

Codes and Ordinances Committee

Councilor Peter Lachapelle, Chair
Councilor Steve Beaudoin
Councilor Skip Gilman Councilor
Councilor Ashley Desrochers
Councilor Tim Fontneau



CODES AND ORDINANCES COMMITTEE

Of the Rochester City Council

Thursday, August 4, 2022

31 Wakefield Street, Rochester, NH

Council Chambers

6:00 PM

Agenda

1. Call to Order
2. Public Input
3. Acceptance of the Minutes
 - 3.1 July 7, 2022 *motion to approve* P. 3
4. Amendment to Chapter 167 of the General Ordinances of the City of Rochester Regarding Trapping and Bear Baiting on City Property P. 25
5. Code of Ethics and Conduct P. 27
6. Other
7. Adjournment

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City Clerk's Office

Codes and Ordinances Committee

Councilor Peter Lachapelle, Chair
Councilor Steve Beaudoin Vice Chair
Councilor Skip Gilman
Councilor Ashley Desrochers
Councilor Tim Fontneau



Others Present

Mayor Paul Callaghan
Terence O'Rourke, City Attorney
Mark Sullivan, Deputy Finance Director
Peter Nourse, Director of City Services

CODES AND ORDINANCES COMMITTEE
Of the Rochester City Council
Thursday, July 7, 2022
Council Chambers
6:02 PM

Minutes

1. Call to Order

Chair Lachapelle called the Codes and Ordinances meeting to order at 6:02 PM.

2. Public Input

Susan Rice, resident, stated that she had comments on specific agenda items and asked if she would be able to discuss these items when they came up on the agenda or if they should be handled during public input. Chair Lachapelle stated that he would recognize residents and allow them to speak during the discussion on agenda items under which they wanted to give input.

Cliff Newton, resident, addressed the Committee regarding the agenda item #6 regarding public hearings and the proposed 5-minute time limits. Mr. Newton spoke about guidance on running an efficient public hearing based on NHMA (NH Municipal Association) documentation. Mr. Newton submitted a copy of the documentation he referenced to the Chair.

3. Acceptance of the Minutes

3.1 May 5, 2022 *motion to approve*

Councilor Beaudoin **MOVED** to **APPROVE** the minutes of the May 5, 2022 Codes and Ordinances Committee meeting. Councilor Desrochers seconded the motion.

4. Proposed Addition of Chapter 260A of the General Ordinances of the City of Rochester “Water Development Connection Fee”

Susan Rice, resident, questioned the language used in the information contained in the packet, where the term “system development fee” is used in some areas while “impact fee” is used in other areas in the same context. She asked if this was referencing two separate fees, and if so, if the impact fee referenced was set at \$0 similar to the impact fees currently in the ordinance.

Mark Sullivan, Deputy Finance Director, explained that the water development connection fee” is a new ordinance to Rochester, with an associated schedule outlining how the fee will be derived as well as a section of the ordinance in which the fee would need to be adopted. He explained how the fee would be assessed for new developments. Deputy Director Sullivan confirmed that there is an impact fee ordinance; however, it is a separate methodology and separate fee schedule, which the Planning Board has discontinued and is currently not being assessed.

Mr. Sullivan stated that on the sewer side, there is a portion of the existing ordinance being replaced regarding the “reserve capacity assessment fee” with a similar methodology as is used on the water side for how the fee is derived.

Councilor Fontneau asked for clarification on which developments would be subject to the water development connection fee and how it would be assessed. Mr. Sullivan directed the Committee to the draft sample in the packet that shows the calculations used to arrive at the assessed fee. Peter Nourse, Director of City Services, explained that the City uses guidance through NHDES to determine the methodology for these fees and gave further detail on the fee structure. Director Nourse stated that the current practice is to apply the sewer fee to businesses and single-family homes that are part of a subdivision; it has not been past practice to apply this fee to standalone single-family homes outside of subdivisions.

Director Nourse clarified that these fees are referred to differently in various communities, but the intent is the same. Rochester chose to use the term “system development fee.” He explained that the use of the term “impact fees” as referenced by Ms. Rice was likely due to an earlier draft of the ordinance in which the term was not replaced when it was updated. He stated that any reference to “impact fee” within this ordinance could be changed to “system development fee.” Director Nourse added that this type of fee is assessed in several neighboring communities at a higher rate than is being proposed in Rochester; in some cases by several dollars.

Councilor Beaudoin asked if there was any way to estimate the amount of revenue this fee could generate over the next year or two. Deputy Director Sullivan stated that the City has been averaging 25-30 new developments per year so an estimated calculation could be done based upon this number. Councilor Beaudoin asked how the fee was being assessed for commercial industrial development, some of which are likely to have high water usage. Director Nourse explained that the guidance provided by NHDES to develop the methodology is very detailed based on the type of industry and their potential usage. He explained how the fees are derived using this guidance.

Councilor Fontneau asked if the revenue collected from this fee would be placed into a capital improvements fund for future improvements to the system. Deputy Director Sullivan confirmed that this was true. He explained that in this process, the revenue would be allowed to accumulate and compound as needed for future projects. Councilor Beaudoin asked if projects using this revenue would require Council approval. Deputy Director Sullivan stated that the way he envisioned it, any CIP requests for Council approval could identify system development fees as a potential revenue source for said project; it could be used similarly for supplemental appropriations, with these fees being identified at the revenue source.

Chair Lachapelle recognized Susan Rice. Ms. Rice inquired if the intention of these fees was to be assessed only for new development as opposed to existing properties. Additionally, she asked if this fee would apply to duplexes and apartment buildings as well as other development. Director Nourse said that the fee would apply to apartments and duplexes as well.

Councilor Desrochers **MOVED** to send the addition of Chapter 260A of the General Ordinances regarding “Water Development Connection Fee” to the full Council. Councilor Fontneau seconded the motion. Councilor Beaudoin stated he would oppose this motion. He stated that he felt this proposed amendment is resultant from lack of foresight as well as poor management. He expressed that he did not feel that there had been circumstances occurring regarding water/sewer utilities that were unexpected and this could have been planned for better. Councilor Beaudoin stated that it was also, in part, due to inaction on the part of prior City Councils who did not adopt these amendments and have now caused larger increases in rates and fees. Councilor Beaudoin suggested that the City could just increase the water and sewer user rates and hold off on the connection fees to see if this user rate increase will be enough to reverse the deficit currently being experienced. The **MOTION CARRIED** by a 5 – 1 majority hand count vote.

4.1 Amendment to Chapter 260-33 “Water Rate and fee Schedule”

Deputy Finance Director Sullivan explained the proposed amendments that had been made to this ordinance to include the discussed system development fee for water and to update the existing fee on the sewer side. He explained that there is also an update to the fee for the sewer reserve capacity fee.

Councilor Desrochers **MOVED** to send the Amendment to Chapter 260-33 “Water rate and fee schedule” to the full Council. Councilor Beaudoin seconded the motion. The **MOTION CARRIED** by a majority voice vote.

5. Proposed Amendment to Chapter 200-7-T of the General Ordinances of the City of Rochester “Sewer Development Connection Fee”

Councilor Beaudoin asked for clarification that this amendment revises the \$2.00 fee currently in the ordinance. Deputy Finance Director Sullivan confirmed that this would change the reserve capacity assessment fee from \$2.00 to \$4.33. There was further discussion on the fees that would need to be assessed based on the type of development being proposed with examples given. Councilor Fontneau asked about circumstances where a resident has an existing septic

system which fails and the fee to be assessed for them to tie into the City sewer line. Director Nourse stated that it is his understanding that these fees are only being assessed for new construction, not for existing properties to tie into the sewer lines. Councilor Beaudoin stated for the reasons he previously cited in reference to the water development fee, he would be opposing this motion. Councilor Desrochers stated that there were some circumstances that could not be foreseen that have affected the water and sewer usage, such as the growth rate of the City due to the pandemic. Councilor Desrochers **MOVED** to send the Amendment to Chapter 200-7-T of the General Ordinances of the City of Rochester regarding a Sewer Development Connection Fee to full Council. Councilor Fontneau seconded the motion. The **MOTION CARRIED** by a majority voice vote.

5.1 Amendment to Chapter 200-33 “Wastewater Rate and Fee Schedule”

Councilor Desrochers **MOVED** to send the Amendment to Chapter 200-33 “Wastewater rate and fee schedule” to the full Council. Councilor Fontneau seconded the motion. The **MOTION CARRIED** by a majority voice vote.

6. Amendment to City Council Rules of Order Section 1.7 Public Hearings

Councilor Lachapelle said that, based on his understanding, it is under the authority of the Chair to set reasonable time limits for public input during a meeting. Attorney O’Rourke confirmed that the Chair is able to set “time, place, and manner” restrictions on public input.

Mayor Callaghan stated that dependent on the community, there is a variety of time limits allowable throughout the state; ranging from 3 minutes all the way up to 30 minutes. However, he asserted that his understanding is that the lengthier time specifications referenced by Mr. Newton during public comment were specific to certain types of presentations during meetings; such as the annual audit presentations, and not an unlimited time allowance for general public input.

Councilor Beaudoin shared his experience as a State Representative at hearings in Concord. He reported that he does not recall a time where public input was limited during a hearing, and said that he felt it was poor government to impose limits on public speech. Councilor Beaudoin suggested a similar system to what is used at the Capitol: with those wishing to speak filling out sign-in cards stating what topic they would like to discuss and the length of time they are requesting to speak. He suggested that depending on how many speakers were present, the requested time could be reduced as needed or split up between speakers to allow each person adequate time. He also spoke about the small number of speakers that are typical at City Council and Committee meetings. He stated that if there are only two or three people present, they should be allowed more than 5 minutes each.

Councilor Desrochers acknowledged Councilor Beaudoin’s efforts to come up with an alternate approach such as the sign-in cards; however, she expressed concern that with this method there could be the appearance of favoritism if certain speakers are given more time than others.

Councilor Fontneau suggested that there could be a limit pre-set for the total length of

time allowed for the public input portion of the meeting. That time could then be split evenly amongst anyone who signs up to speak. He spoke about situations recently where constituents have spoken at public input and reached the 5-minute limit prior to being able to complete their thoughts or convey enough information. He expressed that he would have preferred that the time was extended to allow the speakers to finish.

Chair Lachapelle recognized Susan Rice. Ms. Rice read a prepared statement in support of not imposing 5-minute time restrictions on speech at a public hearing. She referenced a discussion the Codes and Ordinances Committee had at their February meeting in which the Committee consensus had been that there should not be strict limitations on duration of public speakers. Ms. Rice gave details on how other communities format their public input during meetings. Ms. Rice suggested that any correspondence received from the public should be read into the record and there should be a notation stating where the text could be found in its entirety.

Mr. Newton addressed the Committee regarding the difference between limiting speech during the public comment period of a meeting versus during a public hearing. He read a portion of the NHMA's publication on "Running a smooth public hearing."

Councilor Fontneau stated that he would be more comfortable with an amendment if there was some discretion allowed on the part of the Committee Chair; rather than having a set 5-minute limit, the Chair of the committee would be able to have some leniency on duration of speech. Mayor Callaghan stated that although giving the Chair discretion made common sense, it would potentially give the appearance of favoritism if certain speakers were allowed more time. He stated that is why he chose a 5-minute limit across the board, so there would be consistency for all speakers.

Attorney O'Rourke explained that a public hearing is a "limited use public forum" for a particular topic. Per the Supreme Court, a "hearing" is an opportunity to be heard. He cautioned against using discretion from the Chair for public speech, because although the public hearing can be limited to a particular topic, the hearing then needs to be viewpoint neutral; regardless of the stance of the speaker, they need to be allowed equal opportunity to speak as long as they are discussing the topic at hand. He stated that even if there is only one speaker at a hearing, and the Chair allows that speaker extra time beyond the five minutes, if the same extra time is not given to speakers at a future hearing, it can cause issues. When the Chair's discretion is unfettered, it can potentially be viewed as a violation of speakers' rights.

Attorney O'Rourke clarified the term "interest" as it refers to public hearings, as referenced by Mr. Newton and others at prior meetings. He explained how an applicant appearing at Planning Board could have an interest in a particular property or land being discussed. Though there is not a specific tangible interest to one party at hearings on the City budget or changes being made to ordinances.

7. Discussion: Animal Trapping and Bear Baiting

Attorney O'Rourke gave some background on the discussion item. He explained that there had been a couple people who had approached the City of Rochester in regards to being allowed to bait for bear on City property. The State allows bear hunting on private property as

long as an allowance is signed by the property owner. Attorney O'Rourke explained that the City Manager had not felt comfortable authorizing this type of hunting without first receiving guidance from Council.

Attorney O'Rourke explained that there is a separate issue of trapping on City property. At a Council meeting in 2016, there was a vote taken to ban trapping on City property. However, there was not much discussion around the vote and at this point, the City feels that there should be a distinction drawn between trapping for sport and trapping for humane purposes such as relocation. Attorney O'Rourke clarified that there should be something within the ordinances that clarifies what should be allowed on City property.

Finally, Attorney O'Rourke explained that one of the applications submitted to bait on City property was within the drinking water reservoir area. There is currently no recreation (boating, fishing, swimming, hiking, etc.) allowed in that area. The Director of City Services had recommended that there be a ban on baiting in the reservoir area as well.

Chair Lachapelle asked if there would be draft ordinance language coming to the Committee in the upcoming months. Attorney O'Rourke stated that he would draft suggested language.

Director Nourse reported that one of the bear baiting requests had listed a location directly at one of the City's wellheads. He advised against allowing this type of activity in the area. Director Nourse acknowledged that there is trapping allowed in the area under certain circumstances (such as the State trapping animals for relocation) and for public safety. He stated that it is his understanding that unless it is conspicuously posted; hunting is allowed on any land. He stated that there are over 16,000 acres of watershed in Rochester, and it would be difficult to post adequately to prohibit hunting activity.

Chair Lachapelle recognized Cliff Newton. Mr. Newton spoke about bears as nuisance animals and the increased prevalence of bear sightings closer to populated areas. He suggested the City contact Fish & Game to determine the bear numbers in the area and if there is a need for reduction. He expressed concern about liability to the City if baiting were allowed and it led to a bear-related injury.

Ms. Rice agreed with Mr. Newton that the City should reach out to Fish and Game for guidance. She suggested the possibility of a lottery system for bear hunting licenses if it is determined that there is an issue.

Chair Lachapelle said that the Committee is currently tasked with discussing whether to allow baiting on City property. However, he did acknowledge that there is the separate issue of bears as nuisance animals. Councilor Beaudoin requested that the City Attorney look into any potential liability that the City could be subject to if hunting was allowed on City property. Mr. Newton reported that he had co-sponsored a bill that passed in 2012 that exempts property owners from liability resulting from injury suffered on their land. Mr. Newton clarified that, to his knowledge, there is not a limited number of bear licenses available and in fact there are too few issued each year to properly cull the bear population. He suggested the City request information from the State specifically on bear baiting and the associated restrictions and

guidelines.

The bear baiting discussion was kept in Committee.

8. Discussion: Chapter 275-28.3 “Noise”

Chair Lachapelle reported that the City had recently received a couple complaints in regards to noise and questioning the ordinance. He clarified that the chapter referenced on the agenda is within the zoning portion of the ordinance and the more relevant ordinance is chapter 149-2 “Nuisances – Noise; use of public address system,” which outlines what is allowable within the City. Chief Boudreau confirmed that Chapter 149-2 of the ordinance that the police use to address noise issues. He stated that it is often a matter of residents living in close proximity to each other and the standard noise experienced in apartments and close households. Chair Lachapelle spoke about the prioritizing of police calls and speculated that most often when noise complaints are made, the issue is resolved by the time the police are able to respond.

Attorney O’Rourke confirmed that this item is on the agenda for discussion following several complaints. However, there is no requested action. He clarified that being disorderly/disorderly conduct is against the law, and that could pertain to noise and could be an arrestable offense if unaddressed.

Councilor Fontneau asked how many noise complaints the Police Department receives and if it is a problem for the department. Chief Boudreau stated that although he did not have an exact number, noise complaints are a frequent occurrence. He reported that these complaints are received at all times of day and night, and clarified that they are not all related to loud noise and music, but sometimes just the noises from larger gatherings of people which might be perceived as too noisy to the person making the complaint. Chief Boudreau stated that the right to congregate is protected by law and if a group is not being unruly or excessively noisy, the Police Department will not interfere. Councilor Fontneau asked if the current ordinance as it is written works for the police department. Chief Boudreau responded that the current ordinance works well for the Police Department.

Councilor Beaudoin spoke about the noise limits that are listed in the zoning ordinance (chapter 275-28.3). He stated that he did not feel any changes are needed to the current ordinance and, if anything, the verbiage is too restrictive with the limitations currently listed. Councilor Gilman asked if Chapter 149-2 also covered vehicle noise, such as motorcycle and loud stereos from cars. Chief Boudreau read the language of the ordinance and confirmed that it would cover noise emitted from vehicles. Attorney O’Rourke added that the State RSA covering disorderly conduct specifically references noise from vehicles.

Councilor Desrochers referenced complaints she had received in the past regarding fireworks in her neighborhood being used outside the allowable time period. She acknowledged the difficulty in enforcing the fireworks issue and wondered if the reason why fireworks were not listed in the noise ordinance was due to the regulations for fireworks being covered under a separate ordinance (Chapter 75-16). Chief Boudreau reported that this year, from July 1 through July 5, there were only eleven fireworks complaint calls received.

Mayor Callaghan stated that in one of the noise complaint emails received, the resident said that they had already reported the issue to the management of the property in which they lived. He asked if the Police Department still had an officer who worked directly with landlords and rental situations. Chief Boudreau confirmed that Lt. Bossi serves as a liaison and meets with a local landlords association.

Mayor Callaghan inquired about the proposed disorderly residents ordinance that had come before Council. Attorney O'Rourke clarified that the ordinance referenced by the Mayor was never adopted; It had come to the Codes & Ordinances Committee for review and discussion several times, but had never gone to Council for a vote. Mayor Callaghan asked, if such an ordinance were adopted, if it would give the Police Department more authority to take action when there were repeated calls to the same property. Chief Boudreau said that the ordinance would potentially be beneficial, but the department also has the disorderly conduct statute that can be used. Chief Boudreau reported that, to his recollection, there is a disorderly residents ordinance on the books in Franklin. However, it has never gone to court to be challenged; the City is using it as a starting point for dialogue with landlords. Attorney O'Rourke stated that he had been in contact with officials from Franklin and they reported that the ordinance was used regularly for the first couple of years, after which point it became unnecessary because the issue mostly resolved.

Councilor Fontneau stated that the issue he had with the proposed disorderly residents ordinance was that it blamed the actions of the tenants on the landlord and held the wrong party responsible. Councilor Beaudoin stated that one of the issues he had with the proposed ordinance was that, as a landlord, he would not necessarily be aware of any issues being caused by his tenant until after the fact. He suggested that a representative at the Police Department could reach out to landlords and alert them when there was an issue at their property. Chief Boudreau stated there had been discussion on behalf of the Police Department about taking the "extra step" and reaching out to notify property owners if there had been an issue with their tenants. Chief Boudreau said that landlords are able to file records requests to find out if there had been any calls regarding their property. He recommended that this could be utilized by landlords on a regular basis.

9. Other

Councilor Desrochers spoke about an item she would have coming forward proposing a revision to building permit fees that would have a space to indicate if the work being done is by an EPA Certified renovator (for instances involving lead paint restoration or repair). She stated she would bring forward more information when it is discussed in Committee. Chair Lachapelle said that he would place the discussion on the agenda for August 4, 2022.

Ms. Rice referenced a re-hearing on an upcoming ZBA agenda in regards to installing solar panels. She questioned if this is something the City should potentially be looking to facilitate with the increased prevalence of solar arrays around the City as well as the increasing electricity costs. She also questioned the useful life of solar panels and what the disposal process is following the end of their life. She asked if these inquiries could be passed along to the appropriate committee or department for further review.

10. Adjournment

Chair Lachapelle **ADJOURNED** the Codes and Ordinances Committee meeting at 7:23 PM.

Respectfully Submitted,

Cassie Givara
Deputy City Clerk

Chapter 260A

Water Development Connection Fee

§260A-1 Authority.

The City of Rochester is authorized pursuant to RSA 38:28 and RSA 38:37 to assess a Water Development Connection Fee on new connections and development to help meet the additional water system demands created by the new development including capital construction and improvement of the City's water system. Said fees are assessed on a capacity-buy in approach as set forth in §260-54 below.

§260A-2 Definitions.

This Chapter incorporates by reference the Definitions found in the City of Rochester Water Ordinance, Chapter 260, §260-2, as amended.

§260A-3 Purpose.

These regulations shall govern the assessment of connection fees upon new connections and development to the City's Public Water System to generate capital funds to maintain, improve and expand the water system to minimize the effect on existing customers in a fair and equitable manner.

§260A-4 Water Development Connection Fee

The water development connection fee or assessment imposed pursuant to these provision upon new connections and development, including subdivisions, building construction and other land use changes, are based on a capacity-buy in approach, where new users are required to invest in the equity of the City's Public Water System at a rate that reflects prior investment of existing users per unit of total capacity to raise funds to meet the demands and impacts created by the new connections and development to the City's water treatment and distribution facilities, inclusive of the system defined herein as the Public Water System.

§260A-5 Calculation of Fees

The water development connection fee is calculated as a per gallon per day charge by dividing the net equity in user paid capital assets by the capacity of the respective water system in gallons per day. The portion of the water system capacity assigned to any new user is determined based on New Hampshire Water Usage Unit Design Standards, as contained in Table 1008-1 in Env-Wq 1000 of the New Hampshire Code of Administrative Rules. The Code of Administrative Rules can be found at:

<https://www.des.nh.gov/sites/g/files/ehbemt341/files/documents/2020-01/Env-Wq%201000.pdf>

§260A-6 Assessment and Collection of Fees

The water development connection fee will be assessed by the Department at the time of application for new connections pursuant to Article I, §260-4. The fees shall be collected at the time of application for connection in accordance with §260-4 above; however, the Department and applicant may establish an alternate, mutually acceptable schedule of payment of water development connection fees. If an alternate schedule for payment of fees is established, the Department may require the applicant to post surety, in the form of a cash bond, letter of credit or performance bond to guaranty future payment of the assessed impact fees. The Department and City reserve the right to annual review and amend the water development connection fees as necessary.

§260A-7 Waivers

A. An applicant may request a full or partial waiver of the water development connection fee assessments imposed by this ordinance from the Department. The amount of any such waiver shall not exceed the value of the land, facilities construction, or other contributions to be made by that person toward public capital facilities in lieu of a water development connection fee. The applicant must exclude from a waiver any value of on-site and off-site improvements that are required by the Department or City as a result of a plan or development approval, which the applicant would complete regardless of the water development connection fee under this ordinance. The value of contributions or improvements proposed by the applicant shall be credited only towards facilities of like kind. All costs incurred by the Department for the review of a proposed waiver, including reasonable consultant and counsel fees, shall be paid by the applicant requesting a waiver.

B. An applicant may apply to the Department for a waiver of a portion or the full amount of the water development connection fee, where such waiver application is accompanied by an independent fee calculation study that documents the proportionate capital cost impacts of the new connection or development. The Department shall review any such study, and in its discretion, decide whether a waiver is granted or denied. All costs incurred by the Department for review of any such study shall be paid by the applicant.

§260A-8 Administration of Water Development Connection Fees

A. All funds collected shall be properly identified and promptly transferred for deposit into an individual capital facilities connection fee account for the water facilities for which fees are assessed, and shall be used solely for the purposes specified in this ordinance. The water development connection fee account shall be a capital reserve fund account and the City shall not accrue these fee revenues to the general fund.

B. Payment, administration, collection, custody and records for the water development connection fee account shall be done by the Finance Department upon the direction of the City Manager.

C. The Department shall make a report to the City Council at the end of the fiscal year providing an account of all public water system facilities funded through impact fees during the prior year.

E. Funds withdrawn from the water development connection fee account shall be used solely for the purpose of acquiring, constructing, expanding or equipping those public water system facilities identified in this ordinance.

§ 260A-9 Appeals.

Any party aggrieved by any decision, regulation or provision under this Article, as amended, from time to time, shall have the right to appeal said decision to the Department which shall issue a decision within 30 calendar days of the appeal. If said appeal is denied by the Department, then the aggrieved party shall have the right to appeal to the Utility Advisory Board and then to the City Manager.

§ 260A-10 Additional rules and regulations; amendments.

The City reserves the right to adopt, from time to time, additional rules and regulations as it shall deem necessary and proper relating to this Article, which additional rules and regulations, to the extent appropriate, shall be a part of this Article.

§ 260A-11 When effective

This Article shall be in full force and effect immediately following its passage, as provided by law.

| Categories | WATER Amounts |
|--------------------------------------|--------------------------|
| Land | 3,999,472.60 |
| Buildings & Structures | 20,099,486.60 |
| Delivery Systems | 31,981,805.95 |
| Machinery & Equipment | 7,418,193.50 |
| Total Capital Assets | 63,498,958.65 |
| Accumulated Depreciation | (28,107,945.91) |
| Contributed Capital | - |
| Construction in Progress | (5,558,219.16) |
| Net Capital Adjustments | (33,666,165.07) |
| Net Capital Assets | 29,832,793.58 |
| Long Term Debt | (17,147,246.00) |
| Net New User Supported Assets | 12,685,547.58 |
| | |
| System Capacity -GPD | 4,000,000 |
| | |
| Calculated Investment Fee | \$3.17 |
| | |
| Minimum Invest Fee-450 GPD | \$1,427.12 |

§ 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; 5-5-2020]

- (1) Residential customers without exemption: five dollars and eighty-three cents (\$5.83) per 100 cubic feet of water use.
- (2) Residential customers with exemption: two dollars and fifty-two cents (\$2.52).
- (3) Commercial and industrial customers: five dollars and eighty-three cents (\$5.83).
- (4) Unmetered residential customers:
 - (a) Per quarter per unit without exemption: one hundred fifty-five dollars and ninety-six cents (\$155.96).
 - (b) Per quarter per unit with exemption: seventy-seven dollars and ninety-six cents (\$77.96).
- (5) Minimum fee:
 - (a) Per quarter per unit without exemption: twenty-two dollars and fourteen cents (\$22.14).
 - (b) Per quarter per unit with exemption: seventeen dollars and seventy-six cents (\$17.76).

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^{07/29/2022} 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.)
- (17) System Development Fees: Three Dollars and Seventeen Cents (\$3.17)

Chapter 200-7-T

Sewer Development Connection Fee

§200-7-T-1 **Authority.**

The City of Rochester is authorized pursuant to RSA 31-139 to assess a Sewer Development Connection Fee on new connections and development to help meet the additional Sewer system demands created by the new development including capital construction and improvement of the City's Sewer system. Said fees are assessed on a capacity-buy in approach as set forth in §200-7-T-4 below.

§200-7-T-2 **Definitions.**

This Chapter incorporates by reference the Definitions found in the City of Rochester Sewer Ordinance, Chapter §200, as amended.

§200-7-T-3 **Purpose.**

These regulations shall govern the assessment of connection fees upon new connections and development to the City's Public Sewer System to generate capital funds to maintain, improve and expand the Sewer system to minimize the effect on existing customers in a fair and equitable manner.

§200-7-T-4 **Sewer Development Connection Fee**

The Sewer development connection fee or assessment imposed pursuant to these provision upon new connections and development, including subdivisions, building construction and other land use changes, are based on a capacity-buy in approach, where new users are required to invest in the equity of the City's Public Sewer System at a rate that reflects prior investment of existing users per unit of total capacity to raise funds to meet the demands and impacts created by the new connections and development to the City's Sewer treatment and distribution facilities, inclusive of the system defined herein as the Public Sewer System.

§200-7-T-5 **Calculation of Fees**

The Sewer development connection fee is calculated as a per gallon per day charge by dividing the net equity in user paid capital assets by the capacity of the respective Sewer system in gallons per day. The portion of the Sewer system capacity assigned to any new user is determined based on New Hampshire Sewer Usage Unit Design Standards, as contained in Table 1008.01 in Env-Wq 1008.3 of the New Hampshire Code of Administrative Rules. The Code of Administrative Rules can be found at:

<https://www.des.nh.gov/sites/g/files/ehbemt341/files/documents/2020-01/Env-Wq%201000.pdf>

§200-7-T-6 Assessment and Collection of Fees

The Sewer development connection fee will be assessed by the Department at the time of application for new connections pursuant to Article I, §200-7-T-4. The fees shall be collected at the time of application for connection in accordance with §200-7-T-4 above; however, the Department and applicant may establish an alternate, mutually acceptable schedule of payment of Sewer development connection fees. If an alternate schedule for payment of fees is established, the Department may require the applicant to post surety, in the form of a cash bond, letter of credit or performance bond to guaranty future payment of the assessed impact fees. The Department and City reserve the right to annual review and amend the Sewer development connection fees as necessary.

§200-7-T-7 Waivers

A. An applicant may request a full or partial waiver of the Sewer development connection fee assessments imposed by this ordinance from the Department. The amount of any such waiver shall not exceed the value of the land, facilities construction, or other contributions to be made by that person toward public capital facilities in lieu of a Sewer development connection fee. The applicant must exclude from a waiver any value of on-site and off-site improvements that are required by the Department or City as a result of a plan or development approval, which the applicant would complete regardless of the Sewer development connection fee under this ordinance. The value of contributions or improvements proposed by the applicant shall be credited only towards facilities of like kind. All costs incurred by the Department for the review of a proposed waiver, including reasonable consultant and counsel fees, shall be paid by the applicant requesting a waiver.

B. An applicant may apply to the Department for a waiver of a portion or the full amount of the Sewer development connection fee, where such waiver application is accompanied by an independent fee calculation study that documents the proportionate capital cost impacts of the new connection or development. The Department shall review any such study, and in its discretion, decide whether a waiver is granted or denied. All costs incurred by the Department for review of any such study shall be paid by the applicant.

§200-7-T-8 Administration of Sewer Development Connection Fees

A. All funds collected shall be properly identified and promptly transferred for deposit into an individual capital facilities connection fee account for the Sewer facilities for which fees are assessed, and shall be used solely for the purposes specified in this ordinance. The Sewer development connection fee account shall be a capital reserve fund account and the City shall not accrue these fee revenues to the general fund.

B. Payment, administration, collection, custody and records for the Sewer development connection fee account shall be done by the Finance Department upon the direction of the City Manager.

C. The Department shall make a report to the City Council at the end of the fiscal year providing an account of all public Sewer system facilities funded through impact fees during the prior year.

E. Funds withdrawn from the Sewer development connection fee account shall be used solely for the purpose of acquiring, constructing, expanding or equipping those public Sewer system facilities identified in

this ordinance.

§ 200-7-T-9 Appeals.

Any party aggrieved by any decision, regulation or provision under this Article, as amended, from time to time, shall have the right to appeal said decision to the Department which shall issue a decision within 30 calendar days of the appeal. If said appeal is denied by the Department, then the aggrieved party shall have the right to appeal to the Utility Advisory Board and then to the City Manager.

§ 200-7-T-10 Additional rules and regulations; amendments.

The City reserves the right to adopt, from time to time, additional rules and regulations as it shall deem necessary and proper relating to this Article, which additional rules and regulations, to the extent appropriate, shall be a part of this Article.

§ 200-7-T-11 When effective

This Article shall be in full force and effect immediately following its passage, as provided by law.

| Categories | SEWER Amounts |
|--------------------------------------|--------------------------|
| Land | 2,319,900.00 |
| Buildings & Structures | 49,894,980.58 |
| Delivery Systems | 39,157,826.73 |
| Machinery & Equipment | 2,700,736.27 |
| Total Capital Assets | 94,073,443.58 |
| Accumulated Depreciation | (30,873,339.85) |
| Contributed Capital | (4,930,732.00) |
| Construction in Progress | (15,168,601.72) |
| Net Capital Adjustments | (50,972,673.57) |
| Net Capital Assets | 43,100,770.01 |
| Long Term Debt | (19,268,113.00) |
| Net New User Supported Assets | 23,832,657.01 |
| | |
| System Capacity -GPD | 5,500,000 |
| | |
| Calculated Investment Fee | \$4.33 |
| | |
| Minimum Invest Fee-450 GPD | \$1,949.94 |

§ 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; 5-5-2020]

A. Quarterly wastewater rates.

- (1) Residential customers without exemption: seven dollars and forty-three cents (\$7.43) per 100 cubic feet of water use.
- (2) Residential customers with exemption: four dollars and ninety-four cents (\$4.94) per 100 cubic feet of water use.
- (3) Commercial and industrial customers: seven dollars and forty-three cents (\$7.43) per 100 cubic feet of water use.
- (4) High-volume customers (i.e., customers using more than 5,000 units** monthly): six dollars and sixty-eight cents (\$6.68) 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 twenty-nine dollars and forty-seven cents (\$229.47).
 - (b) Per quarter per unit with exemption: one hundred fourteen dollars and seventy-two cents (\$114.72).
- (6) Sewer metered customers: seven dollars and forty-three cents (\$7.43) per 100 cubic feet.
- (7) Minimum fee:
 - (a) Per quarter per unit without exemption: thirty-four dollars and thirty-one cents (\$34.31).
 - (b) Per quarter per unit with exemption: twenty-seven dollars and thirty-one cents (\$27.31).

B. Septage discharge: fifty-five dollars (\$55.) per 500 gallons or portion thereof.

C. RV septage discharge: sixteen dollars (\$16.) flat fee.

D. Graywater disposal: thirty dollars (\$30.) 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~~ four dollars and thirty three cents (~~\$2.~~\$4.33) per gallon.
- (4) Installation fees. Installation by City: three hundred dollars (\$300.) minimum or estimated costs.

SECTION 1.6 PUBLIC HEARINGS

Public Hearings: To receive citizen input and feedback on certain specific matters that have been placed on the meeting agenda for consideration and action by the City Council, Public Hearings will be scheduled and held as required by law and/or whenever referred for a public hearing by simple majority vote of Council Members present. Upon being referred by Council vote, Public Hearings will be noticed for and held during a subsequent Regular and/or Special Meeting or Committee Meeting. At the request of the presiding officer, Ordinances or Resolutions scheduled on an agenda for public hearing will be briefly introduced with appropriate explanations by staff. Citizens will then have the opportunity to address the Council speaking to the specific item(s) subject to public hearing, subject to the following guidelines: [6/4/2013]

- I. All speakers shall be residents of the City of Rochester, property owners in the City of Rochester, and/or designated representatives of recognized civic organizations or businesses located and/or operating in the City of Rochester;
- ii. All speakers shall address their comments to the presiding officer and the Council as a body and not to any individual member;
- iii. Speakers shall first recite their name and address for the record, and, if applicable, the name and address of the civic organization and/or business they have been designated to represent;
- iv. For each public hearing item, a speaker shall be provided a single opportunity for comment, **limited to five (5) minutes with the five (5) minutes beginning after the obligatory statement of name and address by the speaker;**
- v. Public Hearings are not intended to be utilized for a two-way dialogue between speaker(s), Council Member(s), and/or the City Manager, or administrative staff; and
- vi. The presiding officer shall preserve strict order and decorum for and by all speakers appearing before the Council.

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City Clerk's Office

07/29/2022

**Amendment to Chapter 167 of the General Ordinances of the City of Rochester Regarding Trapping
and Bear Baiting on City Property**

THE CITY OF ROCHESTER ORDAINS:

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

§ 167-24 Trapping and Bear Baiting Prohibited.

Except when necessary for the health, safety, and welfare of the community or the animal, trapping and bear baiting shall be prohibited upon all City-owned property.

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City Clerk's Office

Preamble

City councilors (Servants to the community) have distinguished record of service to its citizens of the City of Rochester. The code of Ethics and Code of Conduct makes explicit the values and standards the city councilors have exemplified in our city of the years. The Code of Ethics and Code of Conduct are principles that is entrusted by the city and those that we serve. The city councilors of Rochester, NH should model values and accept responsibility to practice at the highest standards and aspire to continuously and consistently make decisions which are, first and foremost, with the interests of our citizens living in our community.

This “Code of Ethics for the City Councilors of Rochester, NH “is created as a set of guiding principles which articulate the responsibilities common to all members of the council. The Code of Ethics is designed to provide guidance to city councilors in the decision-making process involving their interactions with colleagues and public community. Respect for one another is essential to working in and effective, efficient, and innovative manner.

The Code of Ethics Intentions

Is created upon the recognition that serving the community is a servant that is professional. As such, there is an acknowledgement within serving the public that the Code of Ethics is applicable to all aspects of a City Councilors life.

The Code of Ethics establishes guidance for all servants to the Rochester community and is intended to be a basis for commitment to these core values, we are representatives of the City of Rochester.

Respect- Treat all people with dignity and respect. Avoid making assumptions and judgements

Integrity- responsible and hold ourselves accountable for the decisions we make, and the words we use. As we make mistakes acknowledge them and work to correct them.

Civility- Be courteous and polite with our behavior. Be open, honest, and direct in all aspects of communication.

Growth- Foster an environment where learning and growth are supported

Teamwork- Be collaborative and constructive, thus contributing to a positive working atmosphere

Constructive Attitude- Conduct oneself in forward-looking and productive manner to advance our work for the community. Listen to all perspectives and are considerate of others.

Diversity- Welcome and support people of all backgrounds, abilities, and identities. Have general awareness of the rights, concerns, and feelings of others always.

The Code of Conduct Intentions

The intent of the Code of Conduct is to set behavioral expectations for our City Councilors and to encourage and facilitate constructive conversation to allow as safe, healthy, and productive culture to thrive.

Selflessness- Holders of public office should act solely in terms of the public interest. They should not do so to gain financial or other material benefits for themselves, their family, or their friends

Objectivity- In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

Accountability- Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

OPENNESS: Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

Honesty- Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

Leadership: Holders of public office should promote and support these principles by leadership and example.



City of Rochester, NH

**Code of Ethics and Conduct
For
Elected and Appointed Officials**

DRAFT

Adopted

A. ETHICS

The citizens and businesses of the City of Rochester are entitled to have fair, ethical and accountable local government. To this end, the public should have full confidence that their elected and appointed officials:

- Comply with both the letter and spirit of the laws and policies affecting the operations of government.
- Are independent, impartial, and fair in their judgment and actions.
- Use their public office for the public good, not for personal gain; and
- Conduct public deliberations and processes openly, unless required by law to be confidential, in an atmosphere of respect and civility.

Therefore, members of the City Council, all Boards, and Committees and Commissions shall conduct themselves in accordance with the following ethical standards:

1. **Act in the Public Interest.** Recognizing that stewardship of the public interest must be their primary concern, members will work for the common good of the people of Rochester and not for any private or personal interest, and they will assure fair and equal treatment of all persons, claims and transactions coming before them.
2. **Comply with both the spirit and the letter of the Law and City Policy.** Members shall comply with the laws of the nation, the State of New Hampshire, and the City of Rochester in the performance of their public duties.
3. **Conduct of Members.** The professional and personal conduct of members while exercising their office must be above reproach and avoid even the appearance of impropriety. Members shall refrain from abusive conduct, personal charges or verbal attacks upon the character or motives of other members of Council, Boards, Committees and Commissions, the staff or public.
4. **Respect for Process.** Members shall perform their duties in accordance with the processes and rules of order established by the City Council.
5. **Conduct at Public Meetings.** Members shall prepare themselves for public issues; listen courteously and attentively to all public discussions before the body; and focus on the business at hand.
6. **Decisions Based on Merit.** Members shall base their decisions on the merits and substance of the matter at hand, rather than on unrelated considerations. When making adjudicative decisions (those decisions where the member is called upon to determine and apply facts peculiar to an individual case), members shall maintain an open mind until the conclusion of the hearing on the matter and shall base their decisions on the facts presented at the hearing and the law.

7. **Communication.** For adjudicative matters pending before the body, members shall refrain from receiving information outside of an open public meeting or the agenda materials, except on advice of the City Attorney. Members shall publicly disclose substantive information that is relevant to a matter under consideration by the body which they may have received from sources outside of the public decision-making process.

(a) Social Media Social media presence by those officials covered under this code is to be informative in nature and positively reflect on the community and City staff and promote local activities. All officials shall avoid expressing opinions or bias regarding City business or issues that may come before the Council/Commission/Board/Committee when it may be construed that they are acting on behalf of the City.

In the use of social media, all officials are to abide by the following:

- Refrain from making belligerent, impertinent, slanderous, threatening, abusive, or personally disparaging comments.
- Ensure that they do not participate in discrimination or harassment, even if the identified behavior is not targeting a protected class, consisting of unwelcome conduct, sexual or otherwise, whether verbal, physical, or visual. Harassing conduct includes but is not limited to: slurs or negative stereotyping; bullying, threatening, intimidating or other hostile acts; degrading jokes and display or circulation of graphic material that degrades or shows hostility; and physical touching.
- Shall never demean or personally attack an employee regarding the employee's job performance in public; and
- Are to demonstrate their honesty and integrity, and to be an example of appropriate and ethical conduct

8. **Conflict of Interest.** In order to assure their independence and impartiality on behalf of the common good and compliance with conflict-of-interest laws, members shall use their best efforts to refrain from creating an appearance of impropriety in their actions and decisions. Members shall not use their official positions to influence government decisions in which they have (a) a material financial interest, (b) an organizational responsibility or personal relationship which may give the appearance of a conflict of interest, or (c) a strong personal bias.

A member who has a potential conflict of interest regarding a particular decision shall disclose the matter to the City Attorney and reasonably cooperate with the City Attorney to analyze the potential conflict. If advised by the City Attorney to seek advice from other appropriate entities, a member shall not participate in a decision unless and until he or she has requested and received advice allowing the member to participate. A member shall diligently pursue obtaining such advice. The member shall provide the Mayor and the City Attorney a copy of any written request or advice and conform his or her participation to the advice given. In providing assistance to members, the City Attorney represents the City and not individual members.

In accordance with the law, members shall disclose investments, interests in real property, sources of income, and gifts; and if they have a conflict of interest regarding a particular decision, shall not, once the conflict is ascertained, participate in the decision and shall not discuss or comment on the matter in any way to any person including other members unless otherwise permitted by law.

9. **Gifts and Favors.** Members shall not take any special advantage of services or opportunities for personal gain, by virtue of their public office that is not available to the public in general. They shall refrain from accepting any gifts, favors or promises of future benefits which might compromise their independence of judgment or action or give the appearance of being compromised.

10. **Confidential Information.** Members must maintain the confidentiality of all written materials and verbal information provided to members which is confidential or privileged. Members shall neither disclose confidential information without proper legal authorization, nor use such information to advance their personal, financial, or other private interests.
11. **Use of Public Resources.** Members shall not use public resources which are not available to the public in general (e.g., City staff time, equipment, supplies or facilities) for private gain or for personal purposes not otherwise authorized by law.
12. **Representation of Private Interests.** In keeping with their role as stewards of the public interest, members of Council shall not appear on behalf of the private interests of third parties before the Council or any Board, Committee, Commission or proceeding of the City, nor shall members of Boards, Committees and Commissions appear before their own bodies or before the Council on behalf of the private interests of third parties on matters related to the areas of service of their bodies.
13. **Advocacy.** Members shall represent the official policies or positions of the City Council, Board, Committee or Commission to the best of their ability when designated as delegates for this purpose. When presenting their individual opinions and positions, members shall explicitly state they do not represent their body or the City of Rochester, nor will they allow the inference that they do. Councilmembers and Board, Committee and Commission members have the right to endorse candidates for all Council seats or other elected offices. It is inappropriate to mention or display endorsements during Council meetings, or Board, Committee and Commission meetings, or other official City meetings.
14. **Policy Role of Members.** Members shall respect and adhere to the council-manager structure of the Rochester City government. In this structure, the City Council determines the policies of the City with the advice, information and analysis provided by City staff, Boards, Committees and Commissions, and the public. Except as provided by the City Charter and Code, members shall not interfere with the administrative functions of the City or the professional duties of City staff; nor shall they impair the ability of staff to implement Council policy decisions.
15. **Independence of Boards, Committees and Commissions.** Because of the value of the independent advice of Boards, Committees and Commissions to the public decision-making process, members of Council shall refrain from using their position to unduly influence the deliberations or outcomes of Board, Committee and Commission proceedings.
16. **Positive Workplace Environment.** Members shall support the maintenance of a positive and constructive workplace environment for City employees and for citizens and businesses dealing with the City. Members shall recognize their special role in dealings with City employees to in no way create the perception of inappropriate direction to staff.

B. CONDUCT GUIDELINES

The Conduct Guidelines are designed to describe the manner in which elected and appointed officials should treat one another, City staff, constituents, and others they come into contact with while representing the City of Rochester.

1. Elected and Appointed Officials' Conduct with Each Other in Public Meetings

Elected and appointed officials are individuals with a wide variety of backgrounds, personalities, values, opinions, and goals. Despite this diversity, all have chosen to serve in public office in order to preserve and protect the present and the future of the community. In all cases, this common goal should be acknowledged even though individuals may not agree on every issue.

- (a) *Honor the role of the chair in maintaining order*
It is the responsibility of the Mayor, as chair to keep the comments of members on track during public meetings. Members should honor efforts by the chair to focus discussion on current agenda items. If there is disagreement about the agenda or the chair's actions, those objections should be voiced politely and with reason, following procedures outlined in parliamentary procedure.
- (b) *Practice civility and decorum in discussions and debate*
Difficult questions, tough challenges to a particular point of view, and criticism of ideas and information are legitimate elements of debate by a free democracy in action. Free debate does not require nor justify, however, public officials to make belligerent, personal, impertinent, slanderous, threatening, abusive, or disparaging comments.
- (c) *Avoid personal comments that could offend other members*
If a member is personally offended by the remarks of another member, the offended member should make notes of the actual words used and call for a "point of personal privilege" that challenges the other member to justify or apologize for the language used. The chair will maintain control of this discussion.
- (d) *Demonstrate effective problem-solving approaches*
Members have a public stage and have the responsibility to show how individuals with disparate points of view can find common ground and seek a compromise that benefits the community as a whole.

2. Elected and Appointed Officials' Conduct with the Public in Public Meetings

Making the public feel welcome is an important part of the democratic process. No signs of partiality, prejudice or disrespect should be evident on the part of individual members toward an individual participating in a public forum. Every effort should be made to be fair and impartial in listening to public testimony.

- (a) *Be welcoming to speakers and treat them with care and gentleness.*
 - a. While questions of clarification may be asked, the official's primary role during public testimony is to listen.
- (b) *Be fair and equitable in allocating public hearing time to individual speakers.*
 - a. The chair will determine and announce limits on speakers at the start of the public hearing process.

- (c) *(c Practice active listening*
 - a. It is disconcerting to speakers to have members not look at them when they are speaking. It is fine to look down at documents or to make notes but reading for a long period of time or gazing around the room gives the appearance of disinterest. Members shall try to be conscious of facial expressions and avoid those that could be interpreted as "smirking," disbelief, anger, or boredom.
- (d) *Maintain an open mind*
 - a. Members of the public deserve an opportunity to influence the thinking of elected and appointed officials.
- (e) *Ask for clarification, but avoid debate and argument with the public*
 - a. Only the chair – not individual members – can interrupt a speaker during a presentation. However, a member can ask the chair for a point of order if the speaker is off the topic or exhibiting behavior or language the member finds disturbing.

3. **Elected and Appointed Officials' Conduct with City Staff**

Governance of a City relies on the cooperative efforts of elected officials, who set policy, appointed officials who advise the elected, and City staff who implement and administer the Council's policies. Therefore, every effort should be made to be cooperative and show mutual respect for the contributions made by everyone for the good of the community. The council is committed to providing an environment that is free from discrimination and harassment, even if the identified behavior is not targeting a protected class.

Harassment consists of unwelcome conduct, sexual or otherwise, whether verbal, physical, or visual. Harassing conduct includes, but is not limited to slurs or negative stereotyping; bullying, threatening, intimidating or other hostile acts; degrading jokes and display or circulation of graphic material that degrades or shows hostility; and physical touching

- (a) *Treat all staff as professionals*
Clear, honest communication that respects the abilities, experience, and dignity of each individual is expected. Poor behavior towards staff is not acceptable.
- (b) *Do not disrupt City staff from their jobs*
Elected and appointed officials should not disrupt City staff while they are in meetings, on the phone, or engrossed in performing their job functions in order to have their individual needs met. Do not attend City staff meetings unless requested by staff – even if the elected or appointed official does not say anything, his or her presence implies support, shows partiality, may intimidate staff, and hampers staff's ability to do their job objectively.
- (c) *Never publicly criticize an individual employee*
Elected and appointed officials should never express concerns about the performance of a City employee in public, to the employee directly, or to the employee's manager. Comments about staff performance should only be made to the City Manager through private correspondence or conversation. Appointed officials should make their comments regarding staff to the City Manager or the Mayor.

- (d) *Do not get involved in administrative functions*
Elected and appointed officials acting in their individual capacity must not attempt to influence City staff on the making of appointments, awarding of contracts, selecting of consultants, processing of development applications, or granting of City licenses and permits.
- (e) *Do not solicit political support from staff*
Elected and appointed officials should not solicit any type of political support (financial contributions, display of posters or lawn signs, name on support list, etc.) from City staff. City staff may, as private citizens with constitutional rights, support political candidates but all such activities must be done away from the workplace.
- (f) *No Attorney-Client Relationship*
Members shall not seek to establish an attorney-client relationship with the City Attorney, including his or her staff and attorneys contracted to work on behalf of the City. The City Attorney represents the City and not individual members. Members who consult with the City Attorney cannot enjoy or establish an attorney-client relationship with the attorney.

4. Council Conduct with Boards, Committees and Commissions

The City has established several Boards, Committees and Commissions as a means of gathering more community input. Citizens who serve on Boards, Committees and Commissions become more involved in government and serve as advisors to the City Council. They are a valuable resource to the City's leadership and should be treated with appreciation and respect.

- (a) *If attending a Board, Committee or Commission meeting, be careful to only express personal opinions*
Councilmembers may attend any Board, Committee or Commission meeting, which are always open to any member of the public. However, they should be sensitive to the way their participation – especially if it is on behalf of an individual, business or developer – could be viewed as unfairly affecting the process. Any public comments by a Councilmember at a Board, Committee or Commission meeting should be clearly made as individual opinion and not a representation of the feelings of the entire City Council.
- (b) *Limit contact with Board, Committee and Commission members to questions of clarification* It is inappropriate for a Councilmember to contact a Board, Committee or Commission member to lobby on behalf of an individual, business, or developer, and vice versa. It is acceptable for Councilmembers to contact Board, Committee or Commission members in order to clarify a position taken by the Board, Committee or Commission.
- (c) *Respect that Boards, Committees and Commissions serve the community, not individual Councilmembers*
The City Council appoints individuals to serve on Boards, Committees and Commissions, and it is the responsibility of Boards, Committees and Commissions to follow policy established by the Council. But Board, Committee and Commission members do not report to individual Councilmembers, nor should Councilmembers feel they have the power or right to threaten Board, Committee and Commission members with removal if they disagree about an issue.
Appointment and re-appointment to a Board, Committee or Commission should be based on such criteria as expertise, ability to work with staff and the public, and commitment to fulfilling official duties. A Board, Committee or Commission appointment should not be used as a political "reward."

- (d) *Be respectful of diverse opinions*
A primary role of Boards, Committees and Commissions is to represent many points of view in the community and to provide the Council with advice based on a full spectrum of concerns and perspectives. Councilmembers may have a closer working relationship with some individuals serving on Boards, Committees and Commissions, but must be fair and respectful of all citizens serving on Boards, Committees and Commissions.
- (e) *Keep political support away from public forums*
Board, Committee and Commission members may offer political support to a Councilmember, but not in a public forum while conducting official duties. Conversely, Councilmembers may support Board, Committee and Commission members who are running for office, but not in an official forum in their capacity as a Councilmember.

C. SANCTIONS

- (a) *Acknowledgement of Code of Ethics and Conduct*
Councilmembers who do not sign an acknowledgement that they have read and understand the Code of Ethics and Conduct shall be ineligible for intergovernmental assignments or Council subcommittees. Board, Committee and Commission members who do not sign an acknowledgement that they have read and understand the Code of Ethics and Conduct are not eligible to hold office.
- (b) *Ethics Training for Local Officials*
Councilmembers, City Treasurer, City Clerk, Board, Committee and Commission Members who are out of compliance with State or City mandated requirements for ethics training shall not represent the City on intergovernmental assignments or Council subcommittees and may be subject to sanctions.
- (c) *Behavior and Conduct*
The City of Rochester's Code of Ethics and Conduct expresses standards of ethical conduct expected for members of the City of Rochester Council, Boards, Committees and Commissions. Members themselves have the primary responsibility to assure that ethical standards are understood and met, and that the public can continue to have full confidence in the integrity of government. The chairs of Boards, Committees and Commissions and the Mayor and Council have the additional responsibility to intervene when actions of members that appear to be in violation of the Code of Ethics and Conduct are brought to their attention.

Councilmembers

Councilmembers who intentionally and repeatedly do not follow proper conduct may be reprimanded or formally censured by the Council, lose seniority or committee assignments (both within the City of Rochester and with intergovernmental agencies) or other privileges afforded by the Council. Serious infractions of the Code of Ethics or Code of Conduct could lead to other sanctions as deemed appropriate by the Council.

Individual Councilmembers should point out to the offending Councilmember perceived infractions of the Code of Ethics and Conduct. If the offenses continue, then the matter should be referred to the Mayor in private. If the Mayor is the individual whose actions are being questioned, then the matter should be referred to the Vice Mayor. It is the responsibility of the Mayor (Deputy Mayor) to initiate action if a Councilmember's behavior may warrant sanction. If no action is taken by the Mayor (or Deputy Mayor), then the alleged violation(s) can be brought up with the full Council.

Board, Committee and Commission Members:

Counseling, verbal reprimands and written warnings may be administered by the Mayor to Board, Committee and Commission members failing to comply with City policy. These lower levels of sanctions shall be kept private to the degree allowed by law. Copies of all written reprimands administered by the Mayor shall be distributed in memo format to the chair of the respective Board, Committee or Commission, the City Clerk, the City Attorney, the City Manager, and the City Council.

The City Council may impose sanctions on Board, Committee and Commission members whose conduct does not comply with the City’s policies, up to and including removal from office. Any form of discipline imposed by Council shall be determined by a majority vote of at least a quorum of the Council at a noticed public meeting and such action shall be preceded by a Report to Council with supporting documentation.

When deemed warranted, the Mayor or majority of Council may call for an investigation of Board, Committee or Commission member conduct. Also, should the City Manager or City Attorney believe an investigation is warranted, they shall confer with the Mayor or Council. The Mayor or Council shall ask the City Manager or the City Attorney to investigate the allegation and report the findings.

These sanctions are alternatives to any other remedy that might otherwise be available to remedy conduct that violates this code or state or federal law. In order to protect and preserve good government, any individual including the City Manager and the City Attorney after complying with the State of New Hampshire Bar Rules of Professional Conduct, who knows or reasonably believes a member acts or intends or refuses to act in a manner that is or may be a violation of law reasonably imputable to the organization, or in a manner which is likely to result in substantial injury to the organization, may report the violation to the appropriate governmental authorities.

D. IMPLEMENTATION

The Code of Ethics and Conduct is intended to be self-enforcing and is an expression of the standards of conduct for members expected by the City. It therefore becomes most effective when members are thoroughly familiar with it and embrace its provisions.

For this reason, this document shall be included in the regular orientations for candidates for City Council, applicants to Board, Committee and Commissions, and newly elected and appointed officials. Members entering office shall sign the below acknowledging they have read and understand the Code of Ethics and Conduct. In addition, the Code of Ethics and Conduct shall be periodically reviewed by the City Council, Boards, Committees and Commissions, and updated it, as necessary.

I affirm that I have read and understand the City of Rochester Code of Ethics and Conduct for Elected and Appointed Officials

Signature

Date

*Intentionally
left blank...*

City Clerk's Office

City of Rochester (Council)

FINANCIAL INTEREST DISCLOSURE FORM

In accordance with the City of Rochester’s Code (“Code of Ethics”), this Form shall be submitted by all elected City officials with authorization to sign purchase orders within thirty (30) days of assuming office.

1. Name: _____ 4. Work Number: _____

2. Address: _____ 5. Email Address: _____

3. Tele. Number: _____ 6. Position/Title: _____

7. Please identify all interests (as that term is defined the City of Rochester Code and Ethics) that you have in any real estate, trust, corporation (including interests as a shareholder), limited liability company, limited partnership, partnership, or any other entities. As part of your response, please identify the exact interests held in such property or entities and the address of such property or entities.

- a. _____
- b. _____
- c. _____
- d. _____

8. Please identify all businesses in which you presently act or have acted in the last twelve (12) months as a manager, member, shareholder, officer, board member, general partner, limited partner, employee, agent, or consultant. As part of your answer, please identify the address of the business and the position held in such business.

- a. _____
- b. _____
- c. _____
- d. _____

9. Please identify all notes, bonds, or debentures or any other creditor instruments in which you have an interest:

- a. _____
- b. _____
- c. _____
- d. _____

FORM- Disclosure Financial interest.

10. Please identify any organizations (charitable entities, non-profit entities, trade associations, labor organizations, special interest groups) to which you belong, or act as an officer, member of the board of directors, or in any other capacity. As part of your answer, please identify the position that you hold in such organization.

- a. _____
- b. _____
- c. _____
- d. _____

11. **ACKNOWLEDGMENT**. In signing this Form, you acknowledge that you have received a copy of Code of Ethics. You further acknowledge that you will not be able to (a) introduce, discuss, deliberate, approve, or vote upon any matter in which you have a disclosed interest, (b) use any knowledge or information that you have acquired in your capacity as an employee/ official of the City of Rochester in furtherance of any private interest, including those disclosed herein, or (c) engage in any conduct which would constitute a violation of the Code of Ethics. In the event that you acquire any additional interests or assume any further positions which would be required to be disclosed under the Code of Ethics or this Form, you shall submit an updated Form within thirty (30) days.

I have read the City of Rochester’s Council Code and Ethics policy and this form and hereby swear or affirm that the foregoing information is true and complete to the best of my knowledge and belief. **Failure to disclose information as required on this form shall be a violation of the City of Rochester’s Council Code and Ethics Policy and may constitute grounds for removal from office or employee discipline, up to and including termination.**

Date: _____

Signature: _____

Printed Name: _____

FOR INTERNAL USE ONLY:

Filed and received by the Rochester Town Clerk on: _____.

Date forwarded to the Rochester City Manager and Rochester Ethics Committee: _____.

To be returned to submitting individual ninety (90) days following separation from office ~~(provided no petition has been filed under Section 53 of the Rochester City Code).~~