

Codes and Ordinances Committee

Councilor Peter Lachapelle, Chair
Councilor Elaine Lauterborn, Vice Chair
Councilor Ray Varney
Councilor Robert Gates
Councilor Derek “Mac” Kittredge



AGENDA

CODES AND ORDINANCES COMMITTEE

Of the Rochester City Council

Thursday February 6, 2014

City Council Chambers

31 Wakefield Street, Rochester, NH

7:00 PM

- 1. Call to Order**
- 2. Public Input**
- 3. Approval of the Codes and Ordinances Committee Minutes P-3**
 - December 5, 2013**
- 4. Rules of Order P-9**
 - Minutes**
- 5. Codification P-17**
- 6. Water Leak Enforcement – Peter Nourse**
- 7. Proposed Rental Housing Ordinance P-65**
- 8. Panhandling Ordinance Discussion P-75**
- 9. Other**
- 10. Adjournment**

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CODES AND ORDINANCES COMMITTEE

Of the Rochester City Council

Thursday December 5, 2013

City Council Chambers

31 Wakefield Street, Rochester, NH

7:00 PM

Committee Members Present

Councilor Peter Lachapelle, Chair

Councilor Elaine Lauterborn, Vice Chair

Councilor Ray Varney

Councilor Sandra Keans

Councilor James Gray

Others Present

Peter Cutrer, Deputy Fire Chief

Sheldon Perkins, Code Enforcement

Officer

Neal Bilodeau, State Ranger

Mac Kittredge, Resident

Jackie Raab, Resident

Peter Nourse, Commissioner of Public
Works

MINUTES

1. Call to Order

Councilor Lachapelle called the Codes and Ordinances Committee meeting to order at 7:00 PM. All committee members were present.

2. Public Input

Councilor Lachapelle explained that the public could speak during the discussion of the item which they have concerns with. He asked if anyone would like to address the Codes and Ordinances Committee at this time. There was no discussion at that time.

Councilor Lachapelle notified the Codes and Ordinances Committee that there will not be a meeting in January due to possible re-appointments that will have not been made by the January 2, 2014 meeting date.

3. Approval of the Codes and Ordinances Committee Minutes

• October 3, 2013

Councilor Lauterborn **MOVED** to **APPROVE** the Committee minutes of October 3, 2013. Councilor Keans seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

4. Complaints on Illegal Burns, Bonfires, Nuisance Smoke

Peter Cutrer, Deputy Fire Marshal, gave the Codes and Ordinances Committee an overview of the different permit classifications, which fall under State law. Mr. Cutrer had

introduced Neal Bilodeau, State Ranger, who would also be able to answer questions for them.

Mr. Cutrer understood why there are complaints regarding smoke and odor, especially in the summer when windows are open. He cited it is health issues such as asthma, so when they meet with the individuals that obtain these permits they explain the law. He did explain that nuisance smoke was omitted from the State law and per State law they are not allowed to extinguish a fire due to smoke.

There are three fire permit classifications. Class 1 and Class 2 are seasonal whereas Class 3 is a one time burn permit, such as a bonfire. Mr. Cutrer cited a recent complaint which the Fire Department received, which he believed to be the same complaint that Councilor Lachapelle received. Mr. Cutrer explained he did inspect the property and found several issues with the fire pit, such as the distance from structures and the items that were being burned in the fire pit, such as garbage. It was his impression that the fire pit had been moved from the time they were issued the permit. Councilor Keans asked what items can be burned. Mr. Cutrer and Mr. Bilodeau said clean, untreated wood less than five inches in diameter. He stated that the resident was not in the confines of the permit so their permit was revoked and at this point the issue for the resident that made the complaint is resolved and Mr. Cutrer received a thank you letter from the resident. Councilor Lauterborn asked if the permit was revoked for the season. Mr. Cutrer stated that it was revoked for the season; however, the resident can correct the problems and reapply. The inspection would be under tighter restrictions. He went on to explain that if the resident did not comply again they would ultimately be banned from getting a permit.

Councilor Varney asked how residents would know the criteria such as the boundaries for the permit. Mr. Cutrer stated that it is explained on the back of the permit and it is the State law.

Mr. Bilodeau, State Ranger, explained that Class 1 would be a small contained fire pit less than two feet in diameter, such as a Chiminea. This fire pit would have to be twenty-five feet from structures. Class 2 he referred to as a ring of fire that is four feet in diameter and needs to be fifty feet from structures. Class 3 he referred to such burns as bonfires and brush that is being burned on the ground, which is greater than four feet in diameter, also needs to be fifty feet from structure.

Councilor Varney stated that some communities ban outside burning altogether and a State representative had commented that Rochester has more of these burn permits than anywhere else in the State. He asked if they could make changes to the distances which are allowed to burn. Mr. Cutrer understood and explained that there are solutions and the complaints need to be looked at on a case by case basis. He cited that if it is a severe issue a resident can fill out a DES complaint at the Rochester Fire Department and DES would take action. He explained this further and unfortunately laws do get broken.

Councilor Keans wanted to know the difference between a campfire and a fire pit. Mr. Cutrer explained that the fire pit is enclosed. The committee discussed this further with Mr. Bilodeau and also discussed portable manufactured fireplaces that burn wood.

Councilor Varney asked that the fire officials be educated on this topic and in the spring when these types of permits start to get issued advertize this topic to get the residents educated as well. Mr. Cutrer agreed that a public service announcement would be great. Councilor Lachapelle stated that they could use the government channel 26.

Councilor Lachapelle stated that this issue was resolved and is dead in committee.

5. Enforcement of Water Leaks at Mobile Home Parks

Peter Nourse, Commissioner of Public Works, addressed the Codes and Ordinances Committee regarding water leaks and abatements. He explained that Public Works looked at coming up with some ideas to address this issue and he wanted to come to the Codes and Ordinances Committee to discuss them

Mr. Nourse explained that a mobile home park that has a leak will go to the UAB for abatement on the sewer. He explained that there needs to be an incentive to get these leaks repaired because it is a waste of water. It costs the City money and they need to find a way to enforce these repairs. He explained that in October the City Manager stated he does not want these abatements. He also commented that it is hard charge for sewer when it is not going into the sewer.

Mr. Nourse said that this would not just be for mobile home parks in the City, but all water leaks. The Codes and Ordinances Committee reviewed 17.9 “meters” and 17.26 “violations” pertaining to the water ordinances, and Mr. Nourse would like them improved and possibly have a shut-off for non-compliance. He went on to explain that when they see a spike in usage for anyone in the City they send out a letter, but there is no enforcement. If the leak is on the resident’s side it should be explicit in the ordinance that they get shut off if they do not comply with making the repairs.

Mr. Nourse gave the committee an example of a situation at Woodland Green where a lot of water was wasted and they incurred sewer bills as a result. The City sent several letters, but now it is in litigation. Had it been written in the ordinance that there was a penalty, this situation could have turned out differently. A lot of water was wasted.

The Codes and Ordinances Committee discussed other parks within the City and Mr. Nourse explained that if they see a spike they will send a letter and advise them, but they have no authority to follow. Councilor Keans asked how long have they been sending out letters. Mr. Nourse explained that they have been sending them for as long as he has been with the City.

Councilor Keans briefly discussed how the filling of pools is handled in the City.

Councilor Gray stated that to get the abatement, the leak needs to be fixed and the ordinance needs a little more work to make it a workable ordinance.

Councilor Lachapelle asked Mr. Nourse to draft an ordinance and bring it back to them for the February 6, 2014, meeting. Mr. Nourse stated that he would.

Councilor Keans asked if a monthly bill versus a three month billing cycle would help because they would find leaks faster. The committee discussed the topic briefly.

Councilor Lachapelle and Mr. Nourse would like to see something in writing. Councilor Varney does not want to be too quick to shut off a resident's water. Mr. Nourse discussed adding language that a leak needs to be fixed within ninety days. He went on to explain that the Public Works Department is very good with working with the residents when there is a problem. Councilor Varney discussed this further. Mr. Nourse will put something together for the next meeting. Councilor Lachapelle stated they will talk about it at that time.

Councilor Keans asked about large users that are flat rate. Mr. Nourse explained that they do have this situation because there is a park that has multiple inputs and to have that changed they would have to go to a Magmeter and they are very expensive. Councilor Gray asked about having two meters with check valves to survey the situation. The committee discussed this further and Mr. Nourse explained that it is not that simple. He stated that the Magmeter has a cost of \$80,000. Councilor Gray would like more clarification on these expensive meters. Mr. Nourse tried to explain the issues with the check valve or the double check valves. He went on to explain that it is not as simple as one thinks when it comes to multiple feeds.

This item will be staying in committee to be discussed at the February 6, 2014, Codes and Ordinances meeting.

6. Ordinance on Grass Height

Sheldon Perkins, Code Enforcement Officer, discussed the proposed ordinance that he had drafted pertaining to grass height, which came from the International Property Maintenance Code. Mr. Perkins explained that there is not an ordinance anywhere in the State that has a height ordinance. Councilor Lachapelle asked if other communities have adopted the International Code. Mr. Perkins stated yes, they have, and that when it comes to grass height it is left blank, leaving it up to the communities.

Mr. Perkins was familiar with the issue that sparked the discussion on this proposed ordinance. He explained that when he is notified of such complaints he is able to get the resident to comply by making contact with them. Councilor Lachapelle agreed that it is a softer approach when the City works with the residents. Mr. Perkins stated that they can be creative to resolve these types of issues and ninety-nine percent of the time it is proven effective. Councilor Varney noted that having Mr. Perkins as a Code Enforcement Officer might take care of the situation. The committee briefly discussed that there are elderly residents and others who might not be able to take care of the maintenance and this could be an issue.

Jackie Raab, resident, noted that she had spoken with the former City Manager, Gary Stenhouse, and he stated to her that there has always been something on the books regarding this matter and the Codes Department would always take care of it. She went on to state that most communities have this on the books and they just do not know it.

Ms. Raab felt that it was going to be an ongoing situation and she still wants a height limit. Mr. Perkins explained the International Code further.

Ms. Raab stated that the issue did get media coverage when it had been addressed on several news stations.

Councilor Varney reiterated that they not do anything and let Mr. Perkins address the issues with the current ordinance. Mr. Perkins agreed. Councilor Gray suggested that it stay in committee indefinitely. Councilor Lachapelle commented that it is dead in committee.

7. Amendment to Water Ordinance

Councilor Lachapelle reviewed the water ordinance 17.4, which came from the prior UAB meeting with the Codes and Ordinances Committee, where they had made the change as it pertained to “well fails.” This item passed the UAB with a three-to-two vote. He thought that it should go to Attorney Wensley to make the changes and then brought to the full City Council.

The Codes and Ordinances Committee members discussed the changes that are being presented as it pertains to adding a section (B) to the current ordinance. Councilor Varney explained the change as it pertains to the word “fails.”

Councilor Keans debated that it should be connected with the sewer ordinance and that they should be parallel. Councilor Lauterborn was under the impression that this was a minor definition change for “well fails.” Councilor Keans did not feel that there was enough information for them to make a decision. Councilor Gray tried to explain the definition further in regards to the sewer, as well as water, where it could require a permit. Councilor Varney asked if it required a permit. Mr. Nourse said not through Public Works. The Codes and Ordinances Committee discussed parallel terminology further.

Councilor Lachapelle wanted to have the change sent to the full City Council. The committee further discussed keeping the issue in committee until the February 6, 2014 meeting. Councilor Gray discussed looking at this from a permit level [water or sewer] in regards to failure or the property being sold.

Councilor Keans did not feel that it read well by adding section (B) because of the definitions. Councilor Varney stated that the sewer ordinance is defined.

Councilor Lauterborn **MOVED** to add a section (B) to ordinance 17.4. Councilor Varney seconded the motion. The **MOTION CARRIED** by a four to one majority voice vote.

8. Finance Committee – Water Sewer Ordinance

Councilor Lachapelle explained that this issue is the result of a water leak which the Salvation Army incurred and the request for the abatement went beyond the billing cycle.

Councilor Keans asked if the Utility Advisory Board has the power to override this in these situations. Councilor Lauterborn was under the impression the administration was not going to override the abatement because they wanted it clarified in the ordinance.

Councilor Varney explained that ordinance 17.20 A states that the abatement request needs to be made before the next billing cycle, and in the case of the Salvation Army it went on for several months due to a new administration taking over and not knowing there was a problem. Councilor Lachapelle discussed 17.20 A in reference to the City Manager taking action.

Councilor Keans suggested the ninety days billing cycle, in Chapter 17.20 A, could be waived if there was proof of an extra ordinary circumstance. Councilor Lauterborn agreed. Councilor Lachapelle discussed the waiving the ninety days under (B) and give it to the UAB. Councilor Keans and Councilor Lauterborn agreed. Councilor Varney asked that the ninety days be changed two billing cycles, making it one hundred and eighty days. Councilor Keans and Councilor Varney discussed the two billing cycles further.

The Codes and Ordinances Committee wanted the UAB to review 17.20, adding the two billing cycles, which is a one hundred and eighty day period. The Codes and Ordinances Committee will review again when they hear back from the UAB. This issue will stay in committee at this time.

9. Fireworks Discussion

Councilor Lachapelle had no discussion regarding fireworks. The resident that had asked for the Codes and Ordinances Committee to look at this topic again had left prior to the time it was to be discussed on the agenda. The discussion died in committee.

10. Other

No other topics where discussed

11. Adjournment

Councilor Keans **MOVED** to **ADJOURN** the Committee meeting at 8:05 PM. Councilor Lauterborn seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Respectfully submitted,

Nancy Carignan
Assistant City Clerk



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1/31/2014

Clerk of the Council
Elections
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To: Peter Lachapelle, Chair of the Codes and Ordinances Committee
From: Kelly Walters, City Clerk
Date: January 31, 2014
Subject: **City Council Rules of Order**

The Codes and Ordinances Committee discussed how the City Clerk's staff writes the minutes for all City Council meetings in August of 2013. The Committee requested that the City Clerk to report back with a proposed plan for moving forward. Councilor Lauterborn had pointed out that there was a lot of information about this matter from the New Hampshire Municipal Association. *This has been included in the City Council packet.*

City Manager Fitzpatrick provided the City Clerk's office with information about taking minutes from Roberts Rules Order [Eleventh Edition]. This has been included in the packet for review. The basis for providing this information with the packet is for the paragraph which states: *The name and subject of a guest speaker can be given but no effort should be made to summarize his remarks.*

In light of reading the rules and regulation under RSA 91-A, the City Clerk staff will now be keeping the original **draft** record in the City Clerk's office along with the accepted set of minutes for each meeting.

The City Clerk's office is now seeking clear guidance from the City Council relative to how the City Council meeting minutes should be written. The City Council Rules of Order, Section 4.24, Minutes, basically refers the matter to RSA 91-A.

Existing: Section 4.24 Minutes

All meeting minutes of the City Council including all standing and special committees of the Council shall take roll call at all committee meetings and record their proceedings and provide minutes of any meeting to the City Clerk's office in a manner prescribed under NH RSA 91-A.

Proposed: Section 4.24 Minutes

All meeting minutes of the City Council including all standing and special committees of the Council shall take roll call at all committee meetings and record their proceedings and provide minutes of any meeting to the City Clerk's office in a manner prescribed under NH RSA 91-A. Furthermore, that Clerk staff will summarize each topic with a detailed summary of any and all decisions made. All public input and guest speakers comments will be summarized to state the person's name, topic addressed, and if they opposed or supported a certain topic. A draft copy of the minutes will be signed by the subscriber of said set of minutes, which will be made available to the public as a permanent record within 5 business days of said meeting date. The draft set of minutes will be sent to the full City Council for approval. Once the final approval is complete the set of minutes will be posted to the City's website and kept as an additional permanent record of the City Clerk's office in a separate binder.

FYI: There is proposed legislation, which would require the City Council to sign each set of minutes: <http://www.nhliberty.org/bills/view/2014/HB1156>

Draft Meeting Minutes – Practical Considerations

- A. A meeting is held, and the Right to Know Law (RSA 91-A) requires “minutes” to be prepared and be made available to the public upon request within 5 business days after the meeting. RSA 91-A:2, II. The board which met probably does not meet again to approve the minutes within this time frame, so the minutes will always be the output of the single staff person or board member tasked to create the document. This version, whether approved or not, becomes a “governmental record” under RSA 91-A:1-a, III and must be made available upon request. Minutes must be retained as a governmental record forever under RSA Chapter 33-A, so they must be reduced to a paper format and may not be kept solely as electronic records. RSA 33-A:5-a. Thus, a permanent paper record will come into existence within 5 business days of the meeting and is subject to disclosure under the Right to Know Law, even if the board regards it as a draft document.

- B. There is no requirement in the Right to Know Law that any board act to “approve” its minutes. However, it is a near universal practice for all boards to review the minutes that were created within the 5-day time frame. During this review, members often suggest additions, deletions and corrections. If a board wishes to amend the minutes, it may do so, but the discussion and vote must take place at a duly-noticed public meeting of a quorum of the board. This point is now made clear by the 2008 revisions to the statute prohibiting communications among a quorum of the members of a board outside of a properly held meeting. Therefore, the actual discussion to amend and approve the minutes must be documented in the minutes of that subsequent meeting as an item of business the board considered.

- C. Given the system set up by the law, we suggest that whenever minutes are created, they are marked as “not yet reviewed” or “draft.” This will warn anyone who reads them that the board, as of the date the minutes were created, has not approved them. If the board does amend them at its next meeting, the minutes of that next meeting should refer to the old minutes and detail the changes made. The board may also wish to produce a new document of the amended minutes labeled “as amended and approved by board” or something of that nature.

- D. However, we do not recommend that “draft” minutes be destroyed or altered when they are stored. If these so-called draft documents are destroyed, there is a risk that some member of the public or a different town official actually received the draft and has already used it. Between the time when the draft was created and the time it was amended and approved by the board, the draft *was* the minutes and thus exists as a governmental record. The possibility of reliance on a preliminary document is greatly increased if the board immediately posts the document on its internet website, or distributes it to members of other local boards for informational purposes. Also, if the draft document is altered to reflect changes made in a subsequent meeting, any discussion and debate about why the

change was made could be lost forever if no document preserving the original text is allowed to survive.

- E. Some clerks have adopted the following practice. The draft minutes document is created as noted above. If changes are made at a subsequent meeting, the changes are detailed in the minutes of that second meeting. As the minutes are being prepared for permanent storage in paper format, the clerk will add a notation to the permanent record of the first meeting that corrections were made, and give an exact reference to the page where the changes appear in the minutes of the subsequent meeting. This seems to be an excellent way to serve all interests, in that it preserves the draft document as originally created and made available to the public, allows the board to review the record and make any needed changes, and allows the users of the documents to see the text as originally prepared, the changes that were made, and the reasons why the changes were made.
- F. We have also heard that some clerks will destroy draft minutes and only keep the “perfect” record that reflects the amendments made. We do not endorse this method because there is a large risk that a member of the public, the board, or another board will be misled by using the earlier document, and then later be unable to determine when, how, or why the changes were made. This could be very important in a planning board or zoning board of adjustment case that is litigated when the “certified record” is prepared for filing with the court.



NEW HAMPSHIRE MUNICIPAL ASSOCIATION

New Hampshire Town And City

Meeting Minutes 101

New Hampshire Town and City, June 2007

By

Boards often wrestle with taking meeting minutes—worrying that too much information will get them in trouble if an issue goes to court. This fear is balanced against the desire of board members to make sure their minutes are informative and helpful to citizens and to the board itself. Does the law require that meeting minutes contain certain information? Is it better to be brief and vague when preparing the minutes? Should meetings be tape recorded so that greater detail can be put into the minutes? If the meeting is tape recorded, does that mean the tape is available to members of the public?

Meeting minutes need not be a dreaded part of service as a selectman, land use board member or any other public official that is required by law to take meeting minutes of their proceedings. Keeping in mind the purpose of meeting minutes, which is to promote openness in the conduct of public business and to ensure the greatest possible public access to the actions, discussions and records of all public bodies, and their accountability to the people, will help as you wrestle with producing meeting minutes that comply with the law.

Q. Selectmen, planning boards and boards of adjustment are required to take minutes. Are there other boards that must take meeting minutes?

A. All “public bodies” are required to have open meetings, and thus must take minutes of their meetings. Public bodies include all committees, boards, subcommittees, agencies, etc. that perform a governmental function in the community. This includes all informal advisory committees as well. A committee formed by the selectmen to “study and advise the selectmen on whether or not an addition is needed for the town hall” is a “public body” and must meet in public and take minutes. Other examples of public bodies include recreation committees, budget committees, conservation commissions, trustees of trust funds and library trustees. [RSA 91-A:1-a](#).

Q. When must the minutes be ready for public inspection?

A. Minutes must be made available for public inspection within five business days after the meeting*, except in the case of nonpublic session meeting minutes which must be made available within 72 hours, unless the body has voted to seal the minutes of the nonpublic session.

Q. Our board meets only once a month—the minutes won’t be approved within five days business days after the meeting* so how can they be released to the public?

A. There is no legal requirement to formally *approve* minutes, but many boards do approve their minutes. A policy of formally approving minutes does not mean the board may wait until the next meeting, when the minutes will be formally *approved*, to release the minutes. The minutes, in draft form if necessary, must be made available within five days after the meeting*. The board may address this issue by placing “draft” or “not yet approved” on the

minutes to alert the public that the minutes being released are not yet approved. Formal approval by the board cannot delay the release of the minutes if the delay will go beyond five business days* (or 72 hours for nonpublic minutes that have not been sealed).

Q. What should go into the meeting minutes?

A. At a minimum, minutes must include the names of board members present, other people participating (not necessarily all members of the public present), a brief summary of the subject matter discussed, and any final decisions reached or action taken, which includes the time the meeting was called to order and the time the meeting was adjourned. To this list you may want to add the name of the person taking the minutes and the name of the person chairing the meeting. The name of the board and date of the meeting should always be included.

When considering the "brief summary of the subject matter discussed," the board may want to recall that the purpose of meeting minutes is to promote openness in government and to inform citizens about what their government is doing. Citizens should be able to read minutes of a meeting and get a good idea about what happened. This does not mean, however, that stenographic or verbatim minutes must be taken. Most boards do not have staff with specialized stenographic skills, nor is there any legal requirement to prepare minutes in this manner. Minutes should be fair and objective. They should not include insulting remarks even if such remarks were made during the meeting. The focus of the minutes should be to record the important and relevant things that occurred at the meeting, not bickering or insults.

Negative sentiments expressed by board members or members of the public need not be avoided entirely, if the comments are relevant; it is the inclusion of the inflammatory words that should be avoided. For example, suppose a citizen comes in to complain about his neighbor and wants the selectmen to take enforcement action to make the neighbor clean up his yard. During 30 minutes of high octave complaint before the selectmen, this citizen uses plenty of choice words to describe his neighbor. The meeting minutes need not include specific derogatory statements made by the citizen, but could instead state: *"Mr. [Citizen] met with the board to discuss his concerns that his neighbor, John Doe, is in violation of several town ordinances in that Mr. Doe is storing junk on his property. Further, Mr. Citizen informed the board that he has serious doubts that Mr. Doe will follow through with promises to clean up the property as he has not followed through with promises made in the past."* Anyone reading the minutes will get the idea that Mr. Citizen is not happy and that he wants the selectmen to take action against Mr. Doe for violations of zoning ordinances.

Minutes not only serve the important purpose of informing citizens about what their government is doing, it also serves as a tool for boards to memorialize their work. Minutes can be helpful when memories fade, or when new board members join the board, as a way to look back in time and understand how the board dealt with an issue.

Q. Is there a difference in content between regular meeting minutes, public hearing meeting minutes, and nonpublic session meeting minutes?

A. No, all meeting minutes should contain a brief summary of the subject matters discussed and any decisions or actions taken by the board. The differences in the various types of meetings are more about procedures, than the content of the minutes.

Q. Are nonpublic session meeting minutes automatically sealed by virtue of the fact that the meeting was not open to the public?

A. No. In fact, meeting minutes of a nonpublic session must be made available to the public sooner than regular meeting minutes: 72 hours for nonpublic minutes versus five business days* for all other meeting minutes. However, if two-thirds of the members present, in a recorded vote, decide to seal the minutes because the reasons justifying the need for nonpublic session remain—such as the concern for injury to someone's reputation (other than a board member), or public release of the minutes would make the action taken ineffectual, or the

information pertains to emergency plans to thwart terrorism.

Minutes that the board has voted to seal should be placed in a secure place within the office, and a notation attached that they are sealed, so that they are not inadvertently released to the public. The board may want to institute a policy of reviewing sealed meeting minutes on a periodic basis to determine if any should be released because the reasons for the nonpublic session no longer exist. Once the reason to seal the minutes no longer exists, the minutes should be released.

Q. What can a board do to ensure accurate minutes?

A. Meetings that are conducted in an organized fashion will likely result in meeting minutes that are organized and complete. Rules of procedure that require announcing the name of each case or issue as it is taken up by the board, requiring those speaking on the matter to state their name, requiring board members to clearly state the motions they are putting forth, and generally making sure the recording secretary has the time to keep up with often fast paced meetings will help to ensure that the best possible meeting minutes are recorded.

Q. Should the board tape-record all meetings? If so, what happens to the tapes?

A. Whether to tape record (or video record) is a decision for each board to make. Allowing the recording secretary to tape the meeting may assist him or her in preparing minutes that are more accurate and complete. However, if the board decides to tape record the meeting, the tape is available for inspection, and copying, by the public just as the meeting minutes are. The board must retain the tapes at least until the meeting minutes are approved, at which time the tape may be destroyed. If the board has a policy of keeping the tapes after the minutes are approved, then the tapes remain available to the public as long as they exist. Note that while the board may decide not to tape record its own meetings, members of the public must be allowed to tape record or video record the meetings.

Q. Are the notes taken by the recording secretary, and used to prepare the minutes, available for public inspection along with the minutes?

A. Yes. After completion of the meeting, every citizen, during regular business hours, has the right to inspect all notes, materials, tapes or other sources used for compiling the minutes of the meeting, except as otherwise prohibited by statute or [RSA 91-A:5](#). This does not mean that the recording secretary must immediately turn over the notepad that contains the notes taken during the meeting if it is being used to prepare the minutes at the time of the request. If the notes are unavailable for immediate inspection, the public body shall, within five business days of the request, make the record available, or deny the request in writing stating the reason for denial. Once the minutes are prepared, the notes may be disposed of. However, notes that are retained by the board continue to be subject to public inspection.

Q. If a citizen submits a prepared statement to the board and demands that it be included as part of the minutes, must it be included?

A. No. The board prepares their minutes and cannot be forced to include statements or documents presented by members of the public.

Q. How long must minutes be kept?

A. Like other important town records, meeting minutes must be kept permanently.

** This article has been revised to reflect changes to the law.*

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1/31/2014

Clerk of the Council
Elections
Vital Records
Dog Licensing
Notary Public Services

To: Peter Lachapelle, Chair of the Codes and Ordinances Committee

From: Kelly Walters, City Clerk

Date: January 31, 2014

Subject: **Codification of the General Ordinances**

The Codes and Ordinances Committee discussed codifying the City of Rochester's General Ordinances in April of 2013; however, the matter had been left in Committee. Some of the Committee members voiced concerns about this process.

I respectfully request that the Committee revisit this matter at the February 6, 2014, meeting. I will be in attendance at this meeting and would like to compile a list of concerns/questions of the Committee members and will report back to the Committee by the next meeting date scheduled for March 6, 2014.

Please find enclosed in your Codes and Ordinances Committee packet two codification proposals from last year along with the hyperlinks to each company:

American Legal:

http://www.amlegal.com/contact_us.shtml

General Code:

<http://generalcode.com/>

Codification Proposal

Code of Ordinances
Rochester, New Hampshire



American Legal Publishing Corporation
432 Walnut St. Cincinnati, Ohio 45202

Richard C. Frommeyer
1-800-445-5588

AMERICAN LEGAL PUBLISHING CORPORATION
Proposal for Rochester, New Hampshire

TABLE OF CONTENTS

1. Letter
2. Advantages and Benefits
3. Things to Remember When Comparing Proposals
4. League Affiliations and References
5. Codification Cost and Services Summary; Codification Agreement
6. Sample Code Pages (single and dual column)
7. Sample Legal and Editorial Research Report
8. Folio VIEWS® Search & Retrieval Program and Internet

February 11, 2013

Kelly Walters
City Clerk
City of Rochester
31 Wakefield Street
Rochester, NH 03867

Dear Ms. Walters:

Thank you for considering American Legal Publishing for your recodification project. Enclosed is our proposal to codify Rochester's code of ordinances.

A recodification includes incorporating new ordinances, updating the index and tables as needed, reformatting the pages into a new typestyle, including single or dual column print, and printing complete copies of the entire code book. It also includes a legal review and written report by one of our staff attorneys. The review will uncover inconsistencies between sections in the code and inconsistencies with the code and state statutes. Additionally, there might be some reorganization and renumbering of the code if necessary. New binders and divider tabs are included in the price. There is also the option to receive the new code on CD in Folio and have it on the internet in a searchable format.

In future years, new ordinances can be easily added to your code with American Legal's supplement services. And, when you need a model ordinance, simply call us; we don't charge for providing model ordinances. You can also search all codes on our internet site free of charge when you feel like looking for models yourself.

We welcome the opportunity to help manage Rochester's municipal documents. Should you have any questions about the proposal, please do not hesitate to call me.

Best regards,

Richard C. Frommeyer,
Codification Consultant
rfrommeyer@amlegal.com

AMERICAN LEGAL PUBLISHING CORPORATION ADVANTAGES AND BENEFITS

QUALIFICATIONS

- American Legal Publishing Corporation began as the codification division of the Anderson Publishing Company of Cincinnati in **1934**. We became a separate corporation in 1979.
- American Legal currently serves more than 2,100 local government clients across the country. Our clients range in size from Los Angeles, Chicago, Austin, Dallas, Philadelphia and Boston, to villages with populations under 500.
- We are the codification consultants to the International Municipal Lawyers Association and numerous state municipal leagues.

LEGAL ANALYSIS

- Our legal staff's **Exclusive Editorial and Legal Report** details internal code inconsistencies as well as inconsistencies between your ordinances and state statutes and federal law. Our legal team consists of fourteen members with law degrees, including the president of the company.
- We provide the **most comprehensive analysis** in the codification industry: outlining problems, providing you with alternatives, and allowing you to implement desired improvements.
- You receive the Editorial and Legal Report with the **draft** of your code, allowing you to review your code with the assistance of our detailed, written editorial analysis which will ultimately be reviewed with you at a conference in Rochester.

SUBJECT MATTER FORMAT

- We will arrange your ordinances according to logical subject matter. We group all of your land use ordinances together in one section, your business regulations together in one section, your administrative ordinances in another section, etc.
- We can offer you free **Model Ordinances** covering nearly any municipal topic to replace an outdated ordinance or to cover an area where you may not have an ordinance.

TABLE OF SPECIAL ORDINANCES, PARALLEL REFERENCES AND INDEXING

- As part of your new code, we will create Tables of Special Ordinances covering such topics as annexations, zoning map changes, franchises, easements, etc. These ordinances will be listed in table form by ordinance number, date of passage, and will include a brief description of each ordinance.
- Your code will include Parallel Reference Tables that indicate which code sections are based on state statutes, where prior code sections appear in your new code, and a cross-reference of ordinance numbers to code section numbers.
- Our comprehensive index includes no dead ends when you search for a topic.

STYLE OPTIONS

- We offer different typesets for your code, single or dual column printing and various types of binders.

TIMELY DELIVERY AND FLEXIBLE BILLING

- We will complete your code within 9 months (excluding your review time).
- We can work with you to schedule the project so that it meets your budgetary needs.
- We complete supplements within 45 days.

RE-ORDERS AND PAMPHLETS

- We have **no minimum** or maximum orders of extra copies of your code. You can call us at any time and order 1 or 1,000 additional copies of your code.
- You can order only as many codes as you need without having to worry about buying, storing and updating copies that you don't need.
- You can receive specific pamphlets for your police department, zoning department, etc.

COMPUTERIZATION OF CODE

- You can receive your code on CD-ROM in WordPerfect or Microsoft Word compatible at no additional charge.
- Access every word in your code in just seconds with Folio VIEWS. Your code can be linked to your meeting minutes and other municipal documents. We use the newest version of Folio and NXT4 for the internet, and do all the conversion work ourselves; we have produced hundreds of Folio codes and infobases.
- Folio users can customize their version by creating color highlights, bookmarks, notes, and pop-up links without affecting the original text.

SUBSCRIBERS SERVICE

- American Legal can sell current copies of Rochester's code (printed and computer versions) via our "800" number directly to Law Firms, Developers and other outside parties.
- Our service relieves Rochester of the burden of maintaining and updating inventory of codes and processing individual payments.

SUPPLEMENT SERVICE

- Our fast and efficient supplement service will keep your code current in future years. Delivery is within 45 days or less.
- You can supplement as often as necessary - even after every council meeting.

SUBCONTRACTING

- We do all editing, legal review, printing and computer/internet work inhouse and at one location.

THINGS TO REMEMBER WHEN COMPARING PROPOSALS

- Does the company have attorneys review your code, or are they using "legal editors"?
- Will they send you the **legal report** with the draft of the code so you can compare them – or do they wait until after you have reviewed the draft before writing the report, which puts the burden of research on you?
- Can they guarantee completion of your code project in 9 months or less?
- Does the company provide the same amount of binders and divider tabs as it does copies of the code – or do they cost extra?
- Is there an extra charge for editing tables and graphs in the code?
- Can they provide your code in Folio VIEWS, and can they provide training and phone support for Folio?
- Do they charge for model ordinances and to search all the codes on their website?
- Do they charge you for time and materials? (How much time and how many materials?)
- Get some sort of estimate on what it will cost?

AMERICAN LEGAL PUBLISHING CORPORATION LEAGUE AFFILIATIONS

American Legal Publishing is proud of its relationship as consultants to the following organizations:

INTERNATIONAL MUNICIPAL LAWYERS ASSOCIATION (IMLA)

1110 Vermont Avenue, NW, Suite 200
Washington, DC 20005

Contact: Chuck Thompson
Executive Director and General Counsel
(202) 466-5424

INTERNATIONAL INSTITUTE OF MUNICIPAL CLERKS (IIMC)

8331 Utica Avenue
Rancho Cucamonga, CA 91730

Contact: Executive Director
(909) 592-4462

LEAGUE OF ARIZONA CITIES AND TOWNS

1820 West Washington Street
Phoenix, AZ 85007

Contact: Ken Strobeck,
Executive Director
(602) 258-5786

LEAGUE OF MINNESOTA CITIES

145 University Avenue West
St. Paul, MN 55103-2044

Contact: Duke Addicks
Special Counsel
(651) 281-1200

ARIZONA ASSOCIATION OF COUNTIES

1910 West Jefferson Street
Phoenix, AZ 85007

Contact: Nicole Stickler
Executive Director
(602) 252-6563

LEAGUE OF NEBRASKA MUNICIPALITIES

1335 L Street
Lincoln, NE 68508

Contact: Clint Schukei
Assistant Legal Counsel
(402) 476-2829

OHIO MUNICIPAL LEAGUE

175 South Third Street, Suite 510
Columbus, OH 43215

Contact: Susan J. Cave
Executive Director
(614) 221-4349

LEAGUE OF CALIFORNIA CITIES

1400 K Street
Sacramento, CA 95814

Contact: Kourtney Burdick
Law Division
(916) 658-8200

MICHIGAN MUNICIPAL LEAGUE

1675 Green Road
Ann Arbor, MI 48106-1487

Contact: Executive Director
(313) 662-8083

ILLINOIS INSTITUTE FOR LOCAL GOVERNMENT LAW

P.O. Box 5094
Springfield, IL 62705

Contact: Thomas Kelty, Jr.
General Counsel
(217) 528-7000

NORTH CAROLINA LEAGUE OF MUNICIPALITIES

P.O. Box 3069
Raleigh, NC 27602

Contact: Kimberly Hibbard
General Counsel
(919) 834-1311

LEAGUE OF WISCONSIN MUNICIPALITIES

202 State Street, Suite 300
Madison, WI 53703-2215

Contact: Curt Witynski
Ass't Executive Director
(608) 267-2380

LEAGUE OF OREGON CITIES

1201 Court Street NE, Suite 302
Salem, OR 97301

Contact: Codification Coordinator
(503) 588-6550

VIRGINIA MUNICIPAL LEAGUE

13 E. Franklin Street
Richmond, VA 23241

Contact: Mark Flynn
Director of Legal Services
(804) 649-8471

1/31/2014

SOUTH DAKOTA MUNICIPAL LEAGUE

214 E. Capitol Avenue

Pierre, SD 57501

Contact: Yvonne Taylor
Executive Director
(605) 224-8654

INDIANA ASSOCIATION OF CITIES & TOWNS

150 West Market Street

Indianapolis, IN 46204

Contact: Jodie Woods
General Counsel
(317) 237-6200

CODIFICATION COST AND SERVICES SUMMARY

American Legal Publishing proposes to recodify the ordinances for Rochester, New Hampshire, at the following price:

I. Base Cost \$9,000.00

**The actual page count may vary from the estimate or you might add new ordinances during the codification process. If the page estimate is high, the cost will be lower than the initial base cost, and vice-versa.*

Includes

- a. Number of Copies of Rochester's Code (includes binders and divider tabs) 15
- b. Legal Analysis
 - i. Research Internal Consistency
 - ii. Research State Law Consistency
 - iii. Legal and Editorial Research and Report
- c. Special Features
 - i. Tables of Special Ordinances
 - ii. Parallel References
 - iii. Comprehensive Index
 - iv. Tabular Matter (Tables, Charts, Graphs)
 - v. Code on CD-ROM (WordPerfect, MS Word compatible)
- d. Estimated Number Of Pages
 - 8½" x 11" Format
 - i. Single column (12 point type) 500 pages
 - ii. Dual column (11 point type) 400 pages

II. Variable Cost

- a. Per Page Increase/Decrease Rate
 - 8½" x 11" Format
 - i. Single Column \$18.00
 - ii. Dual Column \$21.00
- b. Shipping & Handling

III. Time to Completion

Number of Months Until Manuscript	3-6 months
Number of Months Until Completed Code (after return of manuscript)	1-3 months
Number of Days for Updated Supplements	45 days or less

IV. Optional Services that may be ordered:

- a. Additional Copies of Code
 - i. Cost per Extra Code with Binder \$80.00
 - ii. Cost per Extra Code without Binder \$60.00
- b. Supplement Service
8½" x 11" Format
 - i. Single-column \$18.00/per reprinted page
 - ii. Dual-column \$21.00/per reprinted page
 - iii. Tables, charts, graphs, etc. \$10.00 per page
- c. Subscription Service YES
- d. Pamphlets (With cardstock cover)
Per Impression (Printed Page)
 - i. 1-50 copies 7.5 ¢
 - ii. 51-99 copies 7.0 ¢
 - iii. 100 copies or greater 6.5 ¢
 - iv. Pamphlet Binders \$11.50 each
- e. Folio VIEWS Search and Retrieval Software

Documents in Folio:

- i. Code of Ordinances (includes one license) \$650.00
- ii. Future Supplements of Folio Code (cost is in addition to editing charge for printed pages):
 - Annual update: \$195 includes up to 100 pages
 - Six month updates: \$150 for each 6 month period; includes up to 75 pages each update
 - Quarterly updates: \$100 for each quarter, includes up to 50 pages each update
 - Monthly updates: \$40 for each month, includes up to 20 pages each update
 - Excess pages charged at \$1.95 each

(assumes Folio update is in conjunction with update to printed supplement; special pricing to be provided if Folio is updated more often than the printed book)

- iii. Phone Support No Extra Charge

Optional Services:

- i. On-Site Installation & Training (not necessary) \$750.00/day + travel
- ii. Additional read-only licenses (one time fee) \$50 each
- iii. Additional CD's \$60 each
- f. Code on the Internet (after conversion into Folio) \$350.00 per year
- g. Access and Search other codes on American Legal Publishing's Website No charge

V. Terms (**can be budgeted over two fiscal years**)

- i. Forty Percent (40%) due upon acceptance of this agreement.
- ii. Forty Percent (40%) within 30 days of receiving the manuscript.
- iii. Balance 30 days after receiving and reviewing legal report and delivery of the completed code.

American Legal Publishing Corporation
432 Walnut Street, 12th Floor
Cincinnati, Ohio 45202

City of Rochester
31 Wakefield Street
Rochester, NH 03867

CODIFICATION AGREEMENT

February 11, 2013

The City of Rochester, a municipal corporation in the State of New Hampshire ("Municipality") and American Legal Publishing Corporation, ("Publisher"), an Ohio corporation, agree as follows:

I. THE PUBLISHER SHALL:

- (1) Examine the Municipality's Charter (if any), and prior code of ordinances (if any), and all ordinances or resolutions provided by the Municipality and determine which materials are to be codified.
- (2) Utilize its staff of attorneys to review all materials to be codified and prepare a written report for the municipal attorney.
 - (a) The report may include notice of and suggestions for resolving the following:
 - Apparent conflicts with referenced state and federal statutes and administrative regulations;
 - Repealed, renumbered, or obsolete state and federal statutes and administrative regulations;
 - Apparent conflicts with prominent federal case law; and Internal discrepancies such as duplications, ambiguities, and obsolete terminology.
 - (b) Suggest new provisions which the Municipality should consider including in the new code, and delete old provisions which are no longer necessary or which might be improper or unlawful.
 - (c) The review will not involve re-drafting of entire chapters by the Publisher. However, the Publisher will provide model ordinances to the Municipality upon request if available.
 - (d) At the option of the municipality, hold a manuscript conference with municipal representatives to review the report. The Municipality will not be billed for time of the American Legal staff attorney if it chooses this option, but will be billed for travel expenses.

Note: The review performed by the Publisher should not be considered as a substitute for the competent advice of your Municipal Attorney, especially based on his/her in-depth knowledge of the municipal practices and procedures, and American Legal Publishing is in no way assuming the role of attorney for the municipality. Land Use sections of the code are especially specific to the locality and are thus only subject to cursory review and comparison with the rest of the code. (A sample Report is attached to indicate the type of comments that are likely to be contained in the report for Rochester.)

- (3) Classify all ordinances and resolutions which are of a general and permanent nature into titles, chapters, and sections, according to subject matter.
- (4) Make changes to effect uniformity of style and to correct typographical and spelling errors, grammar, and usage. Substantive changes shall not be made in the wording of the ordinances. Suggestions for additions or changes in the ordinances will be submitted to the Municipal Attorney.

- (5) Prepare:
- (a) Title, chapter, and section headings.
 - (b) A table of contents and sectional analysis for each chapter.
 - (c) A legislative history for each section, citing the ordinance number and date of passage, as indicated on copies of ordinances supplied to the Publisher.
 - (d) Statutory cross-references to sections of the state statutes and to other pertinent parts of the Code where applicable. These references shall appear at the end of the section to which they apply.
 - (e) Tables of Special Ordinances listing chronologically those ordinances in certain subject areas that the Municipality finds to be pertinent.
 - (f) Parallel Reference Tables showing:
 - 1. The disposition of ordinances (in numeric sequence) included in the codification (Ordinance to Code).
 - 2. A listing of code sections based on state statutes (Statute to Code).
 - 3. A listing of prior code sections incorporated into the new code if applicable (Old Code to New Code).
 - (g) An index (which will be created after the first draft of the Code is submitted).
- (6) Provide the Municipality with model or sample ordinances when available and upon request, at no additional charge.
- (7) Deliver to the Municipality, within 6 months from receipt of the materials deemed necessary by the Publisher to begin the codification (prior code, ordinances and new code questionnaire), one copy of a draft of the Code for the Municipality's examination.
- (8) If necessary, hold a conference to make final corrections, additions, and deletions to the Code. The Municipality will be billed for the travel expenses of the American Legal staff attorney. The Municipality may present changes to pages of the draft at the conference. After the final conference, no additional changes are to be made. Any further changes, additions, or deletions shall be made in the future supplements to the Code in accordance with III(3) of this Agreement. When the draft, and any changes thereto made by the Municipality, is returned to the Publisher, such return of the draft shall be deemed final authorization by the Municipality to publish the Code as returned. If additional conferences are requested by the Municipality which require the travel of a member of the staff of the Publisher, then the Municipality shall be advised what the additional cost, if any, for such conference will be.
- (9) Deliver to the Municipality, within 3 months of receipt of the corrected draft, 15 printed copies of the Code meeting the following specifications:
- (a) Type to be single or dual column, at the option of the Municipality
 - (b) Page size to be 8½" x 11"
 - (c) Printed on high quality paper
 - (d) All copies to be in hard-covered, 3-ring, loose leaf binders. All binders shall have the Municipality's

name stamped in gold and shall contain divider tabs.

- (10) Provide a sample adopting ordinance to the Municipality.

II. THE MUNICIPALITY SHALL:

- (1) The Municipality will provide clear copies of all materials necessary to perform the codification, including an up to date copy of any previously published code of ordinances.
- (2) After receipt of the draft of the code and legal report described in paragraph I (2), the Municipality shall have 60 days to review the draft and report and to return to the Publisher its comments about the draft and its answers to the legal report. In the alternative, if the Municipality opts for the legal conference described in paragraph I (9), it must contact the Publisher within 60 days to set up a meeting date. The meeting, itself, need not occur within the same 60 day period. If the Municipality fails to either return its comments and answers to the legal report within 60 days or, if applicable, to set up a meeting date, the Municipality may request that the Publisher extend the deadline in writing. The Publisher may adjust the contract price to cover any increased costs due to the Municipality's delay.
- (3) The Publisher agrees to include in the final version of the Code all ordinances adopted by the Municipality up to the time the manuscript is originally due back to the Publisher under the provisions of (2) above. The Municipality agrees that any ordinances adopted after this date shall be included at the Publishers' supplement rates (as set out in paragraph III(3)(b)) at the time of the inclusion of these ordinances into the code.

- (4) (a) Pay to the Publisher for shipping of the final code order as a base price, the sum of \$9,000.00 for its services set out in Section I, payable as follows:

Forty percent (40%) due upon acceptance of this agreement;

Forty percent (40%) within 30 days after submission of the manuscript and invoice;

The balance 30 days after receiving and reviewing the legal report and final delivery of the printed Code books plus invoice.

If the code page contains an image (diagram, photograph, chart, graph, etc.) or table, there is an additional \$10.00 per page rate.

- (b) The price above is based upon a code of the following number of pages according to the format option chosen by the Municipality. Should the final page count of the code be fewer or more pages than this estimate, the base price will decrease or increase accordingly at the time of the final invoice:

FORMAT	NUMBER OF PAGES	DECREASE OR INCREASE
8½" x 11" Single-column page	500	\$18.00 per page
8½" x 11" Dual-column page	400	\$21.00 per page

- (5) Pay any invoices within 30 days of the invoice date. Invoices outstanding beyond the 30 day period shall be subject to a late payment equal to 1.5% of the unpaid balance per month, or part thereof.

III. OPTIONAL SERVICES.

The Municipality, by the initials of the person executing the agreement on its behalf, exercises the following options:

INITIAL

(1) Code Format: (Initial one only)

(a) Single-column format _____

(b) Dual-column format _____

(2) Additional Copies of Code: number of copies _____ (with binders: Yes or No) _____

The Municipality may purchase additional codes at (*circle one*): \$80 per copy or \$60 without a binder.

(3) Five year supplemental service plan: _____

For a period of five years after delivery of the code:

(a) The Publisher shall:

1. Incorporate into the code new pertinent ordinances submitted by the Municipality.
2. Revise or make additional entries to the table of contents, parallel reference tables, and index as necessary to reflect the incorporation of additional, changed or deleted material.
3. Within 45 days, deliver to the Municipality 15 printed copies of supplemental pages with an instruction sheet for directing the placement of the new pages in the code.

(b) The Municipality shall:

1. Provide a copy of ordinances or resolutions passed subsequent to publication of the previous code supplement;
2. Pay to the Publisher the sum of \$18.00 per reprinted single column page or \$21.00 per reprinted dual column page, plus shipping and handling.

The prices above are for a five-year period and cannot be changed except for adjustments in the second, third, fourth, and fifth years of this agreement to reflect any decrease or increase in the United States Consumer Price Index calculable from the month of delivery of the Code.

If the code page contains an image (diagram, photograph, graph, etc.) or table, there is an additional \$10.00 per page charge.

- (c) Upon completion of the five-year period, this agreement shall automatically renew itself from year to year except that either party may alter or cancel the terms of this agreement at any time upon ninety days written notice.

(4) Code on CD-ROM (word processing program): _____

At no additional charge, the Publisher will provide the code on CD-ROM in one of the following formats (*circle one*): WordPerfect or Microsoft Word compatible

(5) Subscribers Service: _____

The Publisher will operate a subscription service upon the Municipality's request as follows:

- (a) After the Publisher determines production cost and shipping and handling charges, the Municipality has the right to set the total price of the codes for the subscribers. The difference will be credited to the Municipality's future supplement invoices.
- (b) Subscribers can be charged in advance or at time of shipment if they wish to subscribe to the supplements. The total cost for this subscription will be for a year's worth of supplements.
- (c) Subscribers of the complete code will be required to pay in advance of shipment by check or credit card.
- (d) The Publisher will incur all mailing costs for the marketing of the code. Order forms with an announcement of the codes and supplement service availability will be included in this mailing.
- (e) Any law firms, realtors, businesses, libraries or other interested parties contacted may inquire about code orders by using the Publisher's toll-free number.
- (f) The Publisher will print subscribers' orders as needed, and will not require the Municipality to either pre-purchase copies or store extra copies.

(6) Pamphlets:

- (a) Pamphlets, sized for 8½" x 11" copy, containing component parts of a Code, with a cardstock cover, may be ordered: (*circle desired topic and insert number of copies*):

Charter	# of copies	_____
Traffic/General Offenses Code	# of copies	_____
Zoning Code	# of copies	_____
Subdivision	# of copies	_____
All Land Use Regulations	# of copies	_____
Other _____	# of copies	_____

(b) Cost:

1-50	copies of pamphlet — .075 per printed page
51-99	copies of pamphlet — .070 per printed page
100 or more	copies of pamphlet — .065 per printed page

- (c) Optional 3-ring pamphlet binders (\$11.50 each) _____

- (d) Pocket sized pamphlets are available at rates to be agreed upon.

(7) Folio VIEWS Search and Retrieval program:

- (a) The Publisher shall provide the Municipality's code in the Folio format on CD-ROM with complete instructions and one copy of a manual for \$650.00. _____

(b) Additional Licenses and CDs:

Additional network licenses (one-time fee of \$50 each) _____

_____ of additional licenses

Additional CD's (\$60 each; \$10 to receive updated CD in future) _____

#_____ of CD's

(c) Future Supplements of Folio Code (cost is in addition to editing charge for printed pages): _____

- Annual update: \$195 includes up to 100 pages
- Six month updates: \$150 for each 6 month period; includes up to 75 pages each update
- Quarterly updates: \$100 for each quarter, includes up to 50 pages each update
- Monthly updates: \$40 for each month, includes up to 25 pages each update
- Excess pages charged at \$1.95 each

(assumes Folio update is in conjunction with update to printed supplement; special pricing to be provided if Folio is updated more often than the printed book)

(d) Optional On-Site Installation & Training (not necessary) _____
at \$750.00/day + Travel Expenses.

(e) Code on the Internet (after Folio conversion) at \$350.00per year. _____

(f) Access and Search other codes on American Legal Publishing's Website No charge

IV. TRANSMITTAL AS OFFER.

The transmittal of this Agreement to the Municipality is an offer by the Publisher to perform the stated services at the prices and terms referenced within the Agreement. This offer will expire if not executed by the Municipality by July 31, 2013, unless such date is extended in writing by the Publisher.

IN WITNESS WHEREOF the parties to this contract have hereunto set their hands on the date(s) indicated:

City of Rochester, New Hampshire

American Legal Publishing Corporation

By _____

By _____

Title _____

Title Stephen G. Wolf, President

Date' _____

Date _____

CHAPTER 71: TRAFFIC REGULATIONS

Section

General Provisions

- 71.01 Speed limit in city alleys
- 71.02 Operation of motor vehicles on unpaved public or private property prohibited

Motorcycles; Motor Scooters and Motor Bikes

- 71.25 Safety helmet or headgear required
- 71.26 Operator's permit required

- 71.99 Penalty

Cross-reference:

Speed limits on designated streets, see Chapter 76, Schedule I

Citations for traffic and parking violations, see §§ 72.150 through 72.157

GENERAL PROVISIONS

§ 71.01 SPEED LIMIT IN CITY ALLEYS.

(A) For purposes of this chapter an ***ALLEY*** shall mean every street or way within a block, which is set apart for public use, vehicular traffic and local convenience. ('72 Code, § 34-4)

(B) No person shall drive a motor vehicle upon any alley in the city at a speed in excess of ten miles per hour. ('72 Code, § 34-5)
(Ord. 2087, passed 2-5-80; Am. Ord. O-87-72, passed 12-23-87) Penalty, see § 71.99

§ 71.02 OPERATION OF MOTOR VEHICLES ON UNPAVED PUBLIC OR PRIVATE PROPERTY PROHIBITED.

(A) It shall be unlawful for any person to operate a motor vehicle, as defined by the Florida Uniform Traffic Control Law, F.S. Chapter 316, as may be amended from time to time, on any unpaved public property, or on any paved or unpaved shoulder of a public road.

CHAPTER 71: TRAFFIC REGULATIONS

Section

General Provisions

- 71.01 Speed limit in city alleys
 71.02 Operation of motor vehicles on unpaved public or private property prohibited

Motorcycles; Motor Scooters and Motor Bikes

- 71.25 Safety helmet or headgear required
 71.26 Operator's permit required

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Cross-reference:

Speed limits on designated streets, see Chapter 76, Schedule I

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§§ 72.150 through 72.157

GENERAL PROVISIONS

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(B) No person shall drive a motor vehicle upon any alley in the city at a speed in excess of ten miles per hour. ('72 Code, § 34-5) (Ord. 2087, passed 2-5-80; Am. Ord. O-87-72, passed 12-23-87) Penalty, see § 71.99

§ 71.02 OPERATION OF MOTOR VEHICLES ON UNPAVED PUBLIC OR PRIVATE PROPERTY PROHIBITED.

(A) It shall be unlawful for any person to operate a motor vehicle, as defined by the Florida Uniform Traffic Control Law, F.S. Chapter 316, as may be amended from time to time, on any unpaved public property, or on any paved or unpaved shoulder of a public road.

(B) It shall be unlawful for any person to operate a motor vehicle on any unpaved private property, not owned by the operator or his immediate family, without the express written consent of the owner, lessee, tenant or other person entitled to possession and use of such premises; said written consent to be carried on the operator's person.

(C) The foregoing provisions shall not apply to the following:

(1) A licensed and franchised public utility in the conduct of its business;

(2) Any federal, state or local governmental agency;

(3) Any licensed emergency vehicle;

(4) Any situation where such operation is necessary to avoid collision with other traffic;

(5) Where such operation is in compliance with other laws or the directions of a law enforcement officer or official traffic-control devices.

('72 Code, § 34-13) (Ord. O-73-51, passed 6-27-73) Penalty, see § 71.99

**AMERICAN LEGAL PUBLISHING CORPORATION
FOLIO VIEWS® SEARCH & RETRIEVAL**

Following is information on Folio VIEWS, the computer search and retrieval program American Legal offers. Folio VIEWS allows you to create electronic text as well as access any section, word, or reference in that text (i.e. your code or meeting minutes) instantaneously. Folio also provides you with a complete word index. Every word in your code is catalogued. **Over 500 commercial publishers have made Folio Views their choice in publishing over 2,000 different titles.**

With Folio you can conduct searches by word, phrase, section number, date, or anything you want. You can also perform stem searches when you are not sure of the ending of the words you want to find (e.g. go% = going, gone, went, etc.) proximity searches (e.g. find "penalty within 5 words of jail"), and more. You can also do searches by title, chapter, table of contents, and in multiple infobases (such as in the Code of Ordinances, Charter, Council Minutes, and anything else in the Folio format) at the same time. Additionally, Folio allows each user to customize his or her version by creating a shadow file with color and style highlights, bookmarks, notes, and pop-up links within the text without affecting the original text.

This program has been recognized by the computer industry to be the leader in search and retrieval. In a review of computer programs in an issue of *PC Magazine*, Folio VIEWS was said to be:

"fast, flexible, and rock solid. It imported files that made other programs crash, and made virtually every step of creating and using an infobase simple and enjoyable. You'll need very convincing reasons for choosing anything else."

**American Legal Publishing can provide your
Code and other material in Folio on CD-ROM and the Internet.**

SAMPLE SEARCHES IN FOLIO VIEWS®

Search	Result	Example of Findings
21 years of age	finds every paragraph in the code in which 21 and the words: years, of, age appear	1) 21 years of age 2) age of 21 years
"21 years of age"	finds only the exact phrase "21 years of age"	1) 21 years of age
21 or 18 years of age	finds every place where either 21 years or 18 years of age appears in the code	1) 21 years of age 2) age of 21 years 3) 18 years of age 4) age of 18 years
"21 18"@5	finds every place in the code where 21 and 18 appear within five words of each other	1) anyone between the age of 18 to 21... 2) the prior age of majority of 18 has been changed to 21
go%	finds all words which are variations	1) go 2) gone 3) going 4) went
good\$	finds synonyms	1) good 2) advantage 3) benefit 4) usefulness
council*	finds all words beginning with "council"	1) council 2) council's 3) councilman 4) councilwoman 5) councilmember

JUMP LINKS - when clicked on, they will take you directly to another section of the code. For example, clicking on the link [Penalty, see § 70.99](#) (underlined and in green) following a section, will take you directly to that penalty section.

SHADOW FILE (customized by the user; secures integrity of main data):

Shadow files allow each user to highlight phrases in the computer version of the code for emphasis just as can be done with a printed version of the code. Each user can also add personal notations to the code which do not affect the actual text of the code..

AMERICAN LEGAL PUBLISHING STAFF ATTORNEYS

Our editorial support staff consists of more than 25 experienced editors skilled in the multiple disciplines required in providing codification services: editing, computer operation, proofreading and indexing. Our typical editor is a college graduate with a degree in English, Journalism, or Law. Our editors work directly on personal computers using the most advanced software programs for editing, proofreading and indexing. Therefore, we can return your completed Code of Ordinances on computer disk and online if desired. American Legal has a higher percentage of editors with Masters or Doctorate Degrees than any other national codification firm.

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- B.S. Political Science, University of Kentucky
- Kentucky Citizen Foster Care Review Board

PROPOSAL *for* CODIFICATION SERVICES



Prepared for:

City of Rochester
Strafford County
New Hampshire

November 13, 2012

Valid for 6 months

Patrick Smith
Codification Account Manager

(855) GEN CODE

Email: psmith@generalcode.com

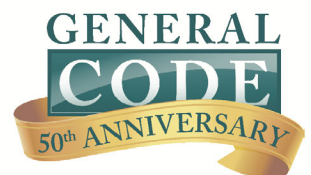


Table of Contents

Executive Summary	2
Why General Code?	3
Situation Analysis	5
Prior Codification	5
Source Materials	5
Recommended Solution	6
Services Included	6
The General Code Codification Process	8
eCode360	11
Public Documents Module	12
Performance and Payment Schedule	13
Investment Detail and Options	14
Appendix	15
Formatting and Style	16
Sample Page	18
Supplementation Services	19
The General Code Codification Process At-a-Glance	21
Authorization and Agreement	22

Executive Summary



Serving the needs of communities for 50 years, General Code provides codification and enterprise content management solutions to more than 2,700 municipal governments throughout the United States and Canada. Our staff has developed, implemented and maintained codification projects for a wide variety of local governments, ranging from small townships and villages to major cities and counties.

Situation Analysis

The City of Rochester is located in Strafford County in New Hampshire and was incorporated in 1778. Since then, the City has grown and currently is home to more than 29,700 residents.

The Code of Ordinances of the City of Rochester was originally compiled and published in 1995 and is currently posted online as a series of PDF files on the City's website. Presently, the City of Rochester wishes to undertake a comprehensive review and updating of the 1995 Code of Ordinances, and include all legislation of a general and permanent nature through November 7, 2012. The scope of services is to include research and review to identify conflicts, inconsistencies and other problem areas in need of updating or correction; the creation of an index; the printing of 10 copies of the Code; and the preparation of Code adoption materials and a disposition list to document the final disposition of all Code-relevant legislation. The City is also interested in a fully searchable online version of the Code.

For more detail, see the full Situation Analysis on page 5.

General Code Solution

The City of Rochester's challenges will be met and goals achieved through our proposed Codification Solution, which includes:

- ♦ Review and recodification of existing materials
- ♦ Premium eCode360® online code
- ♦ Custom printed Code books, with an option for additional printed books
- ♦ Ongoing code supplementation

Investment Summary

The cost of General Code's recommended solution will be \$20,565.

A detailed breakdown of the investment and available options can be found on page 14.

Accepting This Proposal

This document serves as both a proposal and as an agreement. To accept this proposal, complete the form on the last page, including authorized signatures. Fax the completed form to General Code at (585) 328-8189, or return it by mail to General Code, 781 Elmgrove Road, Rochester, NY 14624.

Why General Code?

Welcome to Civility.

As a values-based company, we adhere to the principles outlined in our General Code. We are committed to providing a higher standard of customer service, and believe that how we work with our clients is just as important as how we work amongst ourselves.

General Code brings civility to codification, by learning from our 50 years of experience and the constantly changing concerns and needs of our 2,700 customers, including 25 in New Hampshire. We civilize your experience by listening to you and focusing our efforts on meeting your objectives. Our editorial and technical professionals will offer you options, designed to meet your particular needs so that your Code can be constructed and used accordingly. This collaboration will enhance the long-term viability of your legislation and will allow you a level of customization that you will find invaluable.

Experience:



- ♦ Over 2,700 clients in 37 states in the United States and Canada
- ♦ Serving local governments since 1962 — 50 years of broad experience in all aspects of municipal codification
- ♦ Unparalleled reputation for quality and service
- ♦ Dedicated to providing technical and innovative codification solutions

Customer Service Orientation:



- ♦ Highest customer satisfaction ratings
- ♦ Experienced Account Managers
- ♦ Quick responses to questions and commitment to person-to-person interaction
- ♦ Training and support on an ongoing basis
- ♦ Flexible billing plans tailored to meet the specific needs of each client

Professional and Experienced Staff:



- ♦ Your Project Team will include members of our professional staff of over 100 employees, including attorneys, editors, and other codification specialists, producing over 100 new Code projects and over 2,000 supplements annually
- ♦ Team approach, to ensure availability of required personnel and resources until work is complete, as well as consistency and accessibility
- ♦ Full-time attorney editors, with extensive experience in new Code projects, as well as supplementation of existing Codes, in numerous states
- ♦ Full-time Code editors, with experience in codification averaging over 15 years
- ♦ Specially trained data entry, proofreading, indexing and research staff

Client Experience:



- ♦ User-friendly Code format and organizational system
- ♦ Fast, reliable, accurate supplementation
- ♦ Creative solutions for specific needs
- ♦ Ezsupp@generalcode.com for new legislation
- ♦ Free sample legislation service for clients

Situation Analysis



General Code Service

"Regarding the service that we get from General Code, **in a word - amazing**. We have yet to encounter a problem that your team has not been able to solve with grace! Thank you for keeping us on track even when we are delayed by the issues that seem to always get in the way.

- Susan Kramarsky,
Town Clerk/Receiver of Taxes
Town of Brighton, NY



The City of Rochester is located in Strafford County in New Hampshire and was incorporated in 1778. Since then, the City has grown and changed and currently is home to more than 29,700 residents.

Prior Codification

The Code of Ordinances of the City of Rochester was originally compiled and published in 1995 by the City Clerk's office. Since then it has been supplemented several times, most recently in 2012.

Source Materials

The City of Rochester has provided the following to General Code as the source materials for the completed code:

- ♦ A copy of the City's 1995 Code of Ordinances, as posted on the City's website on November 7, 2012
- ♦ A copy of the City's Charter, as amended on November 4, 2008, as posted on the City's website on November 7, 2012

This proposal only takes into account legislation submitted for review, which will be included within the scope of this project. General Code requests that the City set up a process during the project to routinely send any new legislation upon adoption. These additional materials will be included in the Code up to the point where the editorial work has been completed and shall be subject to an additional charge at the end of the project.

Recommended Solution

General Code will provide the City of Rochester with professional codification services and solutions designed to meet the specific needs of your community, based on your requirements and our 50 years of experience working with local governments. We will provide you with a variety of options for publishing the Code of the City of Rochester, including posting on the Internet and traditional print formats.

Services Included

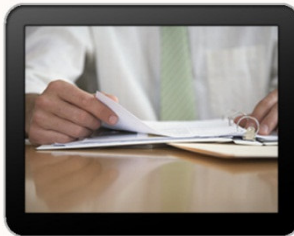
eCode360



General Code's eCode360 with MultiView Technology makes the complete current text of your Code available online in an easily used and navigated format that is fully searchable. Your Code is accessible to any viewer in a choice of a basic view, for use by the general public, and an advanced view, for City staff and elected officials.

For more detail, see the full eCode360 description on page 11.

Publication of New Code Volumes



The base price includes the publication of 10 new Code volumes in high-quality, custom-imprinted post binders. The Code pages will be designed in an 8 ½-by-11-inch page size, using an 11-point Times New Roman font in a single-column format. You may choose blue, dark red, green, brown, black or gray binders, with white, silver or gold silk-screen lettering. The City Seal can also be embossed on the front and spine if you wish. Each Code will also include a set of tab dividers for individual customization. Each copy of the Code will be serial-numbered, and we will provide forms for you to keep track of the distribution of the Codes.

Comprehensive Index

General Code will prepare and publish a comprehensive Index for the Code. The Index is specifically designed to be easy to use, so that the information in the Code can be quickly located.

Code Adoption Legislation

The editor assigned to your codification project will prepare adoption legislation for the proposed Code. This material will be furnished to the City Attorney/Solicitor for review and enactment by the governing body. If the Code adoption legislation is enacted and returned to us within 90 days of submission, we will include this material in the Code free of charge. Once the Code is adopted, it can be amended directly to change, add or delete material.

Disposition List

The Disposition List sets forth, in chronological order, the subject matter, date of adoption and disposition of each item of new legislation reviewed with the project and indicates its inclusion in or omission from the Code. The Disposition List is designed to assist you in locating not only legislation that is included in the Code but also legislation that is not included.

Derivation Table

Our agreement with the City provides for the renumbering and reorganization of the Code into our standard format. To ease the transition from the old numbering to the new numbering system, we will prepare a Derivation Table. The Derivation Table, which will be included at the end of the published Code, will clearly show the chapter numbers from the City's existing 1995 Code, and where they have been included in the new Code.

The General Code Codification Process

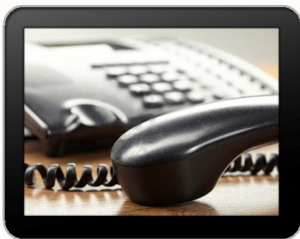
We see you as a partner in the codification process.

General Code's unique and easily accessible style is readily discernible. Your legislation is organized into a systematized, clean format, designed to provide you and your community with an easily readable, simple to reference, and logically indexed Code.

Including You in the Process

The unique project workflow that General Code has developed engages the City with a Code editor at key stages throughout the process. Our Code editors bring a breadth of knowledge and expertise acquired over the half century we've invested in working with local governments. Combining our experience with your involvement ensures that your Code will accurately reflect your community's particular needs and requirements for a reliable resource tool.

Process Outline



Beginning a Code Project

To begin the project, the City of Rochester has provided the source materials for the new Code. For more detail, see the source materials listed on page 5.

Preliminary Telephone Conference

At the beginning of the project, General Code will consult with the City's designated contact person to review the project generally and to clarify any initial questions for both General Code and the City.



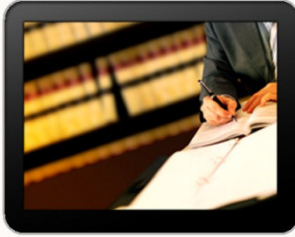
Organizational Analysis

The first part of the analysis of the City's legislation will be the preparation of an Organizational Analysis for the City to review. The editor will prepare a proposed Table of Contents of the Code and a listing of legislation reviewed, along with any missing material and adoption dates, and any other questions pertaining to the completeness of materials being reviewed.

The City will review the Organizational Analysis and make whatever changes it feels are necessary. An editor will incorporate the feedback they receive into the project and move forward to the preparation of the Manuscript and the Editorial and Legal Analysis.

Manuscript

As applicable, a Manuscript will be prepared using the materials obtained from the City. The Manuscript organizes your legislation into a logical system, arranged alphabetically by subject matter, into chapters. Amendments will be incorporated into the Manuscript, and repealed or superseded material will be noted. The Manuscript will show exactly the legislation that is currently in effect.



Editorial and Legal Analysis

For the second part of the analysis of the City's legislation, an Editorial and Legal Analysis will be prepared for your review. Our staff of editors and attorneys is in contact with hundreds of communities. They will provide you with the benefit of their experience and with information that you can use to determine how your legislation can be revised and improved. The project team will do a thorough review and analysis of your legislation and provide specific recommendations and input for improvement. The Analysis will be compiled into a workbook, with an easy-to-use checklist format, for the use of City officials, including the Attorney/Solicitor, who will have the final decision-making authority for the resolution of any and all issues.

The Editorial and Legal Analysis will include the following:

- ♦ Identification of duplications, conflicts and inconsistencies between or within various sections of the Code
- ♦ Identification of duplications, conflicts and inconsistencies with New Hampshire statutes
- ♦ Any practical recommendations to make your legislation more enforceable
- ♦ Suggestions regarding fines, fees and penalties
- ♦ Suggestions on ways to modernize your legislation

The City will review the Editorial and Legal Analysis and make the final decisions on any changes that are deemed necessary. All final decisions regarding the sufficiency of the legislation which is to be codified, and any changes to be made to said legislation, shall be the province of the City officials and the City Attorney/Solicitor.

A review period is set by the performance schedule. We stress the importance of staying within the allotted time period to avoid disruptions in the production process and delays in the delivery of the Code.



Final Editing of the Manuscript

Once the Editorial and Legal Analysis is returned, an editor will begin the final editing process.

During the editing process, we will:

- ♦ Prepare a Table of Contents listing all chapters and articles included in the Code
- ♦ Include cross-references and Editor's Notes, as required, and add historical notations indicating the source and date of adoption of each enactment
- ♦ Edit the text to incorporate any revisions and additions previously approved in the Editorial and Legal Analysis phase
- ♦ Copyread to correct typographical and spelling errors

During this process, General Code will also prepare a comprehensive index. We will also prepare the proposed Code adoption legislation and/or any other necessary information to establish the Code as an official document. This material will be furnished to the City Attorney/Solicitor for review and enactment by the governing body.

Draft

General Code will submit a Draft of the Code for final review by the City. Any specific questions that arise during the editing process shall be submitted with the Guidelines for Draft Review. Such questions may include missing wording or incomplete information, conflicts with incorporating new ordinances, and inconsistencies within chapter provisions. Minor changes in content as a result of the City's review may be made. Any substantial changes in organization or content shall be subject to additional charges.

**Code Delivery; Recordkeeping; Supplement Distribution**

After the Code is delivered, we will review the project with the City to ensure that everything meets your expectations. At that time, we will work with you to set up an effective recordkeeping system to keep track of the distribution, sale and maintenance of Codes and supplements.

eCode360



General Code's **eCode360®** with MultiView Technology is our all-new electronic Code, providing a choice of on-screen viewing options on any computer platform and, for the first time, automatically customizing the Code for optimal viewing on any computer or mobile device, including smartphones, tablets, and eReaders. Engineered for speed and designed for easy searching and navigation, eCode360 will provide unprecedented flexibility and access to the Code in the office, at home or on the go.

General Code's eCode360 is a secure, reliable, and virtually maintenance-free product containing the complete current text of the City's Code online. Hosted and maintained by General Code, eCode360 will enable anyone to view and search the Code wherever there is access to the Internet. Access to the Code is as simple as adding a link on your website or General Code's website, enabling users to click and review the Code at any time.

Premium eCode360 includes the following features:

- ♦ Easy and Flexible Searching: Use key words or phrases, section numbers and more
- ♦ Sample Legislation (Multi-Code Searching): Search across multiple Codes
- ♦ Pre-Supplementation Posting: Post legislation not yet codified in between supplements¹
- ♦ Easy Navigation: Easy-to-use interface with multiple options for exploring the Code
- ♦ Printing: Simple, user-friendly print functionality and a variety of user options
- ♦ Public and Private Annotations: Create personalized links and notes within the Code
- ♦ Easy Exporting: Copy text quickly and easily into your preferred word-processing program
- ♦ Email Links: Convenient shortcuts to email a link to a specific Code section
- ♦ Bookmarking: Save as "favorites" to quickly return to popular sections of the Code
- ♦ Quick View CD: View a permanent archive of your Code without connecting to the Internet; provided with each supplement
- ♦ Electronic Index: Use a comprehensive list of key words and phrases to speed your searching
- ♦ Free Upgrades With Additional Features
- ♦ PubDocs Module: Permits uploading of non-code documents to the web for easy searching and public access, such as resolutions, minutes, comprehensive plans, and proposed ordinances under review prior to adoption

¹ **Pre-Supplementation Posting:** This service is included with the Annual Maintenance for eCode360. Between regular Code supplements, General Code will temporarily attach (append) verbatim copies of new legislation to your online electronic Code to provide ready access to information until such time as the legislation can be codified through supplementation. If supplementation does not occur within one year of appending, General Code will remove the link to that legislation.



Public Documents Module

General Code is proud to introduce our new Public Documents (PubDocs) online module for our electronic Code services. With PubDocs, you can provide immediate online access to information and documents that you want to make available to the public, such as meeting minutes, agendas, resolutions, budgets, pending legislation, and more.

PubDocs is fully integrated with Premium *eCode360*, your online Code, and provides an easy-to-use process for document management. PubDocs is a great way to augment your e-government services and improve your overall outreach to the community. Best of all, PubDocs enhances your City's transparency by offering your citizens and other constituents a solution that meets their ever-growing needs and expectations for instantaneous information in today's digital world. (Please note that PubDocs is not a repository for archiving purposes.)

Benefits of PubDocs:

- ♦ Easy to use, self-managing process
- ♦ Secure process for posting documents
- ♦ Documents are automatically converted to searchable PDFs
- ♦ Search by name, date, description, category or use our advanced features such as a color-coded search filter with checkboxes
- ♦ Fully integrated and accessible through *eCode360*
- ♦ Fully hosted service through General Code
- ♦ Upload all types of documents (e.g., Word documents, Excel spreadsheets, etc.) to view and search
- ♦ Public documents viewable by anyone – anytime, anywhere

PubDocs is included with Premium *eCode360* at no additional charge. Costs associated with any necessary scanning services will be provided upon request.

Performance and Payment Schedule



Performance Schedule

Deliverable	Delivery Date
Preliminary telephone conference	Within 30 days of contract signing
Submission of the Organizational Analysis	Within 90 days of contract signing and receipt of the materials; the City has 30 days for review
Submission of the Manuscript and Editorial and Legal Analysis	Within 145 days of receipt of the responses to the Organizational Analysis; the City has 110 days for review
Submission of Draft	Within 120 days of receipt of responses to the Editorial and Legal Analysis; the City has 30 days to review
Delivery of Code volumes and posting of eCode360	Within 45 days of approval to proceed with the publication of the Code

Performance schedule reflects business days excluding legal holidays.

Payment Schedule

Percentage of Total Project Price	Milestone
20%	Invoiced within 30 days of contract signing
20%	Invoiced upon submission of the Organizational Analysis
20%	Invoiced upon submission of the Manuscript and Editorial and Legal Analysis
20%	Invoiced upon submission of the Draft
20%	Invoiced upon delivery of the Codes and posting of eCode360

Investment Detail and Options



Base Codification Project Price

\$20,565

Your base codification project includes the following:

- ♦ Preliminary Telephone Conference
- ♦ Creation of New Code Through November 7, 2012
- ♦ Conversion of Code into XML Document with General Code Numbering and Format
- ♦ Organizational Analysis
- ♦ Editorial and Legal Analysis
- ♦ Manuscript
- ♦ Editorial Work
- ♦ Proofreading
- ♦ Draft
- ♦ Duplication and Publication of 10 Code Volumes in Standard Imprinted Post Binders
- ♦ Comprehensive Index
- ♦ Disposition List
- ♦ Derivation Table
- ♦ Customizable Tabs
- ♦ Code Adoption Legislation
- ♦ Premium eCode360, including PubDocs Module (set-up and first year)
- ♦ Shipping

Premium eCode360® Annual Maintenance \$ 1,195

The maintenance fee is an annual recurring flat fee. Therefore it is our recommendation that the City budget for this service each year. The fee covers annual licensing, web hosting, appending of legislation between regular Code supplements and the work we incur to update the electronic Code each time the printed Code is supplemented. Please note that this does not include the cost for codifying new legislation.

Optional Components

These options are available to you at an additional charge:

\$65	Price per Additional Code Book
	<i>Please note: These copies are in addition to the 10 Code books included in the base price.</i>	

Prices noted are valid for 6 months from the date of this proposal.

Appendix



Formatting and Style.....	16
Sample Page.....	18
Supplementation Services	19
The General Code Codification Process At-a-Glance	21

Formatting and Style

Innovation With Thought

General Code's printed code services have become the hallmark of quality in the codification industry, just as eCode360 sets the standard for online innovation. Our experience and attention to detail in the design and production of your Code go hand-in-hand with our approach to customer service.

Organization

The Code will be organized and divided into parts to accommodate different types of legislation. Typically Part I is made up of the legislation of an administrative nature, namely, that dealing with the City's departments, officers and employees; Part II is made up of the legislation that regulates the general public. Within each part, the various pieces of legislation will be organized into chapters, which will be arranged alphabetically by subject matter. For example, all legislation pertaining to the regulation of streets and sidewalks may be found in Part II, in the chapter entitled "Streets and Sidewalks." Wherever there are two or more pieces of legislation dealing with the same subject, they will be combined into a single chapter. In such chapters, the use of article designations will preserve the identity of the individual pieces of legislation. The City will have the opportunity to review and approve the organization of the Code.

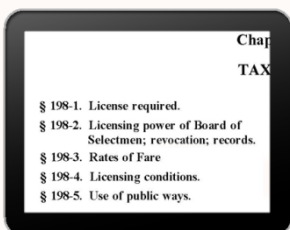


Table of Contents

The Table of Contents lists the various chapters included in the Code and can be used to help locate desired provisions. Space will be reserved for later insertion of new material in its proper alphabetical sequence. Such space is accommodated in the body of the Code by breaks in the chapter numbering and in the page-numbering sequence between chapters.

Pagination

Each chapter forms an autonomous unit in the page-numbering system. The first page number in each chapter is the number of that chapter followed by a colon and the numeral "1." For example, Chapter 6 begins on page 6:1, Chapter 53 on page 53:1, etc. If a page were to be added between pages 53:2 and 53:3, it would be numbered 53:2.1. This system makes it possible to add or to change pages in any chapter without affecting pages in other chapters and to insert new chapters without affecting the existing organization.



Scheme

The scheme is the list of section titles that appears at the beginning of each chapter and which precedes the text. These titles are written so that, taken together, they may be considered as a summary of the content of the chapter. Taken separately, each describes the content of a particular section. For ease of reference, section titles are repeated as section headings in the text.

Section Numbering

In a chapter-related section-numbering system, each section of every item of legislation is assigned a number which indicates both the number of the chapter in which the legislation is located and the location of the section within that chapter. For example, the first section of Chapter 6 is § 6-1, while the fourth section of Chapter 53 is § 53-4. New sections can also be added between existing sections by using a decimal system. For example, if two sections were to be added between §§ 53-4 and 53-5, they would be numbered as §§ 53-4.1 and 53-4.2.



Legislative Histories

The legislative history for each chapter or article, as appropriate, is located immediately following the scheme for that chapter or article. The history indicates the specific legislative source from which the chapter was derived, including the enactment number and the date of adoption. Amendments to individual sections or subsections are indicated by boldfaced histories directly in the text.

General References and Editor's Notes

Each chapter containing material related to other chapters in the Code includes a table of General References to direct the reader's attention to those related chapters. Editor's Notes are used in the text to provide supplementary information and cross-references to related provisions in other chapters.

Sample Page

Every chapter is preceded by a Scheme, which lists each section by title. Taken together, the titles serve as a summary of the contents of the chapter.

Section numbers reflect both the number of the chapter in which the legislation is included and the location of the section within that chapter. This facilitates referencing and indexing sections.

The History indicates the specific legislative source from which the chapter is derived.

A table of General References directs the reader to related chapters.

For precision of reference, section titles are repeated as headings in the text.

A simple internal numbering system presents material in a clear, easy-to-read format.

Editor's Notes provide supplementary information for the code user.

Chapter 198

TAXICABS

<p>§ 198-1. License required.</p> <p>§ 198-2. Licensing power of Board of Selectmen; revocation; records.</p>	<p>§ 198-3. Rates of Fare</p> <p>§ 198-4. Licensing conditions.</p> <p>§ 198-5. Use of public ways.</p>
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[HISTORY: Adopted by the City Meeting of the City of Springfield. Amendments noted where applicable.]

GENERAL REFERENCES

Vehicle noise restrictions — See Ch. 75.	Vehicle and traffic regulations — See Ch. 111.
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§ 198-1. License required.
No person shall set up, use, or drive in the City any unlicensed taxicab or motor vehicle for the conveyance of passengers for hire from place to place.

§ 198-2. Licensing power of Board of Selectmen; revocation; records.
The Board of Selectmen may license taxicabs or motor vehicles for the conveyance of persons for hire from place to place within the City. They may revoke such licenses at their discretion. A record of all licenses so granted or revoked shall be kept by the Board of Selectmen.

§ 198-3. Rates of Fare

A. Minimum zone rates. [Amended 2-12-1980 by Ord. No. 80-73]

(1) On all trips originating or terminating north of Riverside Cemetery, the following minimum zone rates may be charged for distances north of said cemetery, which portion of the City is hereby divided into three zones as follows:

- (a) Zone A, from Riverside Cemetery to and including Boxart Street: \$2.50, plus \$1 for each additional passenger.
- (b) Zone B, from Boxart Street to and including Denise Road: \$3.50, plus \$1 for each additional passenger.
- (c) Zone C, from Denise Road to and including Beach Avenue: \$4, plus \$1 for each additional passenger.

(2) Each zone shall include all areas lying between the lines of its boundary streets extended to the easterly and westerly limits of the City. The minimum rates

1. Editor's Note: This ordinance provided an effective date of 3-31-1980.

198:1

01 - 15 - 2010

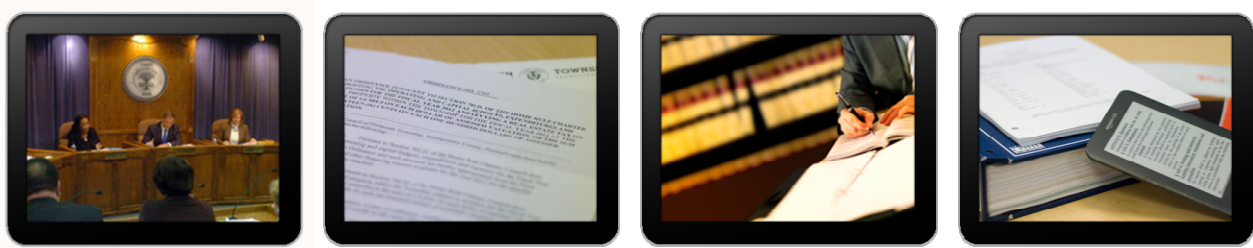
The page-numbering system reflects the chapter number plus the page sequence. This allows the insertion of new chapters without affecting the existing Code organization.

Amendments to individual sections or subsections are in the text at the location which most precisely pinpoints the amended material.

Supplementation Services

Your Code is an evolving document.

After your new Code is delivered, in order to protect your investment and maintain an accurate and reliable resource, your Code should be kept up-to-date. General Code's supplementation services are designed to make the process easy, fast and accurate.



Materials

After the enactment of new legislation, the City can forward a copy by whatever method is most convenient.

- ♦ Electronic copies of the legislation can be sent via email to ezsupp@generalcode.com. A reply email will be sent confirming receipt of your transmission. We have other options for transferring large files and will provide the necessary information if requested.
- ♦ In addition, paper copies of as-adopted legislation can be sent via US Mail or by Fax to 585-328-8189, and a confirmation postcard will be returned upon receipt of materials.

General Code will hold legislation pending a pre-approved schedule, or begin the job, as directed by the City.

Pre-Supplementation Posting

Between regular Code supplements, General Code will temporarily attach (append) verbatim copies of new legislation to your online electronic Code to provide ready access to information until such time as the legislation can be codified through supplementation. If supplementation does not occur within one year of appending, General Code will remove the link to that new legislation.

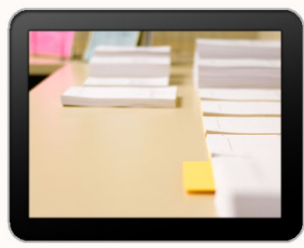
Schedule

Supplements will be provided on a schedule designed to meet the needs of the City. Typical schedules may be monthly, bimonthly, quarterly, triannual, semiannual, or annual, or upon authorization by the City. Updates to the electronic version of the Code can occur on a more frequent schedule than printed supplements.

Our average turnaround time for processing routine supplementation is between 4 and 6 weeks.

Editorial Work on Your Supplement

We will review the legislation to determine proper placement within the Code. General Code will adhere to the structure and style contained in the ordinance, unless changes are required to ensure consistency in the Code. General Code will also update the Table of Contents and index. Editorial notes will be appended to sections that require additional explanation. Any tables, drawings, or other graphics as are required by the City shall be incorporated into the supplement. Additionally, for print supplements, an Instruction Page will be created to advise how to insert and remove pages.



Printed Supplements

Amendments to the printed Code occur in the form of printed supplement pages that are issued as replacement pages. Printed supplements include updated Table of Contents, Disposition List, Index and text pages, as well as an Instruction Page.



Electronic Updates

Amendments to the electronic version of the Code can be provided on their own schedule or can accompany printed supplements. Electronic updates will have been incorporated into the Code, and a fully searchable, complete Code will be delivered online or on CD.



Delivery

Printed supplements to the Code will be delivered in bulk to the City, unless the City chooses to utilize General Code's Distribution Services. The website will be updated within one or two business days as electronic updates are delivered.

The General Code Codification Process At-a-Glance



Authorization and Agreement

Base Codification Project

\$ 20,565

Optional Components

____ Additional Code book(s) @ \$65 each

\$

Total Investment

Including all of the options selected above, the project price will be:

\$

The City of Rochester, New Hampshire, hereby agrees to the procedures outlined above, and to General Code's Codification Terms and Conditions, which are available at www.generalcode.com/TCdocs, and are incorporated herein by reference, and authorizes General Code to proceed with the project.

CITY OF ROCHESTER, STRAFFORD COUNTY, NEW HAMPSHIRE

By: _____

Witnessed by: _____

Title: _____

Title: _____

Date: _____

Date: _____

GENERAL CODE, LLC

By: _____

Witnessed by: _____

Title: _____

Title: _____

Date: _____

Date: _____

Please sign and return this page to General Code. A signed copy of this agreement will be mailed back to the City for its records.



1/31/2014

City of Rochester, New Hampshire
Department of Building, Zoning and Licensing Services

1/31/14

Codes and Ordinances Committee

The Department of Building, Zoning, and Licensing Services wishes to introduce a minimum housing standards ordinance. Implementation of an ordinance as such would help promote quality housing that is free from health and safety concerns throughout our community. This would help reduce the complaints being filed in our office as it would allow the Compliance Officer to more proactively enforce a minimum standard instead of reactively handling them on a complaint by complaint basis.

The ordinance that is being proposed was originated by the Town of Durham, NH and altered to suite the community of Rochester. The implementation of this ordinance in Durham caused some concern about the fee structure. Currently, they have waived the fees schedule. I would be suggesting that any fees associated with the registrations as well as first and second inspections be kept to a minimum if any at all, and instead increase the repeat violations fines.

We ask for your consensus of this conceptual ordinance before investing further staff resources in ironing out the finer details.

CHAPTER 44 HOUSING STANDARDS

- 44-1. Enforcing Authority
- 44-2. Powers of Enforcing Authority
- 44-3. Minimum Standards
- 44-4. Inspection
- 44-5. Enforcement Process
- 44-6. Appeal
- 44-7. Circuit or Superior Court Petition
- 44-8. Liens
- 44-9. Effective Date

HOUSING STANDARDS

This ordinance establishes a housing standards ordinance and fee schedule designed to protect the health and safety of occupants of residential rental properties in Rochester. This would occur through a systematic inspection program that seeks to correct dilapidation, dangerous defects which are likely to result in fire, accidents, or other calamities, unhealthful lack of ventilation or sanitary facilities, or due to other unhealthy or hazardous or dilapidated conditions, including those set forth in Revised Statutes Annotated (RSA) 48-A:7 "Standards for Public Agency".

44-1. Enforcing Authority

The Director of the Department of Building, Zoning, and Licensing Services is hereby designated to perform the duties of interpreting, administering, and enforcing this ordinance, in addition to the Director's other duties. The Director may delegate some of the duties under this ordinance to a designee or to other employees in other departments, such as an employee of the Fire Department; however, the Director of the Department of Building, Zoning, and Licensing Services shall be ultimately responsible for interpreting, administering, and enforcing this ordinance.

44-2. Powers of Enforcing Authority

The Director of the Department of Building, Zoning, and Licensing Services, and/or his/her designees as set forth in Section 44-I of this ordinance, in performing his/her duties under this ordinance, shall be authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this chapter including, but not limited to, the following powers:

- A.** To investigate the dwelling conditions in the municipality in order to determine which dwellings therein are unfit for human habitation;
- B.** To administer affirmations, examine witnesses and receive evidence;
- C.** To enter upon premises for the purpose of making examinations, provided that such entries shall be made in such manner as to minimize inconvenience to the persons in possession, and to obtain an administrative inspection warrant under

RSA 595-B for this purpose from a court of competent jurisdiction in the event entry is denied or resisted;

D. To collect inspection fees for:

1. Each property to be inspected under this ordinance,
2. Each separate dwelling unit on the property when there is more than one dwelling unit,
3. Each additional re-inspection when violations are not reasonably and properly corrected subsequent to the first re-inspection, and
4. An administration fee for self-certification as provided for in Section IV- H of this ordinance.

Said fees shall be established and adjusted annually as by the City Manager with the advice and consent of the City Council and shall reasonably reflect the estimated annual cost for staffing and administration of this ordinance.

E. To impose fines for noncompliance with this ordinance. Said fines may be imposed after individual properties and/or dwelling units have been inspected more than two times and violations remain unabated as a result of lack of good faith efforts by the property owner as specified in Section IV- F of this ordinance. Fines of up to \$250 for each offense may be imposed pursuant to RSA 31:39-c and/or RSA 31:39-d and are in addition to other remedies provided by this ordinance.

44-3. Minimum Standards

A. The Director of the Department of Building, Zoning, and Licensing Services may determine that a dwelling is unfit for human habitation if it is found that conditions exist in such dwelling which are dangerous or injurious to the health or safety of the occupants of such dwelling, the occupants of neighboring dwellings or other residents of such municipality. Such conditions may include the following:

1. Defects which increase beyond normal the hazards of fire, accident, or other calamities;
2. Lack of reasonable adequate ventilation, light, or sanitary facilities;
3. Dilapidation; disrepair, dangerous structural defects;
4. Uncleanliness that arises to rodent harborage or building damage;

5. Over-crowding; inadequate ingress and egress;
6. Inadequate drainage; or
7. Any violation of other health, fire or safety regulations.

B. In addition, pursuant to RSA 48-A, no residential rental property owner renting or leasing a residential dwelling shall maintain those rented premises in a condition in which:

1. The premises are infested by insects and rodents where the landlord is not conducting a periodic inspection and eradication program;
2. There is defective internal plumbing or a back-up of sewage caused by a faulty septic or sewage system;
3. There are exposed wires, improper connectors, defective switches or outlets or other conditions which create a danger of electrical shock or fire;
4. The roof or walls leak consistently;
5. The plaster is falling or has fallen from the walls or ceilings;
6. The floors, walls or ceilings contain substantial holes that seriously reduce their function or render them dangerous to the inhabitants;
7. The porches, stairs or railings are not structurally sound;
8. There is an accumulation of garbage or rubbish in common areas resulting from the failure of the landlord to remove or provide a sufficient number of receptacles for storage prior to removal unless the tenant has agreed to be responsible for removal under the rental agreement and the landlord has removed all garbage at the beginning of the tenancy;
9. There is an inadequate supply of water or whatever equipment that is available to heat water is not properly operating;
10. There are leaks in any gas lines or leaks or defective pilot lights in any appliances furnished by the landlord; or
11. The premises do not have heating facilities that are properly installed, safely maintained and in good working condition, or are not capable of safely and adequately heating all habitable rooms, bathrooms and toilet rooms located therein, to a temperature of at least an average of 68 degrees F.; or, when the landlord supplies heat in consideration for the rent, the premises are not actually

maintained at a minimum average room temperature of 68 degrees F. in all habitable rooms.

C. The Director of the Department of Building, Zoning, and Licensing Services shall develop a detailed inspection checklist to be used for all inspections performed under the authority of this ordinance. Said checklist shall address the minimum standards identified in this section, shall reference specific sections of applicable codes, and shall be reviewed and approved by the City Manager.

44-4. Inspection

A. In order to facilitate the investigation of dwelling conditions as well as the enforcement of the standards set forth in Section III of this ordinance, all owners of residential rental property in the City of Rochester shall request inspections by the Department of Building, Zoning, and Licensing Services as follows:

- 1.** All owners of residential rental properties shall identify the property and request an inspection from the Department of Building, Zoning, and Licensing Services of all of their residential rental properties and dwelling units within 60 days of adoption of this ordinance.
- 2.** The owner of any property that is proposed for residential rental in Rochester after the adoption of this ordinance shall request an inspection of the property and each individual dwelling unit therein from the Department of Building, Zoning, and Licensing Services and shall receive a Certificate of Housing Code Compliance before the residential rental unit is occupied.
- 3.** Whenever ownership of a residential rental property is transferred to a new owner after the effective date of this ordinance, the new owner shall request an inspection of the property and each individual dwelling unit therein from the Department of Building, Zoning, and Licensing within 60 days of the change in ownership.
- 4.** Newly constructed residential rental units that have received a building permit and certificate of occupancy by the City of Rochester after the effective date of this ordinance shall not be required to request an inspection under this Section of this ordinance for a period of two (2) years from the date of issuance of the certificate of occupancy.

Any residential rental property owner who fails to request the inspection within the specified time frame shall be subject to a \$1,000 civil penalty.

B. The term residential rental property as used herein shall not include: retirement communities, assisted living, hotels, motels, inns, unless hotel, motel, or inn rents to a non-transient (more than 30 days) occupant.

C. Beginning on the effective date of this ordinance, every residential rental property shall be inspected at least once every two years. Inspections may also take place upon receipt of any complaint or petition regarding the property.

D. If a mutually agreed inspection date and time cannot be reached with the owner or renter then a written notice of the inspection of any property shall be provided to the owner and delivered by hand or registered U.S. Mail at least forty-eight (48) hours prior to the inspection. The owner shall be responsible for notifying building tenants and securing permission to inspect individual dwelling units in accordance with the written notice of inspection. Alternatively, tenants may directly authorize inspection of their dwelling unit by the Department of Building, Zoning, and Licensing Services. Should the owner be nonresponsive or refuse entry to the City, the City may seek an administrative search warrant to authorize the inspection.

E. The purpose of said inspections shall be to determine compliance with this ordinance; however, should violations of other codes or ordinances be discovered during the course of such investigations, those violations may be prosecuted by the City.

F. Notice of any violation of the ordinances of the City of Rochester shall be given to the owner and tenant(s) and as set forth in Section V(A). The City shall re-inspect on or about 30 days from the inspection date for any non-life threatening violations, any life threatening violations shall be corrected immediately and shall be re-inspected as outlined by the City. Should the violations remain upon subsequent re-inspections of the property, the Director of the Department of Building, Zoning, and Licensing Services may determine that the owner and/or tenant(s) are not acting in good faith to remedy the violations after which the City may pursue any and all legal avenues available to it including the imposition of fines in accordance with Section II-E of this ordinance and/or building repairs, condemnation and /or removal as prescribed in this ordinance.

G. When a property and individual dwelling units have been inspected and found to be in compliance with this ordinance, the Director of the Department of Building, Zoning, and Licensing Services shall cause to be issued a Certificate of Housing Code Compliance for the property and each separate dwelling unit therein. Said Certificate shall be kept on the premises and be available for examination to tenants, prospective tenants, and City inspection officials upon request. Said certificate shall include at a minimum the date of issuance of the Certificate together with the address and dwelling unit numbers

H. When periodic regularly scheduled inspections of an individual residential rental property have been completed and the property found to be in substantial compliance with the Minimum Standards of this ordinance, the Director of the Department of Building, Zoning, and Licensing Services may determine that the property owner is diligent in ensuring compliance with the Minimum Standards and permit the owner of the property to self-certify that the property is in compliance with the Minimum Standards. This self-certification may be permitted on alternating inspection cycles of the anticipated two year City-wide inspection cycle (see paragraph C above) after the Director of the Department of Building, Zoning, and Licensing Services has given permission for self-

certification and the property owner has completed a residential rental property Inspection checklist (Section III-C), attested to its accuracy and completeness and submitted it to the Director of the Department of Building, Zoning, and Licensing Services for review and acceptance. A self-certification administrative filing fee, established as part of this ordinance, shall be paid to the Department of Building, Zoning, and Licensing Services prior to acceptance of the self certification by the Director of the Department of Building, Zoning, and Licensing Services. Self-certification acceptance does not waive the Director of the Department of Building, Zoning, and Licensing Services' right to subsequently investigate complaints or pursue concerns about violations of this ordinance and perform subsequent inspections of the property.

44-5. Enforcement Process

A. In addition or as an alternative to the power to impose and enforce penalties set forth in Section II, herein, whenever a petition is filed with the Director of the Department of Building, Zoning, and Licensing Services by at least 10 residents of the City charging that any dwelling is unfit for human habitation or whenever it appears to the Director of the Department of Building, Zoning, and Licensing Services by inspection that any dwelling is unfit for human habitation, the Director of the Department of Building, Zoning, and Licensing Services shall, if preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner, every mortgagee of record and all parties in interest in such dwelling (including persons in possession) a complaint stating the charges in that respect.

1. Service may be made by registered mail for persons residing outside the state; and if there are any unascertained persons having an interest in said dwelling, notice may be given them by publication in a newspaper having general circulation in the City, such publication to be at least 10 days before the date set for the hearing.

2. Such complaint shall contain a notice that a hearing will be held before the Director of the Department of Building, Zoning, and Licensing Services at a place therein fixed not less than 10 days nor more than 30 days after the serving of said complaint; that the owner, mortgagee and parties in interest shall be given the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before such public agency.

B. If, after such notice and hearing, the Director of the Department of Building, Zoning, and Licensing Services determines that the dwelling under consideration is unfit for human habitation, the Director of the Department of Building, Zoning, and Licensing Services shall state in writing the findings of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order which, if the repair, alteration or improvement of the said dwelling can be made at a reasonable cost in relation to the value of the dwelling and the ability of the owner to assume such cost,

requires the owner, within the time specified in the order, to repair, alter, or improve such dwelling to render it fit for human habitation or to vacate and close the dwelling as a human habitation; or if the repair, alteration or improvement of the said dwelling cannot be made at a reasonable cost in relation to the value of the dwelling and the ability of the owner to assume such cost, requires the owner, within the time specified in the order, to remove or demolish such dwelling.

44-6. Appeal

If an owner is aggrieved by an order of the Director of the Department of Building, Zoning, and Licensing Services, the owner may appeal to the Residential Rental Housing Board. Residential Rental Housing Board shall hold a public hearing upon said appeal, notice of said hearing having first been given to the Director of the Department of Building, Zoning, and Licensing Services and to the owner at least 10 but no more than 30 days prior to the hearing date. The Residential Rental Housing Board may affirm or revoke the order of the Director of the Department of Building, Zoning, and Licensing Services, or it may modify the same in accordance with its findings. If it shall affirm or modify such order, the Director of the Department of Building, Zoning, and Licensing Services shall proceed to enforce said order as affirmed or so modified, in the manner prescribed in RSA 48-A:4 and as set forth herein. If the Residential Rental Housing Board shall revoke said order, the proceedings shall be terminated.

44-7. Circuit or Superior Court Petition

If the owner fails to comply with an order, made pursuant to the provisions of RSA 48-A:3 and Section V, above, to repair, alter, improve or to vacate and close the dwelling, or to remove or demolish the dwelling, the Director of the Department of Building, Zoning, and Licensing Services may file a petition in either Rochester Circuit or Strafford County Superior Court which shall set forth the charges issued, as well as any other allegations bearing upon the unfitness of the dwelling for human habitation. The court will proceed pursuant to RSA 48-A:4 and RSA 48-A:5. If the court finds the dwelling complained against is unfit for human habitation due to any of the causes or conditions enumerated, such order shall direct the public agency to repair, alter, or improve such dwelling to render it fit for human habitation if such repair, alteration or improvement can be made at a reasonable cost in relation to the value of the dwelling and the ability of the owner to assume such cost; or if the repair, alteration or improvement of said dwelling cannot be made at a reasonable cost in relation to the value of the dwelling and the ability of the owner to assume such cost, to remove or demolish such dwelling. If the court shall find in favor of the owner, it shall award to the owner reasonable costs and expenses, including counsel fees, all as determined by the court, incurred by him in his defense of the action in the superior court.

44-8. Liens

A. Whenever the Director of the Department of Building, Zoning, and Licensing Services shall incur cost for the repair, alteration, improvement, vacating or closing, or for the

removal or demolition of a dwelling, pursuant to an order of the superior court, the amount of such costs shall be a lien against the real property as to which such cost was incurred and such lien, including as part thereof upon allowance of the City's costs and necessary attorneys' fees, may be foreclosed upon order of the superior court made pursuant to a petition for that purpose filed in said court. Such lien shall be subordinate to mortgages of record made before the institution of proceedings under this chapter. Notice of said lien shall be filed with the register of deeds for the county in which the real estate is situated, and shall be recorded therein. If the dwelling is demolished by the Director of the Department of Building, Zoning, and Licensing Services, the materials of such dwelling shall be sold and the proceeds of such sale shall be paid over to the superior court, for distribution to such persons as the court shall find entitled thereto.

B. Whenever a court of competent jurisdiction enters a fine against a property owner for violation of the minimum standards established by this ordinance, the amount of said fine shall be a lien against the real property, and such lien, including as part thereof costs and necessary attorneys' fees may be foreclosed upon order of the superior court pursuant to a petition for that purpose filed in said court. Such lien may be filed after 45 days following the entry of the fine. Notice of said lien shall be filed with the register of deeds for the county in which the real estate is situated, and shall be recorded by the registrar. Such lien shall be subordinate to any mortgage, tax lien, or encumbrance of record filed prior to the municipality's lien. If the lien authorized by this section is not satisfied within 120 days of the recording of the judgment in the registry of deeds in which the property is located, it may be foreclosed upon in accordance with the provisions of RSA 48-A:6 and Section VII(A), above.

44-9. Effective Date

This ordinance shall take effect upon adoption by the City Council.

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PANHANDLING ORDINANCE

CHAPTER 31

PANHANDLING

31.1 Intent of Ordinance.

This ordinance is adopted in order to, and for the purpose of: (a) protecting persons from threatening, intimidating or harassing behavior; (b) keeping public places safe for use by all members of the community; and (c) maintaining and preserving public places where all of the community can interact in a peaceful manner.

This ordinance is also intended and adopted for the purpose of providing for the free flow of pedestrian and vehicular traffic on streets and sidewalks in the City.

This ordinance is intended to promote the health, safety and welfare of all those that live, work or visit the City.

31.2 Definitions.

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

a) Solicit/Solicitation - The spoken, written, or printed word and/or such other act(s) or bodily gesture(s) as are undertaken and/or engaged in, in furtherance of the purpose of immediately obtaining money or any other object of value from another person without the exchange of corresponding equivalent compensation therefor.

b). Aggressive Manner – (1) Knowingly or recklessly making any physical contact with, or engaging in the touching of, another person, or any approaching within an arm's length of such other person, except with such other person's consent; in the course of a solicitation;

(2) Knowingly or recklessly follows a person being solicited if such conduct is:

- i) likely to cause any reasonable person to fear imminent bodily harm or the commission of a criminal act upon the person being solicited and/or followed, or to a person in the company of the person being solicited and/or followed, or upon and/or with regard to property in the person's possession or that of a person in the company of such person; or
- ii) likely to intimidate the person being solicited and/or followed, or to a person in the company of the person being solicited and/or followed, into responding affirmatively to the solicitation.

(3) Knowingly or recklessly continuing to solicit within five feet of the person being solicited after the person has made a negative response to such solicitation, if continuing the solicitation is:

- i) likely to cause any reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or

ii) likely to intimidate the person being solicited and/or followed the person being solicited and/or followed, or any person in the company of the person being solicited and/or followed into responding affirmatively to the solicitation;

(4) Knowingly or recklessly blocks the safe or free passage of the person being solicited and/or followed, or requires the driver of a vehicle, to take evasive action (including stopping, slowing down, or not accelerating) to avoid physical contact with the person making the solicitation;

(5) Knowingly or recklessly using words:

i) likely to cause any reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or

ii) likely to intimidate the person into responding affirmatively to the solicitation; or

(6) Knowingly or recklessly approaches the person being solicited in a manner that is:

i) likely to cause any reasonable person to fear imminent bodily harm or the commission of a criminal act upon property in the person's possession; or

ii) likely to intimidate the person being solicited and/or followed into responding affirmatively to the solicitation.

(7) Knowingly or recklessly makes any physical contact with or touches another person's property including but not limited to their vehicle, or approaches within an arm's length of the person's property, except with the person's consent; in the course of the solicitation.

c). Automated Teller Machine - A device, linked to a financial institution's account records, which is able to carry out any of the following transactions, such as but not limited, to account transfers, deposits, cash withdrawals, balance inquiries, and mortgage and loan payments.

d). Automated Teller Machine Facility - The area comprised of one or more automated teller machines, and any adjacent space which is made available to banking customers after regular banking hours.

e) Banking Organization - Any bank, trust company, private banker, savings bank, industrial bank, safe deposit company, savings and loan association, mutual and guaranty savings bank; cooperative bank; building and loan association; credit union; other financial institution organized and operating under the banking laws of the State of New Hampshire; small loan company; first mortgage banker or broker; second mortgage home loan lender; motor vehicle sales finance company; retail sellers of motor vehicles; debt adjusters; and mortgage servicer and investment company as defined in the Rules of the New Hampshire Banking Department.

f) Private Place - Any area owned by a private individual(s), business, or organization including any structure and all property surrounding.

g) Roadway - Any area that is, or can be, traveled on or by a motor vehicle, including but not limited to paved and non-paved roads, parking spaces, and shoulder of roads.

h) Deception - Any spoken, written or gestured non-truthful statement.

31.3 Aggressive Panhandling Prohibited.

a). No person shall knowingly or recklessly solicit in an aggressive manner in a public place.

b) No person shall knowingly or recklessly solicit within 50 feet of an automated teller machine or an entrance or exit of an automated teller machine facility.

c) No person shall knowingly or recklessly solicit within 50 feet of any entrance or exit of a banking organization or a licensed casher of checks during its business hours.

d) No person shall knowingly or recklessly solicit when either the person soliciting or the person being solicited is in a bus shelter or at a bus stop.

e) No person shall knowingly or recklessly solicit within 50 feet of any entrance or exit of any business or organization during its business hours.

f) No person shall knowingly or recklessly solicit from the median of any public road.

g) No person shall solicit on private property, even if the property is open to the public, without the owner's written consent.

h) No person shall step into the roadway to collect any money or other object of value resulting from solicitation.

i) No person shall solicit through deception.



18 Low Avenue
Concord, New Hampshire 03301
603-225-3080
www.NHCLU.org

DEVON CHAFFEE
EXECUTIVE DIRECTOR

December 11, 2013

VIA REGULAR AND ELECTRONIC MAIL (dwensley@JonesWensley.com)

Danford J. Wensley
40 Wakefield Street
Rochester, NH 03867-1500

Re: Rochester "Panhandling Ordinance," Chapter 31 of Rochester City Ordinances

Dear Mr. Wensley:

I write on behalf of the New Hampshire Civil Liberties Union ("NHCLU") in an effort to avoid litigation concerning Chapter 31 of the Rochester City Ordinances. In particular, we ask that the City of Rochester take steps immediately to rescind Chapter 31 of the Rochester City Ordinances in its entirety. If the City does not agree to rescind Chapter 31 by January 3, 2014, we will work with citizens impacted by this law to bring an action seeking preliminary and permanent injunctive relief against the Ordinance's enforcement, as well as attorneys' fees. Contemporaneous with this letter, the NHCLU has submitted a Right-to-Know request pursuant to RSA 91-A.

Chapter 31 is problematic in part because, while the City has sought to justify the law with concerns about "aggressive" behavior, the Chapter's scope is not limited to such conduct. For example, while the Chapter purports to prohibit so-called "aggressive" solicitation, it proscribes a wide range of peaceful conduct—including any form of solicitation (such as merely holding a sign) designed to "immediately" obtain money (i) "within 50 feet of any entrance or exit of any business or organization during its business hours," (ii) within 50 feet of an ATM or bank, (iii) in a bus shelter or at a bus stop, and (iv) in a median of any public road. *See, e.g.*, Chapter 31.3(b)-(i). These prohibitions effectively ban peaceful panhandling on sidewalks and other public spaces in the entire downtown/business district area of Rochester, including most (if not all) of the public square on the corner of North Main Street and Wakefield Street. As explained in more detail below, Chapter 31 is unconstitutional.

First, by prohibiting only a request for "the purpose of immediately obtaining money or any other object of value," the law is a content-based speech restriction and is presumptively unconstitutional. *See, e.g., R. A. V. v. City of St. Paul Minnesota*, 505 U.S. 377, 382 (1992) (stating that content-based restrictions are presumptively invalid); *Clatterbuck v. City of Charlottesville*, 708 F.3d 549, 556 (4th Cir. Va. 2013) ("The Ordinance plainly distinguishes between types of solicitations on its face. Whether the Ordinance is violated turns solely on the nature or content of the solicitor's speech: it prohibits solicitations that request immediate donations of things of value, while allowing other types of solicitations, such as those that request future donations"). Chapter 31 can only survive constitutional review if it is narrowly tailored to meet some compelling governmental interest—that is, if it is the least restrictive means of addressing whatever compelling interests the City identifies.

Second, Chapter 31 cannot pass strict scrutiny, especially where it bans all forms of solicitation (whether it be verbal or in writing) in a large portion of the city. Laws generally banning panhandling in public, or even in some large section of a city, have previously been struck down as unconstitutional abridgements of the right to free speech. See *Clatterbuck*, 708 F.3d at 556 (plaintiff's complaint challenging no-solicitation zone survives motion to dismiss); *Ayres v. City of Chicago*, 125 F.3d 1010, 1015-16 (7th Cir. 1997) (granting injunction against ordinance forbidding the peddling of any merchandise, except newspapers, on either public property or certain private property in districts designated by the city council); *Speet v. Schuette*, 889 F. Supp. 2d 969, 978 (W.D. Mich. 2012) (holding unconstitutional Michigan statute prohibiting begging), *aff'd*, 726 F.3d 867 (6th Cir. 2013); *Loper v. New York City Police Dep't*, 999 F.2d 699, 705 (2d Cir. 1993) (restriction on "begging" was impermissibly content-based); *Pike's Peak Justice & Peace Commission*, No. 12-cv-03095-MSK (D. Colo. Dec. 18, 2012) (ordinance prohibiting all forms of solicitation within a 12-block area of downtown Colorado Springs was unconstitutional). Indeed, we are not aware of a single case anywhere in the country upholding a ban on panhandling in a wide-swathe of a downtown area as is the case here.

The City has not even identified a compelling interest for this ban on peaceful, protected speech, especially where the "Intent of the Ordinance" primarily concerns the prevention of "threatening, intimidating or harassing behavior." As Councilor Lauterborn explained in a May 14, 2013 article in the *Rochester Times*, "members of the community who have complained about the issue see panhandling as a nuisance that can foster a negative image for the city." Of course, this is not a compelling interest for precluding the exercise of free speech by the City's poor and vulnerable, and it goes without saying that the very reason for the First Amendment's existence is to protect speech that others find a "nuisance." See *Boos v. Barry*, 485 U.S. 312, 322 (1988) ("As a general matter, we have indicated that in public debate our own citizens must tolerate insulting, and even outrageous, speech in order to provide adequate 'breathing space' to the freedoms protected by the First Amendment.") (internal quotations omitted).

Even if the City has a compelling interest (which it does not), the City cannot demonstrate that an effective ban on all panhandling in medians and much of downtown Rochester is a narrowly tailored and least restrictive means of advancing that interest. As both the Supreme Court and the Tenth Circuit have explained, "one is not to have the exercise of his liberty of expression in appropriate places abridged on the plea that it may be exercised in some other place." *Reno v. ACLU*, 521 U.S. 844, 880 (1997) (quoting *Schneider v. State*, 308 U.S. 147, 163 (1939)); *ACORN v. Golden*, 744 F.2d 739, 749 n.8 (10th Cir. 1984) (same); see also *Comite de Journaleros v. the City of Redondo Beach*, 657 F.3d 936, 947-51 (9th Cir. 2011) (ordinance making it unlawful "for any person to stand on the street and solicit employment, business, or contributions from an occupant of any motor vehicle" was unconstitutional); *People v. Griswold*, 821 N.Y. S. 2d 394, 402-403 (City Ct. of N.Y. 2006) ("There is no reason why prohibiting the homeless from standing on traffic islands to solicit donations is necessary to protect safety, if others are permitted to engage in similar conduct.").

Third, Chapter 31.3(a)'s language purporting to ban solicitation in an "aggressive manner" is not necessary to assure safety or preserve the peace, especially given that other statutes already criminalize the very "aggressive" behavior that the City purports to address.

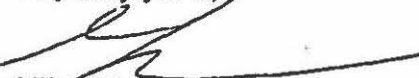
New Hampshire, for example, already prohibits individuals from interfering with traffic and from engaging in threatening behavior in a public place. See RSA 265:40(I) ("No person shall stand on the travelled portion of a roadway for the purpose of soliciting a ride, employment, business or contributions from the occupant of any vehicle."); RSA 644:2 ("A person is guilty of disorderly conduct if: I. He knowingly or purposely creates a condition which is hazardous to himself or another in a public place by any action which serves no legitimate purpose; or II. He or she: (a) Engages in fighting or in violent, tumultuous or threatening behavior in a public place; or (b) Directs at another person in a public place obscene, derisive, or offensive words which are likely to provoke a violent reaction on the part of an ordinary person; or (c) Obstructs vehicular or pedestrian traffic on any public street or sidewalk or the entrance to any public building.").

Fourth, the language in Chapter 31.2(b) and 31.3(a) purporting to ban "aggressive" solicitation is unconstitutionally vague, as it fails in many instances to specify the prohibited conduct, leaving police free to implement a discriminatory policy of selectively enforcing the Chapter against the poor. For example, Chapter 31.2(b), which defines "aggressive manner," prohibits a soliciting person from (i) following "a person being solicited," (ii) "continuing to solicit within five feet of the person being solicited after the person has made a negative response to such solicitation," (iii) "using words," or (iv) approaching a person to the extent that all such conduct is done in a manner that is "likely to intimidate the person" being solicited or likely to cause a reasonable person to fear the commission of a criminal act. Because, for example, it is entirely unclear from the Chapter what specific acts or words or even whether the continued display of a sign can be considered "aggressive" or "intimidating," it is up to individual police officers to determine whether this language has been violated.

Finally, by carving out from the Chapter's scope solicitations for future donations and ordinary commercial transactions, Chapter 31 is plainly targeted, without any valid basis, at the poor and homeless. Thus, the law also violates the Equal Protection Clause of the Fourteenth Amendment. See, e.g., *Police Dep't of Chicago v. Mosley*, 408 U.S. 92, 99-100 (1972); *Parr v. Mun. Court for Monterey-Carmel Judicial Dist.*, 479 P.2d 353 (Cal. 1971).

We urge you to review the precedents discussed above and to conduct your own independent review of the law's constitutionality. We do not believe it is a productive use of anyone's time or of taxpayers' money for the City to defend such a patently unconstitutional law. I am, of course, more than willing to discuss this matter and to answer any questions you may have concerning the constitutional issues discussed above. I enjoyed our productive conversation yesterday, and I look forward to your response.

Very truly yours,



Gilles Bissonnette
NHCLU, Staff Attorney
Gilles@nhclu.org



18 Low Avenue
Concord, New Hampshire 03301
603-225-3080
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DEVON CHAFFÉE
EXECUTIVE DIRECTOR

December 11, 2013

VIA REGULAR AND ELECTRONIC MAIL (dwensley@JonesWensley.com)

Danford J. Wensley
40 Wakefield Street
Rochester, NH 03867-1500

Re: Right-to-Know Request Regarding Panhandling Complaints in Rochester

Dear Mr. Wensley:

This is a Right-to-Know request to both the City of Rochester and its Police Department pursuant to RSA 91-A by the New Hampshire Civil Liberties Union ("NHCLU"). My understanding is that you represent the City of Rochester and its Police Department. If I am mistaken, please let me know immediately.

The NHCLU defends and promotes the fundamental principles embodied in the Bill of Rights and the U.S. and New Hampshire Constitutions. In furtherance of that mission, the NHCLU regularly conducts research into government activities in New Hampshire.

This request seeks records concerning, among other things, complaints about panhandling in the City of Rochester. Below, I have enumerated certain categories of information for production in accordance with RSA 91-A:

1. For the three (3) years prior to July 2, 2013 to the present, copies of all complaints regarding individuals either orally or in writing soliciting in public money or other objects of value from another person without the exchange of corresponding equivalent compensation (hereinafter, "panhandling"), including but not limited to any (i) "aggressive" panhandling, (ii) panhandling through deception, or (iii) panhandling occurring near any automated teller machine, bank, bus stop, bus shelter, or median of any public road.
2. For the three (3) years prior to July 2, 2013 to the present, copies of all complaints regarding individuals either orally or in writing (including leafleting) soliciting a person in public to (i) engage in a commercial transaction, (ii) purchase a service, (iii) sign a petition, (iv) donate money in the future, (v) support a politician, political cause, or charity, (vi) attend an event or function, or (vii) visit a business establishment.
3. For the three (3) years prior to July 2, 2013 to the present, copies of all complaints or documented incidents regarding safety near or around automated teller machines, banks, bus stops, and bus shelters.

4. For the three (3) years prior to July 2, 2013 to the present, copies of all complaints or documented incidents regarding safety in and around median strips, including any and all accidents.
5. For the three (3) years prior to July 2, 2013 to the present, copies of all complaints or documented incidents where a person stepped into the roadway to collect any money or other object of value resulting from a panhandling solicitation, including any and all accidents.
6. For the three (3) years prior to July 2, 2013 to the present, copies of all complaints or documented incidents regarding panhandling by individuals who had oral, but not written, permission to panhandle on private property.
7. For the three (3) years prior to July 2, 2013 to the present, copies of all documents discussing the use of public places for panhandling.
8. Copies of all documents discussing the desirability of having fewer panhandlers in Rochester in connection with business and tourism interests.
9. Copies of all documents concerning Chapter 31 of the Rochester's City Ordinances ("the Ordinance"), including but not limited to (i) all documents concerning the purpose and intent of the Ordinance, (ii) all findings related to the Ordinance, and (iii) all communications exchanged between the Rochester Police Department and the Rochester City Council addressing the Ordinance.
10. Copies of all written warnings, summons, citations, or penalties issued pursuant to the Ordinance by the Rochester Police Department, including any document describing the facts that led to the warning, summons, citation, and/or penalty. This request includes documents sufficient to identify the name of and contact information for the person receiving the warning, summons, or citation.
11. For the three (3) years prior to July 2, 2013 to the present, copies of all written warnings, summons, citations, or penalties issued by the Rochester Police Department pursuant to RSA 265:40 ("Pedestrians Soliciting Rides or Business") or RSA 644:2 ("Disorderly Conduct"), including any document describing the facts that led to the warning, summons, citation, and/or penalty.

In responding to this request, please consider the time limits mandated by the Right-to-Know law. In discussing those limits in *ATV Watch v. N.H. Dep't of Res. & Econ. Dev.*, 155 N.H. 434 (2007), the New Hampshire Supreme Court has stated that RSA 91-A:4, IV requires that a public body or agency, "within 5 business days of the request, make such records available, deny the request in writing with reasons, or to furnish written acknowledgement of the receipt of the request and a statement of the time reasonably necessary to determine whether the request shall be granted or denied." *Id.* at

440. Please let me know at your earliest convenience when I can expect to receive the records requested. Further, I would like to receive access to documents as they become available, rather than waiting for the entire response to be compiled.

These records must be produced irrespective of their storage format; that is, they must be produced whether they are kept in tangible (hard copy) form or in an electronically-stored format, including but not limited to e-mail communications. In the event you decide to withhold any document or documents, as defined above, that is otherwise responsive to the foregoing requests, please provide a written log of the documents so withheld, identifying: (a) the addressee(s); (b) the recipient(s); (c) the names of persons copied on the document; (d) the date of the document; (e) the general subject matter of the document; and (f) the "reasons" for withholding the document by citing to the exemption in the Right-to-Know law, or other New Hampshire law, on which you rely.

Thank you for your anticipated cooperation. I look forward to hearing from you as soon as possible. Of course, if you have any questions or concerns, do not hesitate to contact me.

Very truly yours,



Gilles Bissonnette
NHCLU, Staff Attorney
Gilles@nhclu.org

TITLE LXII CRIMINAL CODE

CHAPTER 644 BREACHES OF THE PEACE AND RELATED OFFENSES

Section 644:2

644:2 Disorderly Conduct. – A person is guilty of disorderly conduct if:

I. He knowingly or purposely creates a condition which is hazardous to himself or another in a public place by any action which serves no legitimate purpose; or

II. He or she:

(a) Engages in fighting or in violent, tumultuous or threatening behavior in a public place; or

(b) Directs at another person in a public place obscene, derisive, or offensive words which are likely to provoke a violent reaction on the part of an ordinary person; or

(c) Obstructs vehicular or pedestrian traffic on any public street or sidewalk or the entrance to any public building; or

(d) Engages in conduct in a public place which substantially interferes with a criminal investigation, a firefighting operation to which RSA 154:17 is applicable, the provision of emergency medical treatment, or the provision of other emergency services when traffic or pedestrian management is required; or

(e) Knowingly refuses to comply with a lawful order of a peace officer to move from or remain away from any public place; or

III. He purposely causes a breach of the peace, public inconvenience, annoyance or alarm, or recklessly creates a risk thereof, by:

(a) Making loud or unreasonable noises in a public place, or making loud or unreasonable noises in a private place which can be heard in a public

place or other private places, which noises would disturb a person of average sensibilities; or

(b) Disrupting the orderly conduct of business in any public or governmental facility; or

(c) Disrupting any lawful assembly or meeting of persons without lawful authority.

III-a. When noise under subparagraph III(a) is emanating from a vehicle's sound system or any portable sound system located within a vehicle, a law enforcement officer shall be considered a person of average sensibilities for purposes of determining whether the volume of such noise constitutes a breach of the peace, public inconvenience, annoyance, or alarm, and the officer may take enforcement action to abate such noise upon detecting the noise, or upon receiving a complaint from another person.

IV. (a) Whenever a peace officer has probable cause to believe that a serious threat to the public health or safety is created by a flood, storm, fire, earthquake, explosion, riot, ongoing criminal activity that poses a risk of bodily injury, or other disaster, the officer may close the area where the threat exists and the adjacent area necessary to control the threat or to prevent its spread, for the duration of the threat, until related law enforcement, fire, and emergency medical service operations are complete, by means of ropes, markers, uniformed emergency service personnel, or any other reasonable means, to any persons not authorized by a peace officer or emergency services personnel to enter or remain within the closed area.

(b) Peace officers may close the immediate area surrounding any emergency field command post activated for the purpose of abating any threat enumerated in this paragraph to any unauthorized persons, whether or not the field command post is located near the source of the threat.

(c) Any unauthorized person who knowingly enters an area closed pursuant to this paragraph or who knowingly remains within the area after receiving a lawful order from a peace officer to leave shall be guilty of disorderly conduct.

V. In this section:

(a) "Lawful order" means:

(1) A command issued to any person for the purpose of preventing said person from committing any offense set forth in this section, or in any section of Title LXII or Title XXI, when the officer has reasonable grounds to believe that said person is about to commit any such offense, or when said

person is engaged in a course of conduct which makes his commission of such an offense imminent;

(2) A command issued to any person to stop him from continuing to commit any offense set forth in this section, or in any section of Title LXII or Title XXI, when the officer has reasonable grounds to believe that said person is presently engaged in conduct which constitutes any such offense; or

(3) A command not to enter or a command to leave an area closed pursuant to paragraph IV, provided that a person may not lawfully be ordered to leave his or her own home or business.

(b) "Public place" means any place to which the public or a substantial group has access. The term includes, but is not limited to, public ways, sidewalks, schools, hospitals, government offices or facilities, and the lobbies or hallways of apartment buildings, dormitories, hotels or motels.

VI. Disorderly conduct is a misdemeanor if the offense continues after a request by any person to desist; otherwise, it is a violation.

Source. 1971, 518:1. 1983, 200:1. 1985, 309:1. 2005, 192:1, 2, eff. June 30, 2005; 260:2, 3, eff. July 22, 2005.

TITLE XXI

MOTOR VEHICLES

CHAPTER 265

RULES OF THE ROAD

Pedestrians' Rights and Duties

Section 265:40

265:40 Pedestrians Soliciting Rides or Business. –

I. No person shall stand on the travelled portion of a roadway for the purpose of soliciting a ride, employment, business or contributions from the occupant of any vehicle.

II. No person shall stand on or in proximity to the traveled portion of a street or way for the purpose of soliciting the watching or guarding of any vehicle while parked or about to be parked on a street or way.

III. It shall be lawful for any person to hitchhike or solicit a ride from the occupant of any vehicle upon any road or way, or limited access road and highway provided that the individual is not, when so doing, standing on the paved portion of the road or way.

IV. No person shall signal a moving vehicle or stop a vehicle on any public way in order to solicit or sell a ticket of admission to an entertainment or sports event.

Source. RSA 262-A:38. 1963, 330:1. 1971, 532:1. 1974, 31:1. 1981, 479:8; 146:1; 479:38. 1999, 243:1, eff. July 9, 1999.

Concord, NH

Concord, New Hampshire, Code of Ordinances >> TITLE II - TRAFFIC CODE >> CHAPTER 17 - VEHICLES AND TRAFFIC >> ARTICLE 17-7 RIGHTS AND DUTIES OF PEDESTRIANS >>

ARTICLE 17-7 RIGHTS AND DUTIES OF PEDESTRIANS17-7-1 Pedestrians Crossing Street in Restricted Area.17-7-2 Conduct of Pedestrians at Controlled Intersections.17-7-3 The Passing of Items to or from the Occupant of a Motor Vehicle on a Roadway.**17-7-1 Pedestrians Crossing Street in Restricted Area.**

No person shall cross the following part of Main Street at any point other than a marked crosswalk: South Main Street from Theatre Street to Pleasant Street; North Main Street from Pleasant Street to Pitman Street.

(Ord. No. 2830, § 1. 7-11-11)

17-7-2 Conduct of Pedestrians at Controlled Intersections.

At intersections where "WALK" and "DON'T WALK" signals are installed, it shall be unlawful for pedestrians to cross the highway when the said signals are in operation unless the signal indication permits such crossing.

17-7-3 The Passing of Items to or from the Occupant of a Motor Vehicle on a Roadway.

- (1) *Intent of Section.* This Section is intended to provide for the free flow of motor vehicle traffic on roadways in the City. The City Council finds that persons who distribute any item to, receive any item from or exchange any item with the occupant of a motor vehicle upon a roadway present a threat to the free and safe flow of motor vehicle traffic. By this Section, the City Council intends to promote the health, safety and welfare of the citizens traveling by vehicle in the City.
- (2) *Definitions.* For purposes of this Section, the following definitions apply:
 - (a) *Pass/Passing.* Distributing any item to, receiving any item from, or exchanging any item with the occupant of a motor vehicle that is located in the roadway.
 - (b) *Roadway.* All public roads open to motorized vehicles within the City. This definition excludes private roads and private property. This definition also excludes areas in which parking is permitted in the City.
 - (c) *Item.* Any physical object.
- (3) *Prohibition on Roadways.* It shall be unlawful to violate any of the prohibitions set forth below in the City.
 - (a) No person shall knowingly distribute any item to, receive any item from, or exchange any item with the occupant of any motor vehicle when the vehicle is located in the roadway.
 - (b)

This Section shall not apply to the distribution, receipt or exchange of any item with the occupant of a motor vehicle on private property or in a permitted parking area.

- (c) This Section shall not apply to any law enforcement officer acting in the scope of his/her official duty.
 - (d) This Section shall not apply to the distribution, receipt or exchange of any item with the occupant of a motor vehicle located in the roadway in order to assist the occupant after a motor vehicle accident, with a disabled motor vehicle or where the occupant is experiencing a medical emergency.
- (4) *Sunset.* This Section shall automatically repeal on April 9, 2015, unless otherwise ratified by the City Council.
 - (5) *Penalty.* A person found in violation of this Section shall be guilty of a violation and may be fined not more than \$500.00.
 - (6) *Severability.* If any provision of this section is declared invalid or unconstitutional by any Court of competent jurisdiction, the remaining provisions shall be severable and shall continue in full force and effect.

(Ord. No. 2904, § 1, 5-13-13)

Ending at the Leicester Town Line, the total distance being 1.40 miles.

(2) Stafford Street - Northeastbound Traffic

Beginning on Stafford Street at the Leicester Town Line,
 thence northeasterly 0.43 miles at 35 miles per hour
 thence 0.18 miles at 25 miles per hour
 thence 0.74 miles at 35 miles per hour
 thence 0.10 miles at 25 miles per hour
 Ending at Main Street, the total distance being 1.45 miles.

Pedestrian Control Regulations

§ 77. Crossing Ways or Roadways

(a) Pedestrians shall obey the directions of police officers directing traffic. Whenever there is an officer directing traffic, or whenever there is a traffic control signal within three hundred feet of a pedestrian, no such pedestrian shall cross a way or roadway except at such controlled location. Pedestrian crossings shall be made within the limits of marked crosswalk and as hereinafter provided. **No person shall, after having been given due notice warning by a police officer, persist in walking or standing on any traffic island or upon the roadway of any street or highway, except for the purpose of crossing the roadway at an intersection or designated crosswalk or for the purpose of entering or exiting a vehicle at the curb or for some other lawful purpose. Any police officer observing any person violating this provision may request or order such person to remove themselves from such roadway or traffic island and may arrest such person if they fail to comply with such request or order. ***

(b) It shall be unlawful for any person to actuate a pedestrian control signal or to enter a crosswalk unless a crossing of the roadway is intended.

***Amended January 29, 2013 - 9840**

§ 78. Actuation of Traffic Control Signals

(a) At a traffic control signal location where pedestrian indications are provided but which are shown only upon actuation by means of a pedestrian push button, no pedestrian shall cross a roadway unless or until the pedestrian control signal push button has been actuated and then cross only on the proper pedestrian signal indication. At traffic control signal locations where no pedestrian indication is provided, pedestrians shall cross only on the green indication for such crossing. If necessary, the green indication shall be actuated by the pedestrian by means of a push button.

(b) At a traffic control signal location, pedestrians shall yield the right of way to vehicles of a funeral or other procession or authorized emergency vehicle while in performance of emergency duties regardless of the signal indication given, and they shall not attempt to cross the roadway until such vehicles or procession has passed, at which time pedestrians shall then cross the roadway only as provided in these regulations.

- (2) Establishment allowing any shopping carts to remain unsecured in its parking lot after the establishment's normal business hours: \$100.00 each occurrence;
- (3) Abandoning a shopping cart in any public place other than the property of the establishment: \$25.00;
- (4) Establishment failing to mark its shopping carts as per subsection (g) of this section: \$100 each occurrence;
- (5) Establishment failing to post signs as per subsection (h) of this section: \$100 each occurrence;
- (6) Establishment failing to implement a shopping cart theft deterrent system within 180 days of the adoption of this section per subsection (k): \$300 each occurrence.

(m) Appeal.

- (1) An owner who has incurred a shopping cart-related fee under these Sections may obtain a hearing regarding the propriety of the fee by making a written petition to the commissioner of public works and parks for a hearing within fifteen (15) calendar days after retrieval of the impounded carts and payment of the impound fee pursuant to subsection (i). The commissioner of public works and parks shall provide written notice to the owner of the date, time and location of the hearing, and the hearing shall be held within thirty (30) calendar days from the date of the hearing request.
- (2) The commissioner or his or her designee shall act as the hearing officer and the decision resulting there from shall be final and subject only to judicial review allowed by law.
- (3) The commissioner shall notify the owner of the decision in writing within thirty (30) calendar days of the hearing.
- (4) Proceedings for review of the decision of the commissioner may be instituted in any court of competent jurisdiction within the commonwealth of Massachusetts as allowed by law from the date of notice of decision of said commissioner. The commencement of an action shall not operate as a stay of enforcement of said commissioner's decision, but the commissioner, at his or her discretion, may stay enforcement pending the outcome of any appeal as allowed by law.

§ 16. Aggressive Begging, Soliciting and Panhandling – Ordained January 29, 2013 - 9839

(a) *Declaration of Findings and Policy.*

The city of Worcester, acting by and through its City Council, hereby makes the following findings:

- (1) The City of Worcester has a duty to protect the rights of all people to exercise their First Amendment rights safely. The City of Worcester has a compelling governmental interest in imposing certain reasonable time, place and manner regulations whenever potential First Amendment activities such as begging,

solicitation and panhandling occur on streets, highways, sidewalks, walkways, plazas, and other public venues within the City;

- (2) This ordinance is not intended to limit any persons from exercising their constitutional right to solicit funds, picket, protest or engage in constitutionally protected activities. The provisions of this division are expressly established to most narrowly tailor any such restrictions to protect the First Amendment rights of all people within the City as well as the rights of non-participating people and their property, and to ensure the rights and safety of all people and/or property to the extent possible;
- (3) Persons approached by individuals asking for money, objects or other things of any value are particularly vulnerable to real, apparent or perceived coercion when such request is accompanied by or immediately followed or preceded with aggressive behavior such as:
 - (A) continuing to beg or solicit from a person after the person has given a negative response to such solicitation;
 - (B) touching another person or their property in the course of begging or soliciting without that person's consent;
 - (C) blocking or interfering with the safe or free passage of a pedestrian or vehicle by any means;
 - (D) using violent or threatening gestures which are likely to provoke an immediate violent reaction from the person who is the subject of the solicitation or request for money;
 - (E) closely following behind, ahead or alongside a person who has been solicited or asked for money after that person has given a negative response to such solicitation;
 - (F) using profane, threatening, or abusive language, either during the solicitation or begging or following a refusal;
 - (G) begging or soliciting money from anyone who is waiting in line for tickets, entering a public building or riding on public transportation;
 - (H) begging or soliciting in a manner with conduct, words or gestures intended or likely to cause a reasonable person to fear imminent bodily harm, danger or damage to or loss of property or otherwise to be intimidated into giving money or any other thing of value; or
 - (I) begging or soliciting in a group of two or more persons in an intimidating fashion.
- (4) The City desires to respect a person's potential right to solicit, beg or panhandle while simultaneously protecting another's right to not be unduly coerced.
- (5) The City further finds that aggressive soliciting, begging or panhandling of persons within 20 feet of any outdoor seating area of any cafe, restaurant or other business,

bank, automated teller machine, automated teller machine facility, check cashing business, mass transportation facility, mass transportation stop, or pay telephone also subjects people being solicited to improper and undue influence and/or fear and should not be allowed.

- (6) Persons approaching other individuals in an aggressive manner asking for money, objects or other things of any value after dark in public places inspire alarm and fear, which coupled with the inherent difficulty of establishing identity should not be allowed.

(b) Purpose and Intent.

The public purpose of this ordinance is to protect the rights of all peoples to exercise their First Amendment rights as well as the people and/or property of those who chose to be non-participating.

(c) Definitions.

As used in this section, the following words and terms shall have the meanings indicated. The meaning of all other terms and words not specifically defined shall be their generally accepted definition:

"Beg," "begging" or "panhandling" shall be synonymous and shall mean asking for money or objects of value, with the intention that the money or object be transferred at that time, and at that place. "Solicit" or "Soliciting" shall include using the spoken, written, or printed word, bodily gestures, signs, or other means of communication with the purpose of obtaining an immediate donation of money or other thing of value the same as begging or panhandling and also include the offer to immediately exchange and/or sell any goods or services.

"Aggressive manner" shall mean:

- (1) approaching or speaking to a person, or following a person before, during or after soliciting if that conduct is intended or is likely to cause a reasonable person to fear bodily harm to oneself or to another, or damage to or loss of property or otherwise to be intimidated into giving money or other thing of value;
- (2) continuing to solicit from a person after the person has given a negative response to such soliciting;
- (3) intentionally touching or causing physical contact with another person or their property without that person's consent in the course of soliciting;
- (4) intentionally blocking or interfering with the safe or free passage of a pedestrian or vehicle by any means, including unreasonably causing a pedestrian or vehicle operator to take evasive action to avoid physical contact;

(5) using violent or threatening language and/or gestures toward a person being solicited, or toward their property, which are likely to provoke an immediate violent reaction from the person being solicited;

(6) following the person being solicited, with the intent of asking that person for money or other things of value;

(7) soliciting money from anyone who is waiting in line for tickets, for entry to a building or for any other purpose;

(8) soliciting in a manner with conduct, words or gestures intended or likely to cause a reasonable person to fear immediate bodily harm, danger or damage to or loss of property or otherwise be intimidated into giving money or any other thing of value;

(9) begging in a group of two or more persons in an intimidating fashion;

(10) soliciting any person within 20 feet of the entrance to, or parking area of, any bank, automated teller machine, automated teller machine facility, check cashing business, mass transportation facility, mass transportation stop, public restroom, pay telephone or theatre or place of public assembly, or of any outdoor seating area of any cafe, restaurant or other business;

(11) soliciting any person in public after dark, which shall mean the time from one-half hour before sunset to one-half hour after sunrise.

"Automated teller machine" shall mean a device, linked to a financial institution's account records, which is able to carry out transactions, including, but not limited to: account transfers, deposits, cash withdrawals, balance inquiries, and mortgage and loan payments which are made available to banking customers.

"Automated Teller Machine Facility" shall mean the area comprised of one or more automatic teller machines, and any adjacent space which is made available to banking customers during and after regular banking hours.

"Public place" shall mean a place to which the public has access, including, but not limited to: a place which a governmental entity has title, any street open to public use, bridge, sidewalk, walkway, driveway, parking lot, plaza, transportation facility, school, park, or playground, and the doorways and entrances to building and dwellings.

"Bank" shall mean the same as defined in M.G.L. c. 167, § 1.

"Check cashing business" shall mean the same as that defined by M.G.L. c. 169A, § 1.

(d) Prohibited Activity.

It shall be unlawful for any person to beg, panhandle or solicit any other person in an aggressive manner. Any police officer observing any person violating this provision may

request or order such person to cease and desist in such behavior and may arrest such person if they fail to comply with such request or order.

(e) Penalty

Any person found guilty of violating this subsection (d) of this ordinance shall be punished by a fine not to exceed \$50.00 for each such day during which the violation is committed, continued or permitted, or, that the Court may impose such community service as it shall determine in lieu of a monetary fine.



CORPORATE OFFICES

PO BOX 1268
PORTSMOUTH, NH 03802-1268

CITY OF
Received

JAN 29 2014

City Manager
ROCHESTER

January 29, 2014

The Honorable TJ Jean
Mayor of the City of Rochester
31 Wakefield Street
Rochester, NH 03867

Dear Mayor Jean:

First Service Credit Union would like to thank the City of Rochester for its support throughout our years of serving the financial needs of its residents. Since 2002, Service Credit Union has operated a branch at 90 South Main Street in Rochester, N.H. We also commend the city's elected officials for passing a Panhandling Ordinance which addressed the panhandling issue in 2013.

Since the ordinance was adopted, we have seen an 85% reduction in members and staff being solicited for money. Though it was not fully eliminated, the aggressive style of panhandling was no longer a concern. We feel this ordinance has been a good deterrent.

Prior to the ordinance, we had received increasing complaints from members and employees being approached by individuals for money on a daily basis. During this time, we witnessed an individual who would stand next to our ATM located on the Service Credit Union premises and also approach members and staff as they exited the building. This caused extreme safety concerns and a concern for a potential loss in business as these complaints were being brought to our attention daily.

As a local financial institution, we want to ensure our membership and our employees are safe when they come to and from our facility. Making extreme changes to or eliminating the current ordinance would no longer deter panhandling. Thus, this would create an unsafe environment once again. We thank you for listening to our concerns and urge the city to keep the Panhandling Ordinance in effect.

Please contact myself if we can be of any assistance in this matter.

Sincerely,

Matthew Beaulieu, CCUE
Assistant Vice President
Member Services - Service Credit Union



Telephone (603) 422-8300 • Fax (603) 422-8391
3003 Lafayette Road • Portsmouth, NH 03801
www.servicecu.org

Rochester, New Hampshire



2013

City Council

Rules of Order

Amended and Adopted on June 4, 2013



RULES OF ORDER OF THE CITY COUNCIL CITY OF ROCHESTER, NEW HAMPSHIRE

ARTICLE 1: CITY COUNCIL MEETINGS	3
SECTION 1.1 REGULAR MEETINGS	3
SECTION 1.2 SPECIAL MEETINGS.....	3
SECTION 1.3 ABSENCE OR DISABILITY OF MAYOR, DEPUTY MAYOR.....	3
SECTION 1.4 ORDER OF BUSINESS	3
SECTION 1.5 PUBLIC HEARINGS.....	4
ARTICLE 2: DUTIES AND POWERS OF PRESIDING OFFICER.....	6
SECTION 2.1PRESIDING OFFICER - DECORUM AND ORDER	6
SECTION 2.2 PRESIDING OFFICER - DECLARING VOTES.....	6
SECTION 2.3 PRESIDING OFFICER - ROLL CALL VOTES.....	6
SECTION 2.4 PRESIDING OFFICER - ORDER OF QUESTIONS	6
SECTION 2.5 DISPOSAL OF MOTIONS	6
SECTION 2.6 MOTION FOR ADJOURNMENT	6
SECTION 2.7 PRESIDING OFFICER - RECOGNIZING MEMBERS	6
SECTION 2.8 COMMITTEE APPOINTMENTS	7
SECTION 2.9 ROBERT'S RULES OF ORDER	7
ARTICLE 3: RIGHTS AND DUTIES OF MEMBERS	8
SECTION 3.1 COUNCIL MEMBER SPEAKING.....	8
SECTION 3.2 COUNCIL MEMBER IN DEBATE	8
SECTION 3.3 INTERRUPTION OF COUNCIL MEMBER.....	8
SECTION 3.4 COUNCIL MEMBER SPEAKING, LIMITATIONS.....	8
SECTION 3.5 PRECEDENCE OF MOTIONS.....	8
SECTION 3.6 MOTION REDUCED TO WRITING	9
SECTION 3.7 VOTING ON MOTIONS, ABSTENTIONS	9
SECTION 3.8 MAYORAL VETO - EXERCISE AND VOTE TO OVERRIDE	9
SECTION 3.9 DIVISION OF A QUESTION.....	9
SECTION 3.10 READING OF A PAPER, OBJECTIONS.....	9
SECTION 3.11 SUSPENSION, AMENDMENT, AND REPEAL OF RULES	9
SECTION 3.12 ATTENDANCE OF MEMBERS	10

ARTICLE 4:AGENDAS, COMMUNICATIONS, COMMITTEES, REPORTS, RESOLUTIONS	11
SECTION 4.1 AGENDA PREPARATION.....	11
SECTION 4.2 MEMORIALS AND DOCUMENTS, PRESENTATION	11
SECTION 4.3 REPORTS AND PAPERS, LEGIBLY WRITTEN OR TYPED	11
SECTION 4.4 STANDING COMMITTEES	11
SECTION 4.5 SPECIAL COMMITTEES	12
SECTION 4.6 REMOVAL OF A COMMITTEE MEMBER	12
SECTION 4.7 PUBLIC INPUT AT WORKSHOP OR COMMITTEE MEETINGS.....	12
SECTION 4.8 SITTING OF COMMITTEE DURING COUNCIL MEETINGS.....	13
SECTION 4.9 COMMITTEE REPORTS	13
SECTION 4.10 COMMITTEE OF THE WHOLE, COUNCIL RULES.....	13
SECTION 4.11 AUTHORIZATION OF EXPENDITURES, CITY DEBT	13
SECTION 4.12 ORDINANCES AND RESOLUTIONS	13
SECTION 4.13 CODES AND ORDINANCES COMMITTEE, ORDINANCE ENROLLMENT	14
SECTION 4.14 ELECTIONS BY BALLOT.....	14
SECTION 4.15 RECORD OF VOTES AND PROCEEDINGS.....	14
SECTION 4.16 FUNCTIONS OF FINANCE COMMITTEE	14
SECTION 4.17 FUNCTIONS OF CODES AND ORDINANCES COMMITTEE	14
SECTION 4.18 FUNCTIONS OF PUBLIC WORKS AND BUILDING COMMITTEE	14
SECTION 4.19 FUNCTIONS OF PUBLIC SAFETY COMMITTEE	15
SECTION 4.20 FUNCTIONS OF COMMUNITY DEVELOPMENT COMMITTEE	15
SECTION 4.21 FUNCTIONS OF THE APPOINTMENTS REVIEW COMMITTEE	15
SECTION 4.22 INAUGURAL MEETING, ORDER EXERCISES	15
SECTION 4.23 COUNCIL COMMUNICATIONS.....	16
SECTION 4.24 MINUTES.....	16
APPENDIX	16

**RULES OF ORDER OF THE
CITY COUNCIL
CITY OF ROCHESTER, NEW HAMPSHIRE**

**ARTICLE 1
CITY COUNCIL MEETINGS**

SECTION 1.1 REGULAR MEETINGS

Regular meetings of the City Council shall be held in the Council Chamber in City Hall on the first Tuesday of each month, at 7:00 o'clock PM, except when a state general election or a regular municipal election is held on said first Tuesday of the month of November. The November meeting date in the year in which a regular municipal election is conducted shall be the Wednesday following said municipal election, in accordance with Section 52 of the City Charter. The November meeting date in the year in which a state general election is conducted shall be the second Tuesday of that month, unless the City Council shall otherwise direct. The inaugural meeting date following the regular municipal election shall be the first Tuesday after January 1. If any such date shall fall upon a legal holiday or upon the day on which a special state or municipal election is conducted the City Council shall vote to conduct said meeting on the day following or on the Tuesday following that holiday or election day.

SECTION 1.2 SPECIAL MEETINGS

The City Clerk shall call a special meeting of the City Council at the written request of the City Manager, the Mayor, or at the written request of a majority of City Council. Special meetings of the City Council shall be held upon written notice being delivered by the City Clerk to each City Councilor at least forty-eight (48) hours prior to said meeting, said notice stating the purpose for which the meeting is called. The Mayor shall take the chair precisely at the hour appointed for the meeting and call the members to order, and within ten minutes or sooner if a quorum be present, shall cause the roll to be called, and the names of the members present to be recorded. The Clerk shall also record the names of the members coming in after the calling of the roll.

SECTION 1.3 ABSENCE OR DISABILITY OF MAYOR, DEPUTY MAYOR

In the absence or disability of the Mayor, the Deputy Mayor shall take the chair and preside over the meeting and shall act as Mayor during such absence or disability. In the absence or disability of both Mayor and Deputy Mayor, the Clerk shall call the Council to order and shall preside until a chairperson shall be chosen by a roll call vote and plurality of votes, who shall preside and act as Mayor during such absence or disability. [6/4/2013]

SECTION 1.4 ORDER OF BUSINESS

(a) The order of business for regular meetings of the City Council shall be as follows:

1. Call to order
2. Pledge of Allegiance
3. Prayer
4. Roll Call
5. Approval of the minutes of the previous meeting(s)
6. Communications from the Mayor
7. Communications from the City Manager
8. Presentation of Petitions and Council Correspondence [and Disposal thereof by Reference or Otherwise]
9. Nominations, Appointments and Elections
10. Report of Committees
11. Old Business [Items Remaining from Prior Meetings]
12. New Business
13. Other
14. Adjournment

(b) New Business: Items requiring Council action may be introduced by any member of the City Council, but may not be acted upon at the meeting in which they are introduced unless the items are properly filed in accordance with Article 4, Section 4.1 herein. The Council may act upon said items if they have not been filed in advance by suspending Council Rules by a two-third (2/3) vote of the City Council.

SECTION 1.5 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;
- 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.

<p style="text-align: center;">ARTICLE 2 DUTIES AND POWERS OF PRESIDING OFFICER</p>

SECTION 2.1 PRESIDING OFFICER - DECORUM AND ORDER

The presiding officer shall preserve decorum and order, may speak to points of order in preference to the members, and shall decide all questions of order, subject to an appeal to the Council on motion of any member, and no other business shall be in order until the questions on the appeal shall have been decided.

SECTION 2.2 PRESIDING OFFICER - DECLARING VOTES

The presiding officer shall declare all votes, but if any member doubts the vote, the presiding officer, without further debate upon the question, shall require a division and shall declare the results.

SECTION 2.3 PRESIDING OFFICER - ROLL CALL VOTES

When any member shall require a question to be put in the roll call vote, the presiding office shall so order if the request is seconded.

SECTION 2.4 PRESIDING OFFICER - ORDER OF QUESTIONS

The presiding officer shall propound all questions in the order in which they are moved, unless the subsequent motion shall be previous in its nature.

SECTION 2.5 DISPOSAL OF MOTIONS

After a motion is made and seconded, it shall be considered, and, after it is stated by the presiding officer, it shall be disposed of by vote of the City Council, unless the mover withdraws it before a decision or amendment and the second agrees to withdrawal of the motion.

SECTION 2.6 MOTION FOR ADJOURNMENT

The presiding officer shall consider a motion to adjourn as always in order, the time of the next meeting having been agreed upon, unless a member has possession of the floor, or any question has been put and not decided. The motion to adjourn, or to lay on the table, or to take from the table, if seconded, shall be decided without debate.

SECTION 2.7 PRESIDING OFFICER - RECOGNIZING MEMBERS

When two or more members ask to be recognized at the same time, the presiding officer shall name the member who shall speak first.

SECTION 2.8 COMMITTEE APPOINTMENTS

All Council committees shall be appointed and announced by the presiding officer, who shall designate the chairperson and vice-chairperson thereof. The Mayor shall be Chair of the Finance Committee and an Ex-Officio voting member of all other committees of the Council.

SECTION 2.9 ROBERT'S RULES OF ORDER

When no other provision is herein made, questions of parliamentary law shall be decided as prescribed in the most recent edition of Robert's Rules of Order.

<p style="text-align: center;">ARTICLE 3 RIGHTS AND DUTIES OF MEMBERS</p>

SECTION 3.1 COUNCIL MEMBER SPEAKING

When any member is about to speak in debate, or deliver any matter to the Council, the member shall use a raised hand to be recognized, shall remain seated, respectfully address the presiding officer, shall be confined to the question under debate, and shall avoid personalities. The presiding officer shall attempt to allow a particular stream of discussion to be completed prior to allowing a member to change the direction of the debate at hand.

SECTION 3.2 COUNCIL MEMBER IN DEBATE

Members in debate shall address each other as Councilor or may use a description by the ward represented, or such other designation as may be intelligible and respectful.

SECTION 3.3 INTERRUPTION OF COUNCIL MEMBER

No member speaking shall be interrupted by another, except to call to order or to correct a mistake. But if any member, in speaking or otherwise, transgresses the Rules of the Council, the member so called to order shall immediately cease speaking unless permitted to explain, and the chair shall decide the question of order. The City Council, if appealed to, shall decide the question with limited debate.

SECTION 3.4 COUNCIL MEMBER SPEAKING, LIMITATIONS

Upon a motion and 2/3 vote by the council to limit debate, the chair shall limit discussions on any motion before the council. After such vote and if no time limit is set as part of the motion, no member shall speak more than twice on the same question, or more than five minutes at one time, nor more than once, until all other members choosing to speak shall have spoken.

SECTION 3.5 PRECEDENCE OF MOTIONS

The following motions shall have precedence in the order in which they are arranged:

1. **TO ADJOURN:** A privileged motion to be voted on at once if seconded; not debatable.
2. **TO LAY ON THE TABLE/TO TAKE FROM THE TABLE:** Requires a second, not debatable.
3. **TO CALL FOR THE PREVIOUS QUESTION/TO MOVE THE QUESTION (TO CLOSE DEBATE):** Requires a second, not debatable.
4. **TO POSTPONE TO A TIME CERTAIN:** Requires a second, debatable.

5. **TO REFER:** Requires a second; debatable.
6. **TO AMEND:** Requires a second; debatable.
7. **TO POSTPONE INDEFINITELY:** Requires a second; debatable.
8. **MAIN MOTION:** Requires a second; debatable.

SECTION 3.6 MOTION REDUCED TO WRITING

Every motion shall be reduced to writing, if the presiding officer directs, or if a member of the Council requests it.

SECTION 3.7 VOTING ON MOTIONS, ABSTENTIONS

Every member who shall be in the Council Chamber when a question is put shall vote, except that no member may vote on any question in which the member has a direct interest to a degree that may significantly impair the independent and impartial exercise of that member's judgment as a Councilor. If a member takes this rule for purposes of not voting, the member shall inform the City Council before a vote be taken on the motion under consideration.

SECTION 3.8 MAYORAL VETO - EXERCISE AND VOTE TO OVERRIDE

To be effective, the right of veto accorded to the Mayor under the provisions of Section 10-A of the Rochester City Charter, must be exercised, and notice of such exercise must be communicated in writing to the City Clerk, within one hundred forty-four (144) hours after action by the Council. As soon as practicable after receipt of the Mayor's written notice of exercise of the veto power, and in no event later than seventy-two (72) hours after receipt of such notice, the City Clerk shall inform the Council in writing of the Mayor's exercise of such veto. The Council may override said veto by a two-thirds (2/3) vote of all Councilors serving in office, as provided for in Section 10-A of the Rochester City Charter, no later than the close of the next regular meeting of Council.

SECTION 3.9 DIVISION OF A QUESTION

The division of a question may be called for when the sense will admit it.

SECTION 3.10 READING OF A PAPER, OBJECTIONS

When the reading of a paper is called for, and the same is objected to by any Member, it shall be determined by a vote of the Council.

SECTION 3.11 SUSPENSION, AMENDMENT, AND REPEAL OF RULES

No standing Rule of Order of the Council shall be suspended unless two-thirds (2/3) of the members present shall consent thereto. Nor shall any Rule of Order be repealed or amended without a motion therefore, made at a previous meeting, nor unless a majority of the whole City Council concur therein. The Rules of Order of the City Council shall be

reaffirmed by the new Council following each municipal election. The Rules of the former Council shall not be binding.

SECTION 3.12 ATTENDANCE OF MEMBERS

Every member shall take notice of the day and hour to which the Council may stand adjourned, and shall give his punctual attendance accordingly.

<p style="text-align: center;">ARTICLE 4 AGENDAS, COMMUNICATIONS, COMMITTEES, REPORTS, RESOLUTIONS</p>

SECTION 4.1 AGENDA PREPARATION

The agenda for each Council meeting shall be prepared by the Mayor, the Deputy Mayor and the City Manager in conjunction with the City Clerk. Any Councilor may place an item on the agenda provided that the items be submitted in writing or email to the City Clerk, the Mayor, the Deputy Mayor or the City Manager seven (7) days prior to the meeting of Council. The City Clerk shall provide Council members with copies of the agenda at least five (5) days before the meeting of the Council. All resolutions, and subject matter, to be presented to the Council shall be made available to the members prior to said Council meeting.

SECTION 4.2 MEMORIALS AND DOCUMENTS, PRESENTATION

All memorials and other documents addressed to the City Council shall be presented by the presiding officer or by a member in the presiding officer's place, who shall explain the subject thereof; and they shall lie on the table to be taken up in order in which they are presented, unless the Council shall otherwise direct.

SECTION 4.3 REPORTS AND PAPERS, LEGIBLY WRITTEN OR TYPED

All reports and other papers submitted to the City Council shall be written in fair hand or typewritten. The Clerk shall make copies on any papers to be reported by the committees, at the request of the chairs thereof. At the request of any councilor a digital copy may be provided in place of printed page.

SECTION 4.4 STANDING COMMITTEES

At the commencement of the new year following the regular municipal election, the following committees shall be appointed by the Mayor:

Finance:

Shall consist of seven (7) members including the Mayor who shall serve as chair.

Public Works and Buildings:

Shall consist of five (5) members.

Public Safety:

Shall consist of five (5) members.

Codes and Ordinances:

Shall consist of five (5) members.

Community Development:

Shall consist of five (5) members.

Appointments Review Committee:

Shall consist of five (5) members.

- A. No Council Member shall serve on more than three (3) standing committees, excluding the Finance Committee.
- B. All vacancies occurring in any standing committee shall be filled by the Mayor.

SECTION 4.5 SPECIAL COMMITTEES

Special committees shall consist of three (3) members unless a different number be ordered by the Mayor.

SECTION 4.6 REMOVAL OF A COMMITTEE MEMBER

A member of any committee may be removed by a two-thirds (2/3) vote of the entire Council.

SECTION 4.7 PUBLIC INPUT AT WORKSHOP OR COMMITTEE MEETINGS

The chair shall call the committee together and no committee shall act by separate consultations, and no report shall be received from any committee unless agreed to in committee actually assembled, and voted upon by a majority of the members thereof.

Public input on any subject appropriate to be brought before the Council shall be allowed at the beginning of every committee meeting or council workshop and shall be placed as the first item of business on the agenda of said meeting. When possible, the chair shall allow for reasonable input from the public during the meeting, to allow citizens to comment on any item appearing on the agenda, except for any items discussed in any non-public session. The chair may limit any public input to insure that the committee is able to complete its work and to provide for the decorum of the meeting.

i. 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; [6/4/2013]

ii. 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 the have been designated to represent;

- iv. Each 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 named and address by the speaker;
- v. Public Input shall not be 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.

SECTION 4.8 SITTING OF COMMITTEE DURING COUNCIL MEETINGS

No committee shall sit during the meetings of the City Council without special leave.

SECTION 4.9 COMMITTEE REPORTS

It shall be the duty of every committee of the Council to which any subject may be specially referred to report thereon at the next meeting of the City Council, or to ask for further time.

SECTION 4.10 COMMITTEE OF THE WHOLE, COUNCIL RULES

The rules of proceedings in Council shall be observed in a committee of the whole so far as they may be applicable, excepting the rules limiting the time speaking.

SECTION 4.11 AUTHORIZATION OF EXPENDITURES, CITY DEBT

After the annual appropriations shall have been passed, no subsequent expenditure shall be authorized for any object, unless provisions for the same shall be made by a specific transfer from some of the annual appropriations or money in the treasury unappropriated or by expressly creating therefore a City debt; and no City debt shall be created except by a majority vote of the Council in the affirmative.

SECTION 4.12 ORDINANCES AND RESOLUTIONS

Every ordinance, and all resolutions imposing penalties or authorizing the expenditure of money when introduced, shall be written and shall pass through the following stages before they shall be considered as having received the final action of the Council, to wit: First reading for information, and if not rejected or otherwise disposed of, the City Attorney and City Clerk, shall carefully examine them to see that they are in technical form and that their provisions are not repugnant to the Laws and Constitution of the State of New Hampshire or to the Charter and Ordinances of the City of Rochester: They shall then be referred by the chair to the appropriate Council committee for review, public hearing (if required) and discussion. All committees shall make a report for final action to the Council. After such report, the question shall be, "Shall they be read a second time?" If not then rejected, the question shall be on the passage of the same to be enrolled. Upon an affirmative vote, the chair shall refer such ordinance or resolution to the Codes and Ordinances Committee for review as set forth in Section 4.13. and

make a report of them to the Council, at which time they shall be deemed to be enrolled. No ordinance or resolution as above referred shall be amended except on its second reading. All other resolutions shall have one reading before they shall finally be passed by the Council.

SECTION 4.13 CODES AND ORDINANCES COMMITTEE, ORDINANCE ENROLLMENT

It shall be the duty of the Codes and Ordinances Committee to examine every ordinance that shall have passed the several readings required, and if found correctly enrolled, officially made part of the general ordinances of the City of Rochester and/or the official record of the City Council and to report the same to the Council.

SECTION 4.14 ELECTIONS BY BALLOT

In all elections by ballot on the part of the City Council, blank ballots and all ballots for persons not eligible shall be reported to the Council.. To be elected any person seeking election must receive a majority of the votes of those members present and voting. Tally of the ballots shall be reported to the Council and recorded in the minutes. Unless otherwise directed by the Council all ballots shall be destroyed after being reported.

SECTION 4.15 RECORD OF VOTES AND PROCEEDINGS

The Clerk shall keep a record of the votes and proceedings of the City Council, entering thereon all orders and resolutions, except such as it is necessary to engross; reports, memorials, and other papers submitted to the Council shall be noted only by their titles or a brief description of their purpose, but any accepted reports may be entered at length on said record.

SECTION 4.16 FUNCTIONS OF FINANCE COMMITTEE

Functions shall include: Purchasing, Trust Funds, Operating Budget, Final Capital Budget, Taxes, City Reports, Legal Affairs, Insurance, Audits, Claims, Accounts, Bids, Review of Expenditures, Receipts, Contract Change Orders, Welfare and Grants. The Finance Committee shall present a monthly report of the City accounts to the Council.

SECTION 4.17 FUNCTIONS OF CODES AND ORDINANCES COMMITTEE

Functions shall include: Municipal Elections and Returns, Charter and Ordinances, Council By-Laws, Enrolled Bills, Planning, Zoning, and such other matters as may be directed by the City Council.

SECTION 4.18 FUNCTIONS OF PUBLIC WORKS AND BUILDING COMMITTEE

Functions shall include: Roads, Sewer Systems, Water Systems, Engineering, Public Buildings, Recycling and Solid Waste, Pollution, Water Resources, Space Allocations.

SECTION 4.19 FUNCTIONS OF PUBLIC SAFETY COMMITTEE

Functions shall include: Police, Fire, Parking, Traffic, Street Signs, Street Lights, Animal Control, and Public Health Services.

SECTION 4.20 FUNCTIONS OF COMMUNITY DEVELOPMENT COMMITTEE

Functions shall include: Economic Development, Industrial Development, Land Use Policy, Technology Issues, Chamber of Commerce, Rochester Main Street, Arts and Cultural, Recreation, Parks, Adult & Youth Services, Promotional Activities and Festivals, Public Relations, COAST, CDBG and Human Services Agencies.

SECTION 4.21 FUNCTIONS OF THE APPOINTMENTS REVIEW COMMITTEE

Functions shall include: Interviewing of candidates for Council appointed positions on various boards of the City, including but not exclusive of Planning Board, Zoning Board of Adjustment, Trustees of the Trust Fund, Library Trustees, Arena Commission, Recreation, Parks and Youth Services, Welfare Appeals Board, Utility Advisory Board.

SECTION 4.22 INAUGURAL MEETING, ORDER EXERCISES

The order of exercises at the meeting held on the first Tuesday after January 1, or Wednesday, January 2, following the regular municipal election shall be as follows:

1. Call to Order
2. Pledge of Allegiance
3. Prayer
4. Roll Call of Councilors-Elect
5. Mayor takes Oath of Office
6. Councilors-Elect take Oath of Office
7. Roll Call of School Board Members-Elect
8. School Board Members-Elect take Oath of Office
9. Roll Call of Police Commissioners-Elect
10. Police Commissioner-Elect takes Oath of Office
11. Election of Deputy Mayor
12. Inaugural Address
13. Old and/or New Business

SECTION 4.23 COUNCIL COMMUNICATIONS

- (a) No member shall cause to be mailed, electronically transferred, delivered, or left at City Hall any documents or correspondence for any other member or the City Manager which does not clearly identify the name of the member sending such information and, if possible, the source of such information.
- (b) No anonymous correspondence shall be placed in any member's Council mailbox. All mail, electronic media or other correspondence shall clearly identify the sender, source and date it was received.

SECTION 4.24 MINUTES

All meetings of the City Council including all standing and special committees of the Council shall take roll call at all committee meetings and record their proceedings and provide minutes of any meeting to the City Clerk's Office in a manner prescribed under NH RSA 91-A (NH Right To Know Law).

APPENDIX

REVISED AND ADOPTED BY CITY COUNCIL FEBRUARY 6, 1990

AMENDED AND REAFFIRMED BY CITY COUNCIL JANUARY 14, 1992

REAFFIRMED BY CITY COUNCIL JANUARY 11, 1994

AMENDED BY CITY COUNCIL MARCH 1, 1994

AMENDED AND REAFFIRMED BY CITY COUNCIL JANUARY 9, 1996

AMENDED AND ADOPTED BY CITY COUNCIL FEBRUARY 3, 1998

AMENDED AND ADOPTED BY CITY COUNCIL FEBRUARY 5, 2002

AMENDED AND ADOPTED BY CITY COUNCIL MARCH 5, 2002

AMENDED AND ADOPTED BY CITY COUNCIL FEBRUARY 3, 2004

AMENDED AND ADOPTED BY CITY COUNCIL JANUARY 10, 2006

AMENDED AND ADOPTED BY CITY COUNCIL JANUARY 15, 2008

AMENDED AND ADOPTED BY CITY COUNCIL February 2, 2010

AMENDED AND ADOPTED BY CITY COUNCIL February 7, 2012 (1.4) (3.1) (3.5) and (4.1)

AMENDED AND ADOPTED BY CITY COUNCIL June 4, 2013 (1.3) (1.5) and (4.7)