hampshire Constitutions against taking of private property for public use without just compensation as those prohibitions are interpreted by the courts of New Hampshire and the United States. In applying the standards, the economic benefits of financial, developmental and technical assistance from the City and the utilization of any federal and state rehabilitation tax credit programs may be considered.
- B. Application requirements.
 - (1) Upon receiving a request for a certificate of economic hardship, the Planning Director or designee shall provide a written response within 14 days as to the submittal materials required.
 - (2) Within five days after receipt of an application for a certificate of economic hardship, the Planning Director or designee shall determine whether the application is complete. If he/she determines that the application is not complete, the Director shall notify the applicant in writing of the deficiencies. The Director shall take no further steps to process the application until the deficiencies have been remedied.
 - (3) The application fee shall be set to defray all costs of the review process, including the fees of an independent hearing officer.
- C. Review process.
 - (1) When the application is complete, the Planning Director or designee will refer the application to the Historic District staff member and the City Attorney for review. The Historic District staff member and City Attorney shall jointly prepare a report setting forth the City's response.
 - (2) In the event the City response concludes that the application does not demonstrate a case of economic hardship, the application can apply for an administrative appeal before Zoning Board of Adjustment.
 - (3) The Zoning Board of Adjustment will be contracted by the City to conduct an impartial quasi-judicial hearing on the question of economic hardship. If deemed

necessary, the ZBA may hire, at the applicant's expense, a consulting professional(s) with sufficient legal and technical experience to conduct a fair hearing on the matter. The application, all support materials and the consultants/City's report shall be provided to the ZBA in advance of the hearing. At the hearing the applicant will be provided with an opportunity to present his/her application and may be represented by counsel. The City position will be presented by the City Attorney/consultant.

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

§ 275-14.14. Demolition by neglect.

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

- A. Standards for reasonable care and upkeep. The owner or such other person who may have legal possession, custody and control thereof of a designated property shall, upon written request by the City, repair the following exterior features if they are found to be deteriorating or if their condition is contributing to deterioration such that it is likely to compromise the building's structural integrity or as to create or permit the creation of any hazardous or unsafe condition to life, health or other property. These features include, but are not limited to:
- (1) Deterioration of exterior walls, foundations or other vertical supports that causes leaning, sagging, splitting, listing or buckling.
 - (2) Deterioration of flooring or floor supports or other horizontal members that causes leaning, sagging, splitting, listing or buckling.
 - (3) Deterioration of external chimneys that cause leaning, sagging, splitting, listing or buckling.
 - (4) Deterioration or crumbling of exterior plasters or mortars.
 - (5) Ineffective waterproofing of exterior walls, roofs and foundations, including broken windows or doors.
 - (6) Defective protection or lack of weather protection for exterior wall and roof coverings, including lack of paint or weathering due to lack of paint or other protective covering.
 - (7) Rotting, holes and other forms of decay.

- (8) Deterioration of exterior stairs, porches, handrails, window and door frames, cornices, entablatures, wall facings, ornamental trim and other architectural details that cause delamination, instability, loss of shape and form or crumbling.

B. Enforcement procedures.

- (1) The HDC or Planning Director or designee may file a petition listing specific defects, in accordance with Subsection A above, with the Director of Building, Zoning and Licensing Services, requesting that the official act under the following procedures to require the correction of the defects or repairs to designated properties.
- (2) Whenever a petition is filed, the Director of Building, Zoning and Licensing and Services shall attempt to make direct personal contact with the owner or other such persons having legal possession or custody and/or his/her representative. If personal contact cannot reasonably be accomplished, then written notification of the specific defects purported by the HDC and a request to inspect the property within 10 days will be mailed to the owner and other such persons having legal possession, custody and control and will be posted at a conspicuous location appropriate to the identified defects. In the written notification the Chief Building Official shall document the nature of the specific defects and the corrective action ordered.
- (3) After receiving agreement from the owner, his/her representatives or other such persons having legal possession, custody and control of the property for an inspection, the Chief Building Official and the HDC Officer shall, within 10 working days, conduct an investigation and prepare a written report determining whether the property requires work to address conditions set forth in Subsection A above.
- (4) If the property is found to contain conditions needing correction, the owner, his/her representative or other such persons having legal possession, custody and control of the property will be served within 14 days with a complaint identifying the property deficiencies and providing notice that a hearing will be held by the City Council within 45 days. The purpose of the hearing is to:
 - (a) Receive evidence concerning the charge of deterioration; and
 - (b) Develop a plan and schedule for making the needed repairs in a timely fashion, such that the building is stabilized and the deterioration is arrested; and
 - (c) Ascertain whether the owner or other parties intend to make application for financial assistance from the City to correct the building defects.
- (5) Following such notice and hearing, City Council will make a determination if there are any corrections required pursuant to Subsection A above and shall state in writing the findings of fact in support of that determination. If it is determined that the building or structure is undergoing deterioration or if its condition is contributing to deterioration, the owner or other parties of interest will be served an order to repair those defective elements of the structure within a reasonable specified time frame.

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

§ 275-14.15. Appeals.

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

§ 275-14.16. Enforcement.

This article shall be enforced as provided for in the Rochester Zoning Ordinance.

ARTICLE 15

Special Downtown Overlay District (SDOD)

§ 275-15.1. Boundaries.

The boundaries of the Special Downtown District coincide with the fire limits established in § 40-13 of the Code of the City of Rochester. The district includes those areas classified on the Rochester Zoning Map as Downtown Commercial (DC) and Neighborhood Mixed-Use (NMU) adjacent to North Main Street up to Washington Avenue and South Main Street in Rochester proper and Main Street in the NMU in Gonic and East Rochester.

- (k) Small wind energy systems that may be connected to the power grid, including a copy of the application for interconnection with the electric utility provider.
 - (l) Sound level analysis prepared by the wind generator manufacturer or a qualified engineer.
 - (m) Electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the New Hampshire State Building Code and to any local amendments adopted by the City of Rochester.
 - (n) Evidence of compliance with or nonapplicability of Federal Aviation Administration requirements.
 - (o) A shadow flicker analysis including:
 - [1] A plan showing the seasonal shadow patterns of the proposed facility, the occupied buildings on the abutting properties, and building setback lines on the abutting properties; and
 - [2] An evaluation of the shadow flicker impacts on the abutting properties, including the extent and length of shadow flicker impacts.
 - (p) List of abutters to the applicant's property.
 - (q) Any other information required for issuance of building and electrical permits.
- (7) Abutter notification and appeals.
- (a) The Director of Building, Zoning, and Licensing Services shall notify all abutters by verified mail, as defined in RSA 451-C:1, VII, upon application for a building permit to construct a small wind energy system. The cost of abutter notification shall be paid by the applicant. Abutters shall be afforded a thirty-day comment period prior to the issuance of a building permit. **[Amended 3-5-2019]**
 - (b) An appeal may be made to the Zoning Board of Adjustment pursuant to RSA 676:5.
 - (c) The Director of Building, Zoning, and Licensing Services shall also notify the City Council of the application.
 - (d) The Director of Building, Zoning, and Licensing Services shall determine whether the proposal qualifies as a development of regional impact pursuant to RSA 36:56. If the Director determines that it does then he/she shall follow the procedures set forth in RSA 36:57.
- (8) Standards. The following standards apply to small wind energy systems. The Director of Building, Zoning, and Licensing Services shall evaluate the application for compliance with these requirements.
- (a) Tower height. The maximum tower height is the lesser of:

- [1] One hundred fifty feet; or
 - [2] Thirty-five feet above the height of the overall prevailing canopy of trees within 300 feet of the proposed tower.
- (b) Setbacks. The following setback requirements apply to small wind energy systems:
- [1] The tower must be set back (measured from the center of the tower base) from every property line of the subject property a distance equal to:
 - [a] The system height multiplied by 1.1; or
 - [b] The regular setback otherwise applicable in the zoning district, whichever is greater.
 - [2] The tower must be set back (measured from the center of the tower base) a distance equal to the system height multiplied by 1.5 from:
 - [a] Any occupied building on an abutting property;
 - [b] The buildable area on an abutting property as determined by the setbacks on that abutting property;
 - [c] Any existing utility transmission or distribution lines; and
 - [d] The edge of pavement of any public roads.
 - [3] Guy wires used to support the tower must be set back at least five feet from any property line.
- (c) Sound level. The small wind energy system shall not exceed 55 decibels using the A scale (dBA), as measured at the site property line, except during short-term events such as severe windstorms and utility outages.
- (d) Shadow flicker. Small wind energy systems shall be sited in a manner that does not result in significant shadow flicker impacts. Significant shadow flicker is defined as more than 30 hours per year of shadow flicker on abutting occupied buildings. The applicant has the burden of demonstrating compliance with this requirement. Potential impacts may be addressed through special siting and/or mitigation measures.
- (e) Signs. All signs, including flags, streamers and decorative items, both temporary and permanent, are prohibited on small wind energy systems. Manufacturer identification or appropriate warning signs are allowed.
- (f) Code compliance. The small wind energy system shall comply with all applicable sections of the New Hampshire State Building Code and with any local amendments adopted by the City of Rochester.
- (g) Aviation. The small wind energy system shall be built to comply with all applicable Federal Aviation Administration regulations, including but not limited to 14 CFR Part 77, Subpart B, regarding installations close to

airports, and the New Hampshire Aviation Regulations, including but not limited to RSA 422-b and 424.

- (h) Visual impacts. Inherently, small wind energy systems can create some visual impacts due to the tower height needed to access wind resources. The purpose of this subsection is to reduce the visual impacts without unduly restricting the owner's access to the optimal wind resources on the property.
 - [1] The applicant shall demonstrate through project site planning and mitigation measures that the visual impacts of the small wind energy system, including ground-mounted electrical and control equipment, will be minimized for surrounding neighbors and the greater community. These measures may include, but are not limited to, special site selection, wind generator design, buffering, and screening.
 - [2] All electrical service leading to the small wind energy system shall be underground.
 - [3] The small wind energy system shall be either the stock color from the manufacturer or painted with a nonreflective, unobtrusive color that blends in with the surrounding environment. Approved colors for the latter include, but are not limited to, white, off-white or gray.
 - [4] A small wind energy system shall not be illuminated unless such lighting is required by the Federal Aviation Administration (FAA). If lighting is required, the applicant shall provide a copy of the FAA regulations for determination to establish the required markings and/or lights for the small wind energy system. **[Amended 3-5-2019]**
 - (i) Approved wind generators. Selection of the manufacturer and model of the wind generator to be used in the proposed small wind energy system is limited to those that have been approved by the California Energy Commission, the New York State Energy Research and Development Authority, or (if applicable) the State of New Hampshire.
 - (j) Utility connection. If the proposed small wind energy system is to be connected to the power grid through net metering, it shall be in compliance with RSA 362-A:9.
 - (k) Unauthorized access. The tower shall be designed and installed so as not to provide step bolts or a ladder or other means readily accessible to the public for a minimum height of eight feet above the ground. All ground-mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.
 - (l) Clearing. Clearing of natural vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the small wind energy system and as otherwise prescribed by applicable laws, regulations, and ordinances.
- (9) Discontinuation or abandonment.

- (a) If a small wind energy system is going to be discontinued or abandoned, the owner shall notify the Director of Building, Zoning, and Licensing Services by certified U.S. mail of the proposed date of discontinuation or abandonment.
 - (b) Upon discontinuation or abandonment, the owner shall physically remove the small wind energy system within 90 days from the date of discontinuation or abandonment. This period may be extended at the discretion of the Director of Building, Zoning, and Licensing Services upon request of the owner. Physical removal includes, but is not limited to:
 - [1] Removal of the wind generator and tower and related above-grade structures.
 - [2] Restoration of the location of the small wind energy system to its natural condition, except that any existing landscaping, grading or below-grade foundation may remain in the same condition.
 - (c) In the event that an owner fails to notify the Director of Building, Zoning, and Licensing Services of discontinuation or abandonment, the system shall be considered discontinued or abandoned if it is out of service for a continuous twelve-month period. After such a period of time, the Director may issue a notice of abandonment to the owner of the small wind energy system.
 - (d) The owner shall have the right to respond to the notice of abandonment within 30 days from when he/she receives the notice. After review of the information provided by the owner, the Director shall determine if the small wind energy system has been discontinued or abandoned. If it is determined that the small wind energy system has not been discontinued or abandoned, the Director shall withdraw the notice of abandonment and notify the owner accordingly.
 - (e) If the owner of the small wind energy system does not respond to the notice of abandonment, the owner shall remove the wind generator and tower at the owner's sole expense within 90 days of receipt of the notice of abandonment. If the owner fails to physically remove the small wind energy system as called for herein, then the Director of Building, Zoning, and Licensing Services may pursue any appropriate legal action to have the small wind energy system removed at the owner's expense.
- (10) Systems exceeding 100 kilowatts in capacity. Wind energy systems exceeding a rated capacity of 100 kilowatts, either singly or in combination, are considered public utilities and are allowed by special exception only as specified in Table 18-D.
- (11) Definitions. The following definitions apply specifically to small wind energy systems, as presented in this subsection:

- (e) It may be either part of the single-family dwelling or in a separate building, such as above a garage; if it is part of the single-family dwelling, an interior door shall be provided between the principal dwelling unit and the accessory dwelling unit; **[Amended 3-5-2019]**
 - (f) There may be only one per lot;
 - (g) The owner of the property must occupy one of the dwelling units and the owner must demonstrate that one of the dwelling units is his/her principal place of residence;
 - (h) At least one parking space must be provided for the unit;
 - (i) Where municipal sewer service is not provided, the septic system shall meet NHDES requirements for the combined system demand for total occupancy of the property; and
 - (j) It is exempt from site plan review but a letter of intent must be submitted to the Building Inspector to ensure that the above conditions are met.
 - (k) If it is a security apartment, it shall not exceed 800 square feet and it shall be attached to or located with an allowed commercial, office or industrial use. Such unit may be occupied by the business owner, family member or employee whose purpose is to provide security and/or protection of the business premises. This use shall require site plan review.
 - (l) If it is a caretaker apartment it shall be attached to or located with an allowed residential or nonresidential use and it shall be occupied by the owner, family member or employee of the principal use and the gross floor area does not exceed 800 square feet. This use shall require site plan review.
- (2) Accessory sales and service.
- (a) Small-scale retail sales and services may be offered as an accessory use in nonresidential districts which do not permit retail sales and service (including Airport, Hospital, Industrial, and Office Commercial Districts) where the activity is clearly established to serve on-site employees or customers of the principal use in an incidental, supportive, or subordinate manner.
 - (b) Generally, but not necessarily, such accessory uses are situated on the interior of the building housing the principal use with no separate entrance and no exterior evidence of the operation. (Examples: A newspaper or flower vendor located in the lobby of an industrial facility; a card shop located inside a hospital; a cafeteria or exercise facility serving employees.)
- (3) Animals and pets, keeping of. The following standards apply to the keeping of animals in a residence:
- (a) Household pets. Keeping typical household animals as pets, including dogs, cats, birds, small turtles, etc., is an accessory use provided their presence does not become a nuisance or a health hazard.

- (b) Breeding pets. Breeding numerous animals on a frequent or regular basis for sale is considered a business and not an accessory use.
- (c) Exotic animals. Keeping exotic animals as pets is an accessory use provided that one's ownership of the animals:
 - [1] Does not present a safety hazard to neighbors and the public;
 - [2] Does not pose a nuisance to neighbors; and
 - [3] Is in full compliance with all applicable local, state, and federal law.
- (d) Livestock as pets. Keeping any small animals ordinarily defined as livestock as pets (such as chickens, but not including roosters) is an accessory use provided that:
 - [1] The animal lives in the house and is treated as a household pet;
 - [2] Reasonable accommodations are made for the animal in the house;
 - [3] The animal does not pose a health hazard; and
 - [4] The animal does not pose a nuisance to neighbors.
- (e) Horses and other large livestock. Keeping fewer than 10 horses or other large animals defined as livestock is an accessory use to a residence subject to the following standards:
 - [1] The activity is not carried out as a business.
 - [2] The residence is not located in the Residential-1 or -2 District.
 - [3] A lot in the AG District is at least three gross acres.
 - [4] A lot in all other districts is at least two gross acres.
 - [5] There is an additional 1/4 acre of land beyond the minimum specified in Subsection A(3)(e)[3] and [4] above for each animal kept beyond the first one.
 - [6] No area or structure for the housing, stabling, storage of manure/animal waste, or feeding of animals shall be located within 100 feet of any property line.
 - [7] Handling of manure/animal waste must follow best management practices and not be a nuisance for neighbors.
 - [8] No animals shall be pastured within 25 feet of any side or rear property line except where the abutting property owner consents to a reduced setback.

ZONING

275 Attachment 7

City of Rochester

**Table 19-B Dimensional Standards - Commercial Districts
[Amended 3-5-2019]**

Commercial Zoning Districts	Lots				Setbacks				Standards				Standards, Notes and References A "—" means there is no dimensional standard for this item
	Minimum Lot Area (square feet)	Minimum Frontage (feet)	Minimum Lot Area/Dwelling Unit (square feet)	Maximum Lot Coverage	Minimum Front (feet)	Maximum Front (feet)	Minimum Side (feet)	Minimum Rear (feet)	Maximum Number of Stories	Minimum Number of Stories	Maximum Height (feet)	Minimum Height (Feet)	
Downtown Commercial (DC)													
All uses	4,000	40	5,000/7,500 ^{2,3}	—	—	10	— ¹	15	5	2	—	20	See § 275-19.2E, Density rings
Office Commercial (OC)													
All uses	10,000	80	5,000 ²	75%	10	—	10 ¹	25	3	—	—	—	See Article 19, Dimensional Standards
Highway Commercial (HC)													
All uses	20,000	100	5,000/7,500 ²	85%	20	—	10 ¹	25	3	—	—	—	See Article 19, Dimensional Standards, and § 275-19.2E, Density rings
Granite Ridge (GR)													
All uses	—	50	—	—	—	—	—	—	—	—	—	—	

NOTES:

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

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

Note 3: For multifamily dwellings/developments within the DC Zone, the minimum lot area per dwelling unit shall be 500 square feet.

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

Chapter DL

DISPOSITION LIST

§ DL-1. Disposition of legislation.

The following is a chronological listing of legislation of the City of Rochester adopted since June 2016, indicating its inclusion in the Code or the reason for its exclusion. [Enabling legislation which is not general and permanent in nature is considered to be non-Code material (NCM).]

§ DL-1. Disposition of legislation.

Adoption Date	Subject	Disposition
6-7-2016	Vehicles and Traffic Amendment	Ch. 254
9-6-2016	Zoning Amendment	Ch. 275
9-6-2016	Administrative Code Amendment	Ch. 7
10-4-2016	Administrative Code Amendment	Ch. 7
11-1-2016	Administrative Code Amendment	Ch. 7
11-1-2016	Water Use Regulations and Rates Amendment	Ch. 260, Art. I
11-1-2016	Sewers Amendment	Ch. 200
2-14-2017	Sewers Amendment	Ch. 200
2-14-2017	Fire Prevention Amendment	Ch. 75, Art. II
3-7-2017	Zoning Map Amendment	NCM
4-4-2017	Zoning Amendment	Ch. 275
5-2-2017	Fire Prevention Amendment	Ch. 75, Art. II
6-6-2017	Sewers Amendment	Ch. 200
6-6-2017	Sewers Amendment	Ch. 200
6-6-2017	Zoning Amendment	Ch. 275
12-5-2017	Solid Waste Amendment	Ch. 210
12-5-2017	Zoning Amendment	Ch. 275
2-6-2018	Sewers Amendment	Ch. 200
2-6-2018	Water Use Regulations and Rates Amendment	Ch. 260, Art. I

Adoption Date	Subject	Disposition
2-6-2018	Zoning Amendment	Ch. 275
3-6-2018	Solid Waste Amendment	Ch. 210
3-6-2018	Vehicles and Traffic Amendment	Ch. 254
3-6-2018	Peace and Good Order Amendment	Ch. 167
7-10-2018	Water Use Regulations and Rates Amendment	Ch. 260, Art. I
8-7-2018	Fire Department Amendment	Ch. 75, Art. I
9-4-2018	Zoning Amendment	Ch. 275
9-4-2018	Zoning Amendment	Ch. 275
3-5-2019	General Provisions: Adoption of Code	Ch. 1, Art. II
3-5-2019	Zoning Amendment	Ch. 275
3-5-2019	Zoning Amendment	Ch. 275

ROCHESTER INDEX

DEFINITIONS NOTE: For the convenience of the Code user, all terms defined in this Code are included in the Index under the heading "Definitions and Abbreviations."

— # —

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STREETS AND
SIDEWALKS 223-11

— A —

ABANDONED PROPERTY
ZONING 275-29.12

ABANDONED VEHICLES
VEHICLES AND
TRAFFIC 254-1;
254-43

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