

**Codes and Ordinances Committee**

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



**CODES AND ORDINANCES COMMITTEE**

Of the Rochester City Council

**Thursday, February 7, 2019**

**31 Wakefield Street, Rochester, NH**

City Council Chambers

**6:00 PM**

**Agenda**

1. **Call to Order**
2. **Public Input**
3. **Acceptance of the Minutes: November 1, 2018 P. 3**
4. **Discussion: Codification Project P.7**
5. **Other**
6. **Adjournment**

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City Clerk's Office

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**CODES AND ORDINANCES COMMITTEE**

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**Thursday, November 1, 2018**

**31 Wakefield Street, Rochester, NH**

City Council Chambers

**6:00 PM**

**Minutes**

**Members Present:**

Councilor Peter Lachapelle  
Councilor Elaine Lauterborn  
Councilor Tom Abbott  
Councilor Robert Gates

**Members Excused:**

Councilor Donna Bogan

**Others Present:**

City Attorney Terence O'Rourke  
Assistant Fire Chief Tim Wilder  
Fire Chief Mark Klose

**1. Call to Order**

Councilor Lachapelle called the meeting to order at 6:00 pm. Susan Morris, Clerk Typist I, took a silent roll call. All committee members were present except for Councilor Bogan who was excused. Also present were City Attorney Terence O'Rourke, Assistant Fire Chief Tim Wilder, Fire Chief Mark Klose and Councilor Walker.

Councilor Lachapelle stated changes to the agenda, Item #4: Amendment to Chapter 23 has been postponed until either December or January's meeting. Also Item #7: Neighborhood Compliance Inspections has been postponed. There will be a full presentation on the Compliance Inspections at the Council Workshop Meeting on November 20<sup>th</sup>.

**2. Public Input**

Councilor Lachapelle opened Public Input at 6:03 pm.

Steve Beaudoin of Hemlock Street distributed a copy of the Final report of the committee to study procedures for adoption of National Codes by the State of New Hampshire on HB1254; Chapter 294:1, Laws of 2018.

Mr. Beaudoin also spoke about the Neighborhood Property Maintenance Code.

Councilor Lauterborn stated that she would like to recommend that the committee look into the Property Maintenance Code. She requested a copy of the Property Maintenance Code to read before the November Council Workshop meeting. Councilor Lachapelle stated that the Property Maintenance Code will be requested to be included in the packets for the workshop meeting so Council gets it ahead of time. Councilor Lauterborn advised Mr. Beaudoin to send any specific recommendations on how to change the codes to the committee prior to the Workshop meeting on November 20, 2018.

Cliff Newton of Old Dover Road spoke about adopting and amending codes. He also spoke about the Neighborhood Property Maintenance Code.

Gregg DeNobile of Chesley Hill Road spoke about fire safety measures and property maintenance code.

Councilor Lachapelle closed Public Input at 6:25 pm.

**3. Acceptance of the Minutes: August 2, 2018**

Councilor Lauterborn **MOVED** to accept the August 2, 2018 minutes as written. Councilor Gates seconded the motion. The **MOTION PASSED** by unanimous voice vote.

**4. Discussion: Amendment to Chapter 23 of the City of Rochester General Ordinances – forthcoming**

This item has been postponed as stated above.

**5. Discussion: Operation of Ride Sharing Services in Rochester – forthcoming**

Attorney O'Rourke shared the current Taxi ordinance and regulations with the committee. His determination is that operation of Ride Share Services fall under the regulations of the current ordinance in place for Taxi operations.

Discussion was held. Councilor Lachapelle stated that there was no action to be taken by the Committee because the determination had already been made.

**6. Discussion: Chapter 42.12 Conservation Overlay District (Wetlands Delineation Manual)**

Councilor Lachapelle shared Councilor Varney's e-mail and recommendations. Discussion was held by committee.

Councilor Gates **MOVED** to forward **Chapter 42.12 Conservation Overlay District** to the full Council for 1<sup>st</sup> reading at the November Council meeting. Councilor Lauterborn seconded the motion. Discussion was held about the process. The **MOTION PASSED** by unanimous voice vote.

**7. Discussion: Neighborhood Compliance Inspections – forthcoming**

This item has been postponed as stated above.

Councilor Lachapelle stated again that this was postponed because there will be a presentation at the Council Workshop Meeting on November 20, 2018. Discussing this in Committee now goes against the rules of order. The item should go to Council first and then get sent to Codes.

Councilor Walker stated that he wanted to philosophically find out what the committee would like to do. Councilor Walker wanted to start the conversation of how these inspections should be approached. In the past these have been complaint driven inspections. More recently, within the last few months with the new administration, code compliance have been going out into the neighborhoods doing proactive inspections.

Councilor Gates **MOVED** that this Committee advise the City Council should order the Department of Building, Zoning and Licensing to cease and desist on the enforcement of the Property Management Code until the City Council deems otherwise necessary. The motion was not seconded. Councilor Lachapelle stated that this motion should be made at the council meeting after the presentation.

The council debated the issue.

**8. Other**

There was no discussion under Other.

**9. Adjournment**

Councilor Lauterborn **MOVED** to adjourn at 6:52 pm. Councilor Gates seconded the motion.

Respectfully Submitted,

Susan Morris  
Clerk Typist I

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City Clerk's Office

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City of Rochester

Code Adoption Ordinance

Schedule A  
(As Referenced in § 1-16B)

The following changes are made throughout the Code:

- "Director of Public Works" is amended to "Commissioner of Public Works."
- "Planning Director" is amended to "Planning and Development Director."
- "Planning Department" is amended to "Planning and Development Department."
- "Arena Department" and "Recreation, Parks and Youth Services Department" are amended to "Recreation and Arena Department."
- "Chairman" is amended to "Chairperson."

**Codes & Ordinances Committee Recommendation for the above mentioned changes throughout the Code:**

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Chapter 1, General Provisions.

Section 1-2 is added to read as follows:

**§ 1-2. Definitions and word usage.** Proposed by General Code due to lack of necessary definitions.

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

CITY — The City of Rochester, New Hampshire.

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

COUNTY — Strafford County.

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

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

STATE — The State of New Hampshire.

Council Inquiry – Varney [1]

*The City Charter refers to ordinances not codes. Seems to me we should stay with ordinances. The only Code referred to in the City Charter is the Administrative Code.*

**City Attorney's response:** The General Ordinances have been called the "Code of Ordinances" since June 6, 1995.

**City Clerk's response:** In regards to the title change from ordinance to code, see proposal below. *An update to Schedule A would be necessary to make this change.*

General Code Original Schedule A:

**City Clerk Proposed Additional Correction:**

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

**Codes & Ordinances Committee Recommendation for 1-2.A  
Definitions and word usage:**

**Include the City Clerk's recommendation to update the  
definition of Code?**

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B. Word usage.

- (1) Whenever any words in this Code denote the plural, the singular shall be deemed included, and whenever the singular number shall be used, it shall be deemed to include the plural.

**General Code Original Schedule A:**

- (2) Wherever the masculine gender is used in this Code, females as well as males shall be deemed to be included.

**City Clerk Proposed Correction:**

**(2) Remove all gender reference and use  
gender-neutral reference throughout  
the Code.**

- (3) Words in the present tense shall be deemed to include the future.  
(4) The word "shall" as used in this Code is mandatory.

**Codes & Ordinances Committee Recommendation for 1-2.B  
Word usage:**

**Include the City Clerk's recommendation for Code?**

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Chapter 7, Administrative Code.

Section 7-2 is amended to delete "Administration – City Manager"; to delete the Arena Department and Arena Director; to add the Information Technology Department and Chief Information Officer; to change "Planning" to "Planning and Development"; and to change the Recreation, Parks and Youth Services Department and Director of Recreation, Parks and Youth Services to the Recreation and Arena Department and the Director of Recreation and Arena, respectively.

Original § ~~7-2.18~~, Arena Department, is repealed.

**Justification:** *An Amendment to the Ordinances occurred on 11/4/2015 to combine the Recreation and Arena Department; however, some Chapters of the ordinances were not updated to reflect this change (existing Chapter 2.18).*

**Codes & Ordinances Committee Recommendation for Chapter 7-2:**

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Section 7-8A is amended to change "two Deputy Assessors" to "**three** Deputy Assessors."

**Justification:** *The City Charter was Amended at the November 6, 2013 Municipal Election to include this change; however, the City Ordinances were not amended to show this change at that time. See proposed change(s) as shown in existing Chapter 2.18 follows:*

**~~2-18~~ 2-8** Assessing Department.

**A.** The Assessing Department shall consist of one (1) Assessor, to be known as the City Assessor, and ~~two (2)~~ **three** Deputy Assessors, who altogether shall be known as the Board of Assessors, and such personnel as may be provided for in the annual departmental budget appropriation. The City Assessor shall be appointed in the manner and for such term provided in Sections 15 and 18 of the Rochester City Charter. The Deputy Assessors to be appointed in accordance with provisions of Section 20 of the Rochester City Charter. The Assessing Department shall be under the immediate supervision of the City Assessor.

**Codes & Ordinances Committee Recommendation for Chapter 7-8A:**

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Section 7-18D(4) is amended as follows: "Care for and maintain all property assigned to the Sewage and Waste Treatment ~~System~~ **Works**."

**Justification:** *Correction to title. See proposed change(s) as shown in existing Chapter 2.11(d)(4) as follows:*

**(4)** The Care for and maintain all property assigned to the Sewage and Waste Treatment ~~System~~ **Works**.

### **Codes & Ordinances Committee Recommendation for Chapter 7-18D(4):**

Section 7-21 is amended to read as follows:

**City Council inquiry – Varney [5] - Provide more information for: 7-21 Recreation and Arena Department (C)**

**Justification:** *The proposed changes to Chapter 7-21 (C) is language taken from existing Chapter 2.18 (c). Please find the entire proposed Chapter 7-21 below, which indicates the details of where the exact language was taken from within the existing ordinances, in order to combine the Recreation and Arena Departments as previously approved by the City Council.*

§ 7-21. Recreation and Arena Department.

- A. The **Recreation and** Arena Department shall be under the **immediate** supervision of the ~~Arena~~ Director of **Recreation and Arena** and shall consist of such **other** personnel as may be provided for in the annual departmental budget appropriation. The ~~Arena~~ Director of **Recreation and Arena** shall be appointed in such the manner and for such term provided in Sections 15 and 18 of the Rochester City Charter. *Existing Chapter 2.18 a*
- B. The Recreation and Arena Department shall perform the following functions:
  - (1)** Develop a general recreation program for the City. *Existing Chapter 2.14 b (1)*
  - (2)** Operate the recreational activities on all City parks, playground, swimming pools, tennis courts, and all other recreational facilities. *Existing Chapter 2.14 b (2)*
  - (3)** Maintain, and care for and operate all property ~~within said facility or which is assigned~~ to the Recreation and Arena Department, including the Rochester Ice Arena. *Existing Chapter 2.18 b (2)*

- (4) Prepare and maintain all ~~books~~ **records** and ~~records~~ **books** pertaining to the **Rochester Arena Recreation and Arena** Department. *Existing Chapter 2.18 b (3)*
- (5) Cooperate with private groups as well as with public officials in the development, promotional and recreational activities within the City. ~~involving the Arena Facility.~~ *Existing Chapter 2.18 b (4)*
- (6) Perform all other related functions as required. *Existing 2.18 b (6)*
- (7) Annually establish a fee schedule for the services provided by the **Recreation and** Arena Department, said fee schedule to be subject to approval by the City Council. *Existing Chapter 2.18 b (5)*

C. All ~~monies~~ **moneys** received by the **Recreation and** Arena Department shall be held by the City of Rochester in a fund specifically established for the **Rochester Recreation and** Arena Department, and if at the end of any fiscal year, the ~~monies~~ **moneys** received by the ~~Rochester Recreation and~~ Arena Department shall exceed the ~~monies~~ **moneys** expended for the benefit, maintenance and operation of the **Rochester Recreation and** Arena Department, then said ~~monies~~ **moneys** shall not revert to the general fund for the City of Rochester but shall be held in a separate fund exclusively for the future use and benefit of the **Rochester Recreation and** Arena Department. *Existing Chapter 2.18 C*

## **Codes & Ordinances Committee Recommendation for Chapter 7-21:**

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Section 7-24A is amended to change "~~Recreation and Park Commission~~" to "**Recreation and Arena Commission**"; to delete "~~Arena Advisory Commission~~"; and to add "**Arts and Culture Commission**."

### **Justification:**

1. Correction to the title of the Recreation and Arena Commission.
2. To insert the missing "Arts and Culture Commission" to full list of the City's Boards and Commissions. *Existing Chapter 3.15*

## **Codes & Ordinances Committee Recommendation for Chapter 7-24A:**

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Section 7-26C(2) is amended as follows: "Advise the Health Officer on all public health matters."

**Justification:** Added "matters" to complete the sentence. See proposed change(s) as shown in existing Chapter 3.3 (c)(2) as follows:

(2) Advise the Health Officer on all public health **matters**.

### **Codes & Ordinances Committee Recommendation for Chapter 7-26C(2):**

Section 7-27 is amended to read as follows: "The composition, functions, powers and duties of the Board of Trustees of the Public Library shall be as provided in Section 22 of the Rochester City Charter, state statutes, and/or ordinance. Vacancies occurring in said Board shall be filled by the City Council for the unexpired term."

**Justification:** Section 7-27 "Board of Trustees of the Public Library", currently repeats the wording of Section 22 of the City Charter. Is the duplication necessary? The proposed change is to revise Section 7-27 to reference the Charter, which is exactly how the existing ordinances reads for a similar board: "Board of Assessors" in existing Chapter 3.4. See proposed change(s) as shown in existing Chapter 3.4 (a) as follows:

~~(a) In accordance with the provisions of Section 22 of the Rochester City Charter, the Board of Trustees of the Public Library shall consist of the City Manager, or his designee, and six members to be elected by the City Council, one member to be elected from each ward for a term of three years, and their election so arranged that one third of the members of the Board shall be elected each year. Vacancies occurring in said Board shall be filled by the City Council for the unexpired term. Elections to the Board shall be conducted pursuant to Section 68 of the Rochester City Charter.~~

**7-27 The composition, functions, powers and duties of the Board of Trustees of the Public Library shall be as provided in Section 22 of the Rochester City Charter, state statutes, and/or ordinance. Vacancies occurring in said Board shall be filled by the City Council for the unexpired term**

### **Codes & Ordinances Committee Recommendation for Chapter 7-27:**

Section 7-29 is amended to delete the following wording (duplicates § 49-2):

~~The Old Cemetery by Willow Brook, the Old Town Farm Cemetery and the Cemetery on Haven's Hill shall be under the control of the of the City Manager acting pursuant to authority conferred upon such City Manager by the provisions of Section 36.1 of the General Ordinances of the City of Rochester, who shall have authority to dispose of vacant lots within said cemeteries, and the money received from any sales shall be of said lots shall be kept by the Board of Trustees of Trust Funds and shall be used for the improvement of said cemeteries by the City Manager acting pursuant to authority conferred upon such City Manager by the provisions of Section 36.1 of the General Ordinances of the City of Rochester.~~

**Justification:** *This is a duplicated paragraph. First, it is recommended that the City keep this paragraph in one place, which would be under existing Chapter 36.2 (New Code 49-2) and secondly, to delete this same paragraph from existing Chapter 3.6 (d).*

## **Codes & Ordinances Committee Recommendation for Chapter 7-29:**

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Sections 7-40C and 7-52B are amended to change "~~Finance Director~~" to "Business Administrator."

**Justification:** *Correction to title of the Business Administrator. See proposed change(s) as shown in existing Chapter 4.3 (c) and Chapter 11.6 as follows:*

~~4.3 (c)~~ **7-40 C.** All individual item purchases or contracts over ~~Ten Thousand (\$10,000)~~ **\$10,000 Dollars** shall require a competitive sealed bid process, **and** approval of the department head, ~~Finance Director~~ **Business Administrator** and the City Manager. Exceptions for purchases over ~~Ten Thousand (\$10,000)~~ **\$10,000 Dollars** may be allowed at the discretion of the City Manager for professional service contracts, computer software/hardware, passenger vehicles/one-ton vehicles or smaller, or other items where comparative pricing instead of a sealed bid process may be in the best overall interest of the City. The City Council shall be formally notified whenever an exception to the sealed bid process occurs.

### ~~11.6~~ **7-52** City funds.

**B.** When and **where** deposited. The City Treasurer and City Tax Collector shall deposit to the credit of the City all money which they may receive for or in behalf of the City, in such bank or banks as the Treasurer may direct. Their financial records and lists shall be submitted to the City ~~Finance Director~~ **Business Administrator** for his/her inspection and computation. All other persons who shall at any time have money in their hands belonging to the City, unless

otherwise provided, shall forthwith pay the same to the City Treasurer, taking his/her receipt for the same.

### **Codes & Ordinances Committee Recommendation for Chapter 7-40C and 7-52B:**

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Section 7-44 is amended to read as follows: "Salaries of City officials shall be set by ordinance as provided in Section 69 of the City Charter. Salary ordinances are on file at the office of the City Clerk."

**City Council inquiry – Varney [2]:** *The existing ordinance under Section 5 Salaries lists the salaries of elected officials as required by the Charter Section 69. The revised (Code) changes the ordinance by removing all of the actual amounts and refers only to Charter Section 69. Charter Section 69 requires the salaries to be set by ordinance. The ordinance must contain the actual salaries.*

#### 7-44 **Salaries of** Elected Officials

**Salaries of City officials shall be set by ordinance as provided in Section 69 of the City Charter. Salary ordinances are on file at the office of the City Clerk.**

**City Clerk's recommendation:** Deny proposed change. Include all Elected Officials Salaries in Code 7-44.

#### 7-44 **Salaries of** Elected Officials

**Salaries of City officials shall be set by ordinance as provided in Section 69 of the City Charter. ~~Salary ordinances are on file at the office of the City Clerk.~~**

### **Codes & Ordinances Committee Recommendation for Chapter 7-44 – Deny proposed change:**

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Section 7-46A is amended as follows: "All citations of this ordinance ~~Code~~ may be designated ~~General Ordinances~~ **the Code** of the City of Rochester, adding to the citation when necessary the number of the chapter and section."

**Justification:** *Update the term of "ordinances" to "code". See proposed change(s) as shown in existing Chapter 10.1 as follows:*

**~~10.1~~ 7-46 Ordinance. Citation:**

**A. Citation.** All citations of this **ordinance Code** may be designated **General Ordinances-the Code** of the City of Rochester, adding to the citation when necessary, the number of **the** chapter and section.

**Codes & Ordinances Committee Recommendation for Chapter 7-46A:**

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Section 7-54 is amended to change "Business Director" to "Business Administrator."

**Justification:** *To correct the title of the Business Administrator. See proposed change(s) as shown in existing Chapter 11.10 as follows:*

**~~11.10~~ 7-54 Negotiation of loans to City.**

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

**Codes & Ordinances Committee Recommendation for Chapter 7-54:**

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Section 7-66E and I are amended to update "Department of Revenue" to "Department of Revenue Administration."

**Justification:** *To correct the title of the DRA. See proposed change(s) as shown in existing Chapter 11.23 e & I as follows:*

**~~11.23-(e)~~ E.** The provisions of Section 43-a of the Rochester City Charter which provide "such override expires following adoption of the annual budget"; and "subsequent budgets or supplemental appropriations require additional two-thirds ~~(2/3)~~ override votes, or the limitations expressed in this section will apply"; shall mean that once a budget is adopted, and throughout the fiscal year for which it is adopted, any subsequent supplemental appropriation to the general fund budget for which the amount that needs to be raised by taxes exceeds the limitation of Section 43-a of the Rochester City Charter shall require a new two-thirds ~~(2/3)~~ override vote. The "limitation on budget increase"; as provided for in Section 43-a of the Rochester City Charter, for a subsequent fiscal year budget shall be calculated using the official Department of Revenue **Administration** tax setting documents for the immediately preceding year. The "amount to be



raised by taxes", as set forth on such document, shall be adjusted as provided for in Section 43-a of the Rochester City Charter.

~~11.23~~ **(i) I.** The phrase "budget limitations with annual changes in assessments", as contained in subsection D of Section 43-a of the Rochester City Charter, shall refer to the annual updates and phased physical property examination that are part of the requirements to keep the city within the parameters recommended by the New Hampshire Department of Revenue **Administration** (DRA). It does not require that all properties be changed, but that some are reviewed and/or changed as part of a planned process to keep assessed values within DRA guidelines.

### **Codes & Ordinances Committee Recommendation for Chapter 7-66E&I:**

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Original § 13.3, Election of Chairman of Board of Supervisors of the Checklist, is repealed.

**City Council Inquiry/Varney [7]** - *Provide more information for Existing 13.3 Election of Chairman of Board of Supervisor (New 7-75, Reserved.)*

**Justification:** *On 6/5/2010 the City Council Amended the Ordinances to de-fund the position of Chairman of Board of Supervisor of the Checklist (to eliminate the salary only, not the position). General Code's recommendation has been included in Schedule A as shown above. Please see the editor's note, which will remain in the new Code as a reference to a Supervisor of the Checklist – chairman. See proposed change(s) as shown in existing Chapter 13.3 as follows:*

### **13.3 7-75 Election of Chairman of Board of Supervisors of the Checklist. Reserved.**

~~The City Council shall, during January following each regular municipal election, by ballot and majority vote, elect one Supervisor of the Checklists, who shall act as Chairman of the Board of Supervisors of the Checklist.~~

**5. Editor's Note: Original § 13.3 Election of Chairman of Board of Supervisors of the Checklist was repealed at time of adoption of Code (See Chapter 1 General Provisions, Art.II) See Sec. 53 of the City Charter.**

**Codes & Ordinances Committee Recommendation for Chapter 7-75:** *Keep as proposed or deny recommendation?*



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Chapter 11, Adult-Oriented Establishments.

The definition of "~~adult entertainer~~" in § 11-2 is amended to "**adult entertainment.**"

**Justification:** *This paragraph is the definition of "Adult Entertainment" and not of an "Adult Entertainer". See proposed change(s) as shown in existing Chapter 25.8 (g) as follows:*

**~~25.8-(g) 11-2 Adult entertainer~~ Adult entertainment means** any exhibition of any adult-oriented motion pictures, live performance, display or dance or any type performance which has as a significant or substantial portion of such performance any actual or simulated performance of "specified sexual activities" or exhibition and viewing of "specified anatomical areas," removal of articles of clothing or appearing unclothed, pantomime, modeling, or any other personal services offered customers.

**Codes & Ordinances Committee Recommendation for Chapter 11-2:**

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Chapter 16, Alarm Systems. Existing Chapter 33.8C

Section 16-8C is amended as follows: "If the false alarm is due to an alarm system malfunction that is in the process of being repaired or where immediate steps are taken to identify or correct the problem and notification has been made to the dispatch center as applicable, **the Chief of the Police Department or Fire Department** may waive the civil assessment." Refusal to pay the civil assessment within thirty (30) days of the assessment shall be punishable as a violation and may be cause for revocation of the alarm user's permit.

**Justification:** *Existing Chapter 33.8C does not indicate "who" may waive the fee. See proposed change(s) as shown in existing Chapter 33.8 (c) as follows:*

**(e) C.** If the false alarm is due to an alarm system malfunction that is in the process of being repaired or where immediate steps are taken to identify or correct the problem and notification has been made to the dispatch center as applicable, **the Chief of the Police Department or Fire Department** may waive the civil assessment." Refusal to pay the civil assessment within thirty ~~(30)~~ days of the assessment shall be punishable as a violation and may be cause for revocation of the alarm user's permit.

**Codes & Ordinances Committee Recommendation for Chapter 16-8C:**

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Chapter 22, Amusements and Entertainment.

Section 22-2 is amended to update "New Hampshire State Athletic Commission" to "**New Hampshire Boxing and Wrestling Commission.**"

**Justification:** *Correction to title of commission. See proposed change(s) as shown in existing Chapter 26.5 as follows:*

**Article II**  
**Boxing and Wrestling Exhibitions**

**~~26.5~~ 22-2 ~~Boxing and Wrestling~~ Exhibitions **authorized.****

The holding of boxing and/or wrestling exhibitions or bouts within the City of Rochester, under license issued by the New Hampshire **State Athletic Commission** **Boxing and Wrestling Commission** and permit issued by the Licensing Board of the City of Rochester, is hereby permitted and authorized, subject to the provisions of the statutes of the State of New Hampshire relating to athletic exhibitions. No permit for the holding of boxing and/or wrestling exhibitions or bouts within the City of Rochester shall be issued by the Licensing Board unless the place for holding such exhibition or bout shall have been approved by majority vote of the City Council. After issuance by the Licensing Board, the City Council may revoke or suspend said permit after hearing for any cause which the Council may deem sufficient. The fee for such permit shall be \$25-~~00~~ per day.

**Codes & Ordinances Committee Recommendation for Chapter 22-2:**

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Section 22-3 is amended to change "~~permit~~" to "**license**" in the last sentence.

**Justification:** *The word "permit" was corrected to "license". See proposed change(s) as shown in existing Chapter 26.6 as follows:*

**ARTICLE III**  
**Public Dances, Circuses and Parades**

**~~26.6 Public Dances, Circuses, Parades, etc.~~**

**22-3 License Required.**

Unless a license therefore shall first have been obtained from the Licensing Board, no person shall conduct a public dance, circus or

carnival, theatrical or dramatic representation, parade or procession upon any public street or way, and no open air public meeting upon any ground abutting a public street or way or any party or gathering on private property which party or gathering is open to the general public. The fee for such ~~permit~~ **license** shall be \$2.00.

## **Codes & Ordinances Committee Recommendation for Chapter 22-3:**

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The definition of "mechanical device" in § 22-5 is amended to "mechanical amusement device."

Sections 22-7, 22-13, 22-15 and 22-17 are amended to change "mechanical device" to "mechanical amusement device."

**Justification:** Existing Chapters 27.6 & 27.10 both referenced a "mechanical amusement device." The recommendation is to update the references and the definition of "mechanical device" to "mechanical amusement device". See proposed change(s) as shown in existing Chapter 27 as follows:

### **ARTICLE V**

#### **~~REGULATION OF PINBALL AND VIDEO GAMES AND MACHINES~~**

##### ~~27.1~~ **22-5. Definitions.**

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

~~(a) Mechanical Device.~~

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

~~(b) Person, Firm, Corporation, Association. The terms "Person," "Firm," "Corporation," or "Association" as used herein shall~~

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

such machine.

**~~27.3~~ 22-7. Licenses required.**

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

**~~27.9~~ 22-13. ~~Prohibitions and Restrictions.~~ Hours of operation by minors.**

No person, firm, corporation, or association holding a license under this ordinance shall permit any person under ~~eighteen (18)~~ 18 years of age, and over ~~(5)~~ **five** years of age to play or operate any mechanical device as defined in ~~Section 27.1~~ **22-5** of this ~~Chapter~~ **article** during normal school hours on any day in which the Rochester Public Schools are in session, or permit any minor under the age of ~~sixteen (16)~~ **16** years to play or operate any such mechanical **amusement** device after 9:00 p.m. unless accompanied by a parent, guardian or other suitable person.

**~~27.11~~ 22-15. Revocation of license.**

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

**~~27.13~~ 22-17. Seizure and destruction of machine.** If the Chief of Police shall have reason to believe any mechanical **amusement** device is used as a gambling device, such machine may be seized by the Police and impounded and if, upon trial of the exhibitor for allowing it to be used as a gambling device, said exhibitor is found guilty, such machine shall be destroyed by the Police.

**Codes & Ordinances Committee Recommendation for Chapters 22-7, 22-13, 22-15 and 22-17 "mechanical device" to "mechanical amusement device.":**

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Chapter 28, Animals.

Section 28-4C is amended to change "dog" to "animal" and to change "such penalties as are provided for in the General Ordinances of the City of Rochester" to "such penalties as are provided for in this chapter."

**Justification:** To update the language from any "dog" to any "animal", which is required by RSA 47:17. The City must regulate conduct of "all animals". See proposed change(s) as shown in existing Chapter 29.4 as follows:

**C.** A person who is the owner, keeper, or person in control, of a ~~dog~~ **animal** found to be a nuisance by reason of conduct contrary to the provisions of ~~Subparagraph (b)(1)~~ **B** above, and who fails to comply with an order to abate the nuisance caused by such ~~dog~~ **animal**, shall be guilty of a violation of this ~~section~~ and, after conviction, such person shall be subject to such penalties as are provided for in ~~the this chapter. General Ordinances of the City of Rochester.~~

**Codes & Ordinances Committee Recommendation for Chapter 28-4C:**

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Section 28-5 is amended to change "guard dog" to "guide dog."

**Justification:** Correction to type of dog. See proposed change(s) as shown in existing Chapter 28.3 as follows:

**~~28-3~~ 28-5 Removal of Dog Excrement.**

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

**Codes & Ordinances Committee Recommendation for Chapter 28-5:**

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Section 28-6 is added to read as follows: "Unless otherwise provided, any person who violates any provision of this chapter shall be punished by a fine of not more than \$50."

**City Council Inquiry/Varney [8] - Provide more information for 28-6 Violations and Penalties (Animals).**

**Justification:** No specific penalties are prescribed for violations of 28-3 Dogs running at large or 28-4 Dogs a nuisance. RSA 466:39 The local governing body may make such additional bylaws and regulations concerning the licensing and restraining of dogs as it deems reasonable, and may affix penalties not exceeding **\$50** for a breach thereof.

Section 28-6 is added to read as follows:

**28-6 Unless otherwise provided, any person who violates any provision of this chapter shall be punished by a fine of not more than \$50.**

**Codes & Ordinances Committee Recommendation for Chapter 28-6:**

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Chapter 40, Building Construction and Property Maintenance.

Section 40-8 is amended to change "Water or Sewer Department" to "Division of Water Supply Works or Division of Sewage and Waste Treatment Works."

**Justification:** Correction to titles of the water and sewer divisions. See proposed change(s) as shown in existing Chapter 40.8 as follows:

**40.8 Plumbing Code.**

The duties defined in and the enforcement of the **2006** International Plumbing Code (2006 Edition), or any applicable successor code, shall be assumed by the Director of Building, Zoning, and Licensing Services, or his authorized representative, except as otherwise provided in ~~Chapter 16~~ **200, Sewers** of the ~~Ordinances Code~~ of the City of Rochester where the same are defined as the duties of the Commissioner of Public Works, with inspections to be done by the Director of Building, Zoning, & Licensing Services or an authorized member of the ~~Water or Sewer Department~~ **Division of Water Supply Works or Division of Sewage and Water Treatment Works.**

**Codes & Ordinances Committee Recommendation for Chapter 40-8:**

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Section 40-12A is amended to change "anything in violation of this code" to "anything in violation of any code adopted herein."

**Justification:** *Added verbiage to include any future amendments. See proposed change(s) as shown in existing Chapter 40.12 (a) as follows:*

#### **40.12 Penalties.**

**(a) A.** Any person who shall violate any provisions of any code adopted herein, or fails to comply therewith or with any requirements thereof, or who shall erect, construct, alter, or repair or has erected, constructed, altered, or repaired a building or structure or portion thereof in violation of a detailed statement or plan submitted and approved thereunder, or of a permit or certificate issued thereunder, shall be punishable by a civil penalty of \$275 for the first offense, and \$550 for subsequent offences, **for** each day that such violation is found by a court to continue after the conviction date or after the date on which the violator receives written notice from the City that he/she is in violation thereof, whichever date is earlier. Each day that a violation continues shall be a separate offence. The owner of a building or structure or portion thereof or of the premises where anything in violation of **this any code adopted herein** shall be placed or shall exist, and an architect, building contractor, agent, person or corporation employed in connection therewith and who may have assisted in the commission of such violation shall be guilty of a separate offense and upon conviction thereof shall be punishable by a civil penalty of \$275 for the first offense, and \$550 for subsequent offences, for each day that such violation is found by a court to continue after the conviction date or after the date on which the violator receives written notice from the City that he/she is in violation thereof, whichever date is earlier. Each day that a violation continues shall be a separate offence.

#### **Codes & Ordinances Committee Recommendation for Chapter 40-12A:**

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Section 40-13 is amended to change "those areas classified as Business 1 zones, Business 2 zones, and 1-3 zones" to "those areas classified as Downtown Commercial, Office Commercial and Highway Commercial Districts."

**Justification:** *These are the new classifications of zones adopted with the Comprehensive Rezoning in 2014. See proposed change(s) as shown in existing Chapter 40.13 (a) as follows:*

**40.13 40-13** Fire **l**imits **e**stablished.

The fire limits for the City of Rochester are hereby established as those areas classified as ~~Business 1 zones, Business 2 zones, and 1-3 zones~~ **Downtown Commercial, Office Commercial and Highway Commercial Districts** and adjacent to North and South Main Streets in Rochester proper and Main Streets in Gonic and East Rochester, so called, as shown on the Zoning Maps, as an overlay, adopted as part of the Zoning Ordinance, adopted on March 4, 1986, which are incorporated herein by specific reference thereto.

## **Codes & Ordinances Committee Recommendation for Chapter 40-13:**

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Section 40-15B(1) and (4) are amended to change "this code" to "this chapter."

**Justification:** Clarification about the specific chapter's being referenced. See proposed change(s) as shown in existing Chapter 40.16 as follows:

### **~~40-16~~ 40-15**

**B.** The estimated cost of construction for purposes of ~~subparagraph (a)~~ **Subsection A** of this section ~~40-16~~ shall be calculated on the following basis:

(1) For contract work, new buildings and newly constructed additions, the building permit fee shall be based on the greater of: all contract/construction costs associated with the total construction project, or the cost of construction as determined using the latest "Building Valuation Data" as published periodically by the International Code Council. When construction costs are determined using the "Building Valuation Data" as published by the International Code Council, such costs shall be multiplied by a modification factor of 0.60. Construction costs shall include, but not be limited to, pile driving, foundations, structural and nonstructural framing, interior finish (as regulated by this **Code chapter**), fire protection systems and any other work which would render the building complete and ready for occupancy.

(4) In the case of a revocation of a permit or abandonment or discontinuance of a building project, the portion of the work actually completed shall be computed and any excess fee for the uncompleted work shall be returned to the permit holder upon written request. All plan examination and permit processing fees and all penalties that have been imposed on the permit holder under the requirements of this **Code chapter** shall first be collected. The permit processing fee



shall be 10% ~~(10%) percent~~ of the building permit application fee with a minimum fee of \$10. ~~Ten Dollars (\$10.00)."~~

### **Codes & Ordinances Committee Recommendation for Chapter 40-15B(1) and (4):**

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#### Chapter 75, Fires and Fire Safety.

Section 75-1 is amended as follows: "The Fire Chief shall manage [,] the Fire Department and consult with and advise the City Manager on all matters pertaining to the equipment and control of the Fire Department."

**Justification:** Added language for clarification purposes. See proposed change(s) as shown in existing Chapter 22.1 as follows:

#### **~~22.1~~ 75-1 Appointment and requirements of Fire Chief.**

Upon appointment, the Fire Chief shall within six ~~(6)~~ months establish residence within the City's boundaries. The Fire Chief shall work under the direct supervision of the City Manager in accordance with the provisions of Section 18 of the Rochester City Charter. The Fire Chief shall manage, **the Fire Department and** consult with and advise the City Manager on all matters pertaining to the equipment and control of the Fire Department. Subject to the approval of the City Manager, the Fire Chief shall make rules and regulations for the internal operation of the Fire Department as he/she **shall** deem necessary and shall keep the same posted in the Fire Station and other buildings of the Department.

### **Codes & Ordinances Committee Recommendation for Chapter 75-1:**

---

Section 75-9B(2) is amended to change "the appropriate police, fire and emergency medical department services" to "the appropriate emergency services department."

**Justification:** Update to terminology. See proposed change(s) as shown in existing Chapter 23.6 b (2) as follows:

**~~23.6 b (2)~~ 75-9B (2)** The City's fire department, with consideration of the appropriate ~~police, fire and emergency medical department services~~ **emergency services department**, shall determine the frequency range or ranges that must be supported.

### **Codes & Ordinances Committee Recommendation for Chapter 75-9B(2):**

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Section 75-9C(1) is amended as follows: "A minimum average in-building field strength of 2.25 microvolts (-100 dbm) for analog and five microvolts (-93 dbm) for digital systems shall be provided throughout 85% of the area of each floor of the building when transmitted from the City's police dispatch center and the appropriate emergency service dispatch centers which are providing fire and emergency medical protection services to the building."

**Justification:** *Additional language for clarification purposes. See proposed change(s) as shown in existing Chapter 23.6 (c) (1) as follows:*

**~~23.6 (c) (1)~~ 75-9 (C)(1)** A minimum average in-building field strength of 2.25 micro-volts (-100 dbm) for analog and five ~~(5)~~ microvolts (-93 dbm) for digital systems **shall be provided** throughout eighty-five percent (85%) of the area of each floor of the building when transmitted from the City's police dispatch center and the appropriate emergency service dispatch centers which are providing fire and emergency medical protection services to the building.

#### **Codes & Ordinances Committee Recommendation for Chapter 75-9C(1):**

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Section 75-9D(1) is amended as follows: "A minimum average signal strength of 112 microvolts (-6 dbm) for analog and five microvolts (+1 dbm) for digital systems shall be provided as received by the City's police dispatch center and the appropriate emergency service dispatch centers which are providing fire and emergency medical protection services to the building."

**Justification:** *Additional language proposed for clarification purposes. See proposed change(s) as shown in existing Chapter 23.6 (d) as follows:*

**~~23.6 (d)~~ 75-9D.** Outbound from the Building.  
**(1)** A minimum average signal strength of 112 microvolts (-6 dbm) for analog and five ~~(5)~~ microvolts (+1 dbm) for digital systems **shall be provided** as received by the City's Police dispatch center and the appropriate emergency service dispatch centers, which are providing fire and emergency medical protection services to the building.

#### **Codes & Ordinances Committee Recommendation for Chapter 75-9D(1):**

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Section 75-9E(3) is amended as follows: "The area where the amplification equipment is located ~~almost~~ must be free of hazardous materials such as fuels, asbestos, etc."

**Justification:** *Correction to grammar. See proposed change(s) as shown in existing Chapter 23.6 e (3) as follows:*

**~~23.6 (e)(3)~~**

**75-9E(3)** Amplification equipment must have adequate environmental controls to meet the heating, ventilation, cooling and humidity requirements of the equipment that will be utilized to meet the requirements of this **code section**. The area where the amplification equipment is located ~~almost~~ must be free of hazardous materials such as fuels, asbestos, etc. All communications equipment, including amplification systems, cable and antenna systems, shall be grounded with a single point ground system of five ~~(5)~~ ohms or less. The ground system must include an internal tie point within three ~~(3)~~ feet of the amplification equipment. System transient suppression for the telephone circuits, ac power, radio frequency (RF) cabling and grounding protection are required as needed.

**Codes & Ordinances Committee Recommendation for Chapter 75-9E(3):**

---

Section 75-10 is amended as follows: "The authority having jurisdiction for the administration and enforcement of this article shall be ~~Fire Prevention~~ the Fire Chief of the City of Rochester."

**Justification:** *Identifies the Fire Chief for the enforcement of this chapter. See proposed change(s) as shown in existing Chapter 23.7 as follows:*

**~~23.7~~ 75-10** Administration and **e**nforcement.

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

**A.** The fee schedule under this ~~chapter~~**article** shall be as follows:

**Codes & Ordinances Committee Recommendation for Chapter 75-10:**

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Section 75-16D(6) is amended as follows: "Anyone using permissible fireworks shall be responsible for removing any debris accumulated due to the discharge of fireworks that fall onto the public way, public property, and any private property within 24 hours."

**Justification:** *Correction not needed since the current ordinance duplicates this language. See proposed change(s) as shown in existing Chapter 23.13 (d) (vi) as follows:*

**~~23.13 (d) (vi)~~ 75-16D (6)** Anyone using permissible fireworks shall be responsible for removing any debris accumulated due to the discharge of fireworks that fall onto the public way, public property, and any private

property **within** twenty-four hours. Anyone failing to remove such debris shall be financially responsible for its clean up.

## **Codes & Ordinances Committee Recommendation for Chapter 75-75-9B(2):**

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### Chapter 80, Food and Food Service.

Section 80-1 is amended as follows: "The City of Rochester hereby adopts the provisions of the ~~Sanitary~~ Food Code of the State of New Hampshire, Department of Health and ~~Welfare~~ **Human Services**, Division of Public Health Services, as presently enacted and as may be amended from time to time."

**Justification:** *Correction to titles. See proposed change(s) as shown in existing Chapter 25.14 as follows:*

### ~~25.14 Sanitary Food Code.~~ **80-1 Food Code adopted.**

The City of Rochester hereby adopts the provisions of the ~~Sanitary~~ Food Code of the State of New Hampshire, Department of Health and ~~Welfare~~ **Human Services**, Division of Public **Health** Services, as presently enacted and as may be amended from time to time.

## **Codes & Ordinances Committee Recommendation for Chapter 80-1:**

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The definition of "Sanitary Food Code" in § 80-2 is amended to "Food Code" and as follows: "The State of New Hampshire, State Department of Health and ~~Welfare~~ **Human Services**, ~~Sanitary~~ Food Code as adopted by § 80-1 above, and as the same shall be amended from time to time by the Department of Health and ~~Welfare~~ **Human Services**."

**Justification:** *Correction to titles. See proposed change(s) as shown in existing Chapter 25.15 (c) as follows:*

### ~~25.15 (c) Sanitary Food Code.~~

### **80-2. Definitions.**

**FOOD CODE -** ~~"Sanitary Food Code" shall mean~~ **The State of New Hampshire, State Department of Health and ~~Welfare~~ **Human Services**, ~~Sanitary~~ Food Code as adopted by ~~Section 25.13~~ **§80-1** above, and as the same shall be amended from time to time by the Department of Health and ~~Welfare~~ **Human Services**.**

## Codes & Ordinances Committee Recommendation for Chapter 80-2:

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Section 80-4 is amended to delete the following wording (duplicates Subsection C): "All applications for food establishment licenses shall be filed with the Board on or before June 20 of any year."

**Justification:** See existing Chapter 25.17 Class (J) below; it repeats the same sentence two times under Class (J). See proposed change(s) as shown in existing Chapter 25.17 (Fees) as follows:

### ~~25.17~~ 80-4

**A.** Fees. Based upon highest classification.

**(10)** Class J. Food establishments at Rochester Fair: **\$65.00**

~~All applications for food establishment licenses shall be filed with the Board on or before June 20<sup>th</sup> of any year.~~

**B.** All applications for food service establishment licenses shall be filed with the Board on or before June 20<sup>th</sup> of each year. In addition to the fees provided for in this section, there shall be a \$10-~~00~~ late fee for any renewal application received after June 20<sup>th</sup> of any year.

## Codes & Ordinances Committee Recommendation for Chapter 80-4:

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Section 80-7 is amended to change "health authority" to "Board of Health."

**Justification:** Correction to title. The title of Health "authority" is not used anywhere else in this article. See proposed change(s) as shown in existing Chapter 25.20 as follows:

### ~~25.20~~ 80-7. Revocation of License.

For serious or repeated violations of any of the requirements of this **ordinance article** or for interference with the Health Officer in the performance of his/her duties, the license may be permanently revoked after opportunity for hearing has been provided by the Board. Prior to such action, the ~~health authority~~ **Board of Health** shall notify the licensee in writing, stating the reasons for which the license is subject to revocation and advising that the license shall be permanently revoked at the end of five ~~(5)~~ business days following the service of such notice, unless a request for hearing is filed with the Board by the licensee within such five-day-~~(5)~~ period. A license may

be suspended for cause pending its revocation or hearing relative therein.

## **Codes & Ordinances Committee Recommendation for Chapter 80-7:**

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Section 80-26C is amended as follows: "~~For those outdoor dining establishments serving alcohol,~~ Seating shall be appurtenant and contiguous to a doorway accessing the main restaurant facility with service provided within the area approved by the City Manager.

**Justification:** *The first sentence of subsection (C) repeats "serving alcohol" which is established as the title: "Site design standards for establishments with alcohol services". See proposed change(s) as shown in existing Chapter 26.10 (16) (c) as follows:*

### **~~16.~~ 80-26 Site design standards for establishments with alcohol services.**

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

- a) **A.** Be separated from the public pedestrian space on the adjacent municipal sidewalk by an enclosure system consisting of heavy duty black decorative metal materials or equivalent as approved by the City Manager or his designee; special attention shall be paid to the method used to support the enclosure system in order to avoid damage to public property and insure public safety; the minimum height of the enclosure system shall be 30 inches and the maximum height shall be 36 inches.*
- b) **B.** Outdoor dining establishments shall not have live entertainment of any type located outside, and no visual entertainment shall be situated on the inside of the building in such a manner that it is directed toward patrons in the outdoor dining area.*
- c) **C.** ~~For those outdoor dining establishments serving alcohol,~~ Seating shall be appurtenant and contiguous to a doorway accessing the main restaurant facility with service provided within the Area approved by the City Manager. Exceptions to this provision will be allowed consistent with NH State Liquor Commission approval for particular licensees.*

## Codes & Ordinances Committee Recommendation for Chapter 80-26C:

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### Chapter 94, Health and Sanitation.

The definition of "owner" in § 94-2B is amended to change "Strafford County of Probate" to "Strafford County Probate Court."

**Justification:** *Correction to the title of the Strafford County Probate "Court". See proposed change(s) as shown in existing Chapter 23.6 (b) (2) as follows:*

~~2) Owner.~~ **OWNER** - The record title holder(s) of a multifamily dwelling as disclosed by the appropriate records of the Strafford County Registry of Deeds, Strafford County of Probate **Court** and/or the records of the Rochester City Tax Collector.

## Codes & Ordinances Committee Recommendation for Chapter 94-2B:

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Section 94-2C is amended to change "the Building, Zoning, and Licensing Services" to "the Department of Building, Zoning, and Licensing Services."

**Justification:** *Correction to title. See proposed change(s) as shown in existing Chapter 25.2 (c) as follows:*

### ~~25.2 (c)~~

**C.** Posting of **i**nformation **r**egarding **o**wner and **i**ndividual **r**esponsible for ~~Multi-Family~~ **multifamily** dwelling required.

The owner of any ~~multi-Family~~ **multifamily** dwelling located within the City shall, at all times, have posted in a conspicuous place on the inside of the front door of each dwelling unit within a ~~multi-Family~~ **multifamily** dwelling, the name, current mailing address and current telephone number of the owner of said dwelling unit and the name, current address, and current telephone number of an individual designated by the owner as being responsible for matters of public health, safety and welfare arising with respect to such ~~multi-Family~~ **multifamily** dwelling. The owner shall also be responsible for filing the information specified in the preceding sentence with the **Department of** Building, Zoning, & Licensing Services of the City of Rochester and for keeping said information current at all times. In the event that a ~~multi-Family~~ **multifamily** dwelling is such as to contain a lobby or other similar common area open to the public and/or tenants of such



~~multi-Family~~ **multifamily** dwelling, the owner shall also post the information specified in the first sentence of this subparagraph in said lobby or other similar area and shall keep said posted information current at all times. The provisions of this **ordinance section** shall not apply to owner-occupied ~~multi-Family~~ **multifamily** dwellings of less than three ~~multi-Family~~ **multifamily** dwelling units.

## **Codes & Ordinances Committee Recommendation for Chapter 94-2C:**

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Section 94-11 is amended as follows:

In Subsections A and B to update the reference to **Chapter Env-Ws 800 to Chapter Env-Wq 800, Sludge Management.**

In Subsection C(1) to update the reference to **Chapter Env-Ws 801 to Chapter Env-Wq 801.**

In Subsection C(6) to update the reference to **Section Env-Ws 1014.02 to Section Env-Wq 1014.02.**

In Subsection C(7) to update the reference to **Section Env-Ws 806.01 to Section Env-Wq 806.01.**

In Subsections C(7) and E to change "the Building, Zoning, and Licensing Services" to **"the Department of Building, Zoning, and Licensing Services."**

**Justification:** *Correction to references and titles. See proposed change(s) as shown in existing Chapter 25.10-a as follows:*

### **~~25.10-a~~**

**91-11** Stockpiling or **l**and **a**pplication of **s**eptage and **s**ludge.

**(a) A.** Purpose. The provisions of this **ordinance section** are adopted pursuant to the authority granted by RSA 47:17 and are intended to promote the public health, safety and general welfare of the people of the City of Rochester and to control noxious odors and/or other nuisances which may occur from the stockpiling and/or land application of septage or sludge, as the same are herein defined, within the City of Rochester through the promulgation of this **ordinance section** regulating such activities. The purpose of this ordinance **section** is to ensure that the beneficial use or disposal of septage and sludge does not pose a threat to public health and safety, by supplementing the requirements for removal, transportation and disposal of septage and sludge found in 40 CFR Part 503 and at New



Hampshire Code of Administrative Rules, ~~Septage and Sludge Management~~, Chapter ~~and Env- Ws- Wq~~ 800, **Sludge Management.**

- ~~(b)~~ **B.** Applicability of Federal and State Regulations. All "stockpiling", "land application", or other use, management or handling of "septage" or "sludge" within the City of Rochester shall be conducted subject to and in accordance with the requirements of all applicable federal, State and local statutes, rules, regulations and/or ordinances, including, without limiting of the generality of the foregoing, the provisions of 40 CFR Part 503 and New Hampshire Code of Administrative Rules, ~~Septage and Sludge Management~~, Chapter Env. ~~-Ws- Wq~~ 800, **Sludge Management.** For the purpose of this ~~section 25.10-a~~, words defined in New Hampshire Code of Administrative Rules, ~~Septage and Sludge Management~~, Chapter Env. ~~-Ws- Wq~~ 800, **Sludge Management.** ~~Shall retain such meaning herein.~~
- ~~(c)~~ **C.** Additional ~~regulations of septage and sludge.~~ In addition to the rules, regulations and restrictions imposed upon the stockpiling, land application and/or other use of septage or sludge referred to in ~~subsection 25.10-a (B)~~ **B** above, the stockpiling, land application and/or other use of septage or sludge within the City of Rochester shall be subject to the following restrictions and/or requirements-
- (1)** No use of septage or sludge requiring a facility permit as provided for in ~~Env. Ws- 800~~ **Chapter Env- Wq 801** shall be permitted.
  - (2)** No stockpiling of sludge shall be permitted, except in connection with land application of sludge; provided further, however, that no stockpiling of sludge in connection with land application of sludge shall be permitted between January 1~~st~~ and April 1~~st~~ or between November 15~~th~~ and December 31~~st~~ of any calendar year.
  - (3)** Any person stockpiling sludge for longer than 12 hours shall cover the stockpile with an odor control material, such as lime, wood ash or cement kill dust, to minimize odors.
  - (4)** Sludge shall be fully incorporated into the soil within 8 hours of spreading,

- (5) The practice of, so-called, "top dressing" of soil shall be prohibited.
  - (6) No land application or spreading of sludge shall be permitted on any hydric soil as defined in ~~Env. Ws 1014.02~~ **Section Env-Wq 1014.02** or in areas exhibiting seasonal ponding. (For the purposes of this subparagraph, the determination of the existence and/or location of hydric soils shall be made based upon the results of an order # **No. 1** soil study to be submitted to the Director of Building, Zoning, & Licensing Services by or on behalf of the site operator.)
  - (7) Every site operator shall file a copy of all materials required to be filed with the State of New Hampshire with respect to a site application pursuant to ~~Env. Ws 806.01~~ **Section Env-Wq 806.01** with the **Department of** Building, Zoning, & Licensing Services at the time such documents are filed with the State of New Hampshire.
- (d) **D.** Random Testing. Any sludge used within the City of Rochester and subject to the terms of this **ordinance section** shall be random collection and /or testing for the presence of fecal coliform at the discretion and under the direction of the Director of Building, Zoning, & Licensing Services.
- (e) **E.** Permit fee. Before any operator shall receive sludge for stockpiling and/or land application purposes as permitted pursuant to the ordinance **section** in any calendar year, such operator shall pay to the **Department of** Building, Zoning, & Licensing Services an annual sludge land application permit fee of \$250.

## **Codes & Ordinances Committee Recommendation for Chapter 94-11:**

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In Subsection D as follows: "Any sludge used within the City of Rochester and subject to the terms of this section shall be subject to random collection and/or testing for the presence of fecal coliform at the discretion and under the direction of the Director of Building, Zoning, and Licensing Services."

**Justification:** *Correction to incomplete sentence. See proposed change(s) as shown in existing Chapter 25.10-a (d) as follows:*

(d) Random Testing.

Any sludge used within the City of Rochester and subject to the terms of this **ordinance section** shall be **subject to** random collection and

/or testing for the presence of fecal coliform at the discretion and under the direction of the Director of Building, Zoning, & Licensing Services.

### **Codes & Ordinances Committee Recommendation for Chapter 94-11D:**

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In Subsection F(1) to update the reference to Chapters Env-Wm 100 through Env-Wm 3500 to Chapters Env-Hw 100 to 1100, Env-Sw 200 to 1800 and Env-Or 300 to 700.

**Justification:** Updates to references. See proposed change(s) as shown in existing Chapter 25.10-a (f) as follows:

#### **~~25.10-a (f)~~**

#### **F. Exceptions.**

(1) This ordinance shall not apply to any septage or sludge, which is managed at a solid waste facility permitted by the Waste Management Division of the Department of Environmental Services pursuant to RSA 149 – M and ~~Env. Wm 100 through Env. Wm 3500~~ **Chapters Env-Hw 100 to 1100, Env-Sw 200 to 1800 and Env-Or 300 to 700.**

### **Codes & Ordinances Committee Recommendation for Chapter 94-11 f(1):**

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In Subsection F(2)(b) to change "Class A pathage and reduction requirements" to "Class A pathogen reduction requirements."

**Justification:** Correction to the spelling of the word "pathogen". See proposed change(s) as shown in existing Chapter 25.10-a (f) (2) (B) as follows:

#### **~~25.10-a (f) (2)~~**

~~(B)~~ **(b)** The Class A ~~pathage~~**pathogen** and reduction requirements contained in 40 CFR 503.32 (a); and

### **Codes & Ordinances Committee Recommendation for Chapter 94-11F(2)(b):**

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Chapter 110, Junk and Secondhand Dealers.

Section 110-3A(3) is amended as follows: "The fee for a junk dealer's license or secondhand dealer's license or any renewal thereof granted under the provisions of RSA 322 shall be \$50 a year, payable in advance."

**Justification:** Both fees are for the same amount. See proposed change(s) as shown in existing Chapter 26 and 34 as follows:

**110-3A(3)** \*Payment of fees. Be accompanied by the full amount of fees chargeable to such license. \*\*The fee for a junk dealer's license or **secondhand dealer's license** any renewal thereof granted under the provisions of RSA 322 shall be \$50.00 a year, payable in advance. (\*Existing 34a(3) \*\*Existing 26.4)

### **Codes & Ordinances Committee Recommendation for Chapter 110-3A(3):**

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Section 110-4A is amended to change "to avoid such order" to "to void such order."

**Justification:** Correction to wording. See proposed change(s) as shown in existing Chapter 34.4-b (a) as follows:

#### **34.4-b**

**(a) A.** Contents of Appeal. The appeal shall set out a copy of the order or decision appealed from and shall include a statement of facts relied upon to ~~avoid~~ **void** such order together with any defenses, legal objections or explanations which the appellant wishes the Board to consider.

### **Codes & Ordinances Committee Recommendation for Chapter 110-4A:**

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Chapter 135, Mobile Home Parks.

The definition of "manufactured housing" in § 135-3 is amended to read as follows:

**Justification:** Updated per RSA 674:31 and to match existing Chapter 42.2 definitions (New Code 275). See proposed change(s) as shown in existing Chapter 43.3 (j) as follows:

#### **43.3**

**(j)** Any structure, transportable in one or more sections, which, in the traveling mode, is **8 eight** body feet or more in width and 40 body feet or more in length, ~~and-or~~ when erected on site, is ~~at least 13 feet in overall width and have at least 700~~ **320** square feet or more, ~~of habitable living space,~~ and which is built on a permanent chassis and is designed to be used as a ~~single-family habitation dwelling~~ with or without a

permanent foundation when connected to required utilities, which include plumbing, heating,—and electrical heating systems contained therein (in conformance with the definition in RSA 674:31, as amended).

### **Codes & Ordinances Committee Recommendation for Chapter 135-3:**

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Section 135-5 is amended to update "Water Supply and Pollution Control Commission" to "Department of Environmental Services" and to revise Subsection E(1) as follows: "A water supply meeting ~~the requirements of the 1983 State of New Hampshire Water Supply and Pollution Control Commission Drinking Water Regulations~~ current New Hampshire Department of Environmental Services drinking water standards shall be provided to each mobile home lot in a mobile home park."

**Justification:** *Correction to titles. See proposed change(s) as shown in existing Chapter 43.5 and Chapter 43.5 e (1). as follows:*

#### **~~43.5 Design Standards~~**

#### **135-5. Design standards.**

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

#### **~~43.5 (e) (1)~~**

#### **E. Water supply.**

A water supply meeting ~~the requirements of the 1983 State of New Hampshire Water Supply & Pollution Control Commission Drinking Water Regulations~~ **current New Hampshire Department of Environmental Services drinking water standards** shall be provided to each mobile home lot in a mobile home park.

### **Codes & Ordinances Committee Recommendation for Chapter 135-5:**

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Sections 135-7A(3)(e)[6] and 135-8B are amended to change "Zoning Officer" to "Zoning Administrator."

**Justification:** *Correction to the title of Zoning Administrator. See proposed change(s) as shown in existing Chapter 43.7(a)(E)(vi) and 43.8(b) as follows:*

**~~43.7(a)(E)~~**

**135-7.(d)** Written approval of the following City of Rochester officials indicating that the mobile home park complies with the requirements of this **Ordinance chapter**:

- ~~(i)~~ **(1)** Planning Board
- ~~(ii)~~ **(2)** Commissioner of Public Works
- ~~(iii)~~ **(3)** Fire Chief
- ~~(iv)~~ **(4)** Health Officer
- ~~(v)~~ **(5)** Police Chief
- ~~(vi)~~ **(6)** Zoning **Officer Administrator**
- ~~(vii)~~ **(7)** City Manager

**~~43.8(b)~~**

**B.** The Director of Building, Zoning, & Licensing Services Department, Police Chief, Health Officer, Fire Chief, Commissioner of Public Works, the Zoning **Officer Administrator**, and other agents of the City as certified by the City Manager, are hereby authorized to make periodic and reasonable inspections to determine the condition of mobile home parks within the City of Rochester, and to determine if the requirements of this ordinance are being observed.

**Codes & Ordinances Committee Recommendation for Chapter 135-7A(3)(e)[6] and 135-8B:**

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Section 135-8C(2) is amended as follows: "This provision shall be in effect even should an appeal be taken from the ~~Building Inspector's~~ Director's revocation order."

**Justification:** *Correction to title. See proposed change(s) as shown in existing Chapter 43.8 (c) as follows:*

**~~43.8(c)~~**

**135-8. C. (2)** After revocation of the license has been ordered by the Director of Building, Zoning, & Licensing Services Department, additional violations shall result in a fine not exceeding \$1,000.00 in accordance with the provisions of RSA 47:17. This provision shall be in effect even should an appeal be taken from the ~~Building Inspector's~~ **Director's** revocation order.

**Codes & Ordinances Committee Recommendation for Chapter 135-8C(2):**

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Chapter 158, Parks, Recreation and Arena.

The definition of "Commission" in § 158-1 is amended to read as follows: "The Rochester Recreation and Arena Commission. See § 158-3."

**Justification:** Directs reader to the full description in same chapter. See proposed change(s) as shown in existing Chapter 21.2 definitions as follows:

**~~21.1(c) Commission:~~**

**COMMISSION** - ~~The Rochester Recreation and Arena Commission. This commission shall consist of thirteen (13) members to be nominated by the Mayor and elected by the Council, in accordance with the provisions of Section 74 of the Rochester City Charter, as follows: one member from the City Council, one member from the school board, and eleven (11) interested citizens. Up to two (2) members of the Commission may be a nonresident of the City of Rochester provided, that at the time of election of such individual to the Commission, such individual is associated with communities or organizations utilizing the Rochester Arena facilities or has other specialized skills related to the provision of recreational services.~~ **The Rochester Recreation and Arena Commission. See § 158-3**

**Codes & Ordinances Committee Recommendation for Chapter 158:**

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The definition of "Director" in § 158-1 is amended to read as follows: "The Recreation and Arena Director. See § 158-4."

**Justification:** Directs reader to the full description in the same chapter. See proposed change(s) as shown in existing Chapter 21.2 definitions as follows:

**~~(d) Director:~~**

**DIRECTOR** - ~~The City Manager, in accordance with the provisions of Sections 15 and 18 of the Rochester City Charter, shall appoint a Director of Recreation and Arena for the City of Rochester, who shall be the department head of the Rochester Department of Recreation and serve as the Arena Director.~~ **The Recreation and Arena Director. See § 158-4.**

**Codes & Ordinances Committee Recommendation for Chapter 158-4:**

---

The definition of "park" in § 158-1 and § 158-2E are amended to change "Recreation Director" to "Director."

**Justification:** Correction to title. See proposed change(s) as shown in existing Chapter 21.2 (e) definitions as follows:

### **158-1. Definitions**

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

**~~Park. The term "park" or "parks" shall~~**

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

### **158-2. Conduct prohibited in parks and Arena.**

**~~(e)~~** Disobeying Authorities and Signs. No person shall, at the Arena or in any park, disobey a proper order of a Police Officer or an employee of the Arena or any park employee designated by the **Recreation** Director to give orders, nor shall any person in any park disobey, disregard or fail to comply with any rule or regulation, warning, prohibition, instruction or direction, posted or displayed by sign, notice, bulletin, card, **or** poster or when notified or informed as to its existence by an employee of the Arena or park employee(s) or other authorized person.

### **Codes & Ordinances Committee Recommendation for Chapter 158-1 and 158-2E:**

---

Section 158-2K is amended to change "Commons" to "Common."

**Justification:** Correction to the spelling of the "Common". See proposed change(s) as shown in existing Chapter 21.2 (k) definitions as follows:

### **~~21.2~~**

**~~(k)~~ K.** Dogs Prohibited on the So-Called Commons. Dogs shall not be permitted within the confines of the municipal park known as the "Commons," situate off South Main Street between Common Street and Grant Street. No person shall enter or remain upon the said Commons with a leashed dog, nor shall any person allow a dog to run at large within the confines of said Commons at any time.



## Codes & Ordinances Committee Recommendation for Chapter 158-2K:

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Section 158-3A is added to read as follows:

**Justification:** *The above wording has been taken from the definition of "Commission" in 158-1 (existing Chapter 21.1-c) and has been moved to 158-3A so that all provisions relating to the membership and terms of the Recreation and Arena are in the same section. See proposed change(s) as shown in existing Chapter 21.1 (c) definitions as follows:*

### **21.1(c)**

**158-3 A.** This Commission shall consist of ~~thirteen (13)~~ **13** members to be nominated by the Mayor and elected by the Council, in accordance with the provisions of Section 74 of the Rochester City Charter, as follows: one member from the City Council, one member from the School Board, and ~~eleven (11)~~ **11** interested citizens. Up to ~~two (2)~~ members of the Commission may be a nonresident of the City of Rochester, provided, that at the time of election of such individual to the Commission, such individual is associated with communities or organizations utilizing the Rochester Arena facilities or has other specialized skills related to the provision of recreational services.

## Codes & Ordinances Committee Recommendation for Chapter 158-3-A:

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Section 158-4 is amended to read as follows:

**Justification:** *To combine the Recreation and Arena Department as approved by the City Council. See proposed change(s) as shown in existing Chapter 21.1 (d) and Chapter 21.5 as follows:*

\*The City Manager, in accordance with the provisions of Sections 15 and 18 of the Rochester City Charter, shall appoint ~~a director of the~~ Recreation and Arena Director for the City of Rochester, who shall be the department head of the Rochester ~~Department of Recreation and serve as the Arena Director~~ **Recreation and Arena Department**. \*\*The Director shall be responsible for the direction of all phases of the City's recreation programs and parks owned or controlled by the City subject to the supervision of the City Manager. The Director shall be responsible for hiring and supervising all personnel as may be required to carry out Recreation and **Arena** Department programs. The Director, with the consent of the Commission, shall have the power to promulgate reasonable written

rules and regulations to govern the use of the City's parks, and equipment and to issue permits for the use thereof ~~for use of the parks~~ as set forth in this chapter. (\*Existing Chapter 21.1 (d). \*\*Existing Chapter 21.5)

### **Codes & Ordinances Committee Recommendation for Chapter 158-4:**

---

Section 158-7 is amended as follows: "Any violation of this chapter or of the rules and regulations as provided for hereunder shall be considered to be a violation and subject to a penalty as provided in § 1-1 of this Code."

**Justification:** Language added to inform the public that consequences apply – consistent with other chapters. See proposed change(s) as shown in existing Chapter 21.8 as follows:

#### **21.8**

**158-7. Violations and** penalties.

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

### **Codes & Ordinances Committee Recommendation for Chapter 158-7:**

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Chapter 176, Planning Board.

Section 176-2C is amended to update the reference to RSA 31:89-d to RSA 674:46-a.

~~41.2-e~~ **176-2 C** Either one appointed or one ex-officio member may be a member of the Historical District Commission, if one exists in the City, in accord with ~~RSA 31:89-d~~ **RSA 674:46-a.**

Section 176-10 is amended to update the reference to RSA 31 to RSA 674.

~~42.12~~ **176-10** The Planning Board shall act as a Zoning Commission, to recommend to the Council the boundaries of the various original districts provided for in RSA ~~31~~ **674**, and appropriate regulations to be enforced therein. The Planning Board shall make a preliminary report and hold public hearings thereon before submitting its final report to the Council.

**Justification:** Updates to reference. See proposed change(s) as shown in existing Chapter 41.2 (c) and Chapter 42.12 above.

**Codes & Ordinances Committee Recommendation for Chapter 176-2C and 176-10:**  
**Planning Board recommendation:**

---

Chapter 200, Sewers.

The definition of "Director" in § 260-2 is amended to "Commissioner" and to read as follows:  
"The Commissioner of Public Works or his/her designee. See § 7-18A of the City Code."

***Justification:*** *To update to the title of Commissioner. See proposed Amendment as shown in existing Chapter 17.2 (d) follows:*

~~**17.2 (g) Director. Commissioner of Public Works as defined in Section 18 of the City Charter or his/her designee.**~~

**260-2**

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

**Codes & Ordinances Committee Recommendation for Chapter 260-2:**

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The definition of "floatable oil" in § 200-1 is amended to change "free of floatable fat" to "free of floatable oil."

***Justification:*** *In the definition of "floatable oil" in 200-1 it is recommended that "free of floatable fat" be changed to "free of floatable oil" for consistency with the term being defined. See proposed change(s) as shown in existing Chapter 16.1 as follows:*

~~**Floatable Oil is**~~

**FLOATABLE OIL** - Oil, fat, or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. A wastewater shall be considered free of floatable ~~fat~~ **oil** if it is properly pretreated and the wastewater does not interfere with the collection system.

**Codes & Ordinances Committee Recommendation for Chapter 200-1:**

---

Section 200-3C is amended to add the following sentence: "When a private wastewater disposal system is found to be in failure, it is the duty of the owner and/or his agent to contact the City to determine if the property falls within the sewer service area."

**Justification:** *Clarification of obligation (City will not know about private failure unless notified by home owner.) This correction is required as a result of the 6-6-2017 amendment. See proposed change(s) as shown in existing Chapter 16.4 (c) as follows:*

**16.4 (c) 200-3C** At such time as public sewer becomes available to a property served by a private wastewater disposal system, as provided in 16.3 (d), a direct connection shall be made to the public sewer within ninety (90) days in compliance with this ordinance, and any septic tanks, cesspools, and similar private wastewater disposal facilities shall be cleaned of sludge and filled with suitable material. **When a private wastewater disposal system is found to be in failure, it is the duty of the owner and/or his agent to contact the City to determine if the property falls within the sewer service area.**

### **Codes & Ordinances Committee Recommendation for Chapter 200-1:**

---

Section 200-5F is amended as follows: "~~Interest~~ **Late payments** shall accrue ~~interest~~ at the same rate charged by the City for overdue property tax bills."

**Justification:** *Policy decision directly related to the Sewer Amendment, which passed on 6-6-2017. See proposed change(s) as shown in existing as shown in existing Chapter 16.5 f as follows:*

(f) Applicants may enter into agreements, at the discretion of the City of Rochester, to pay all costs in equal installments over a period of time. ~~Interest~~ **Late payments** shall accrue **interest** at the same rate charged by the City for overdue property tax bills. Such agreements shall be recorded with the Strafford County Register of Deeds at the expense of the applicant. In the event property is conveyed; all monies owed to the City of Rochester shall be remitted in full.

### **Codes & Ordinances Committee Recommendation for Chapter 200-5F and 200-25B:**

---

Section 200-6B is amended as follows: "The property owner is responsible for the costs incurred for the repair and maintenance of all existing sewer services from the ~~property line~~ public sewer main to the building or structure."

**Justification:** *The wording is proposed to accurately reflect definitions and current practices. See proposed change(s) as shown in existing Chapter 16.6 (b) as follows:*

~~16.6 (b)~~ **200-6B** The property owner is responsible for the costs incurred for the repair and maintenance of all existing sewer services from the ~~property line~~ **public sewer main** to the building or structure.

### **Codes & Ordinances Committee Recommendation for Chapter 200-6B:**

---

Section 200-6D is amended to delete the last sentence: "For any applicant who holds a valid license, the fee shall be prorated from the date such license expires."

**City Council Inquiry – Varney [10]** *Provide more information for 200-6D: Service Installation and repair.*

**Justification:** *This language is outdated. The language only applied to the first year the Ordinance was written. Not valid after 1995; however, it shall remain in the editor's notes in new Code. See proposed change(s) as shown in existing Chapter 16.6 d as follows:*

~~216.6 (d)~~ **200-6D** Annually, before any contractor or company shall install or repair any portion of a wastewater system within the City of Rochester, such contractor or company shall obtain an Installation and Repair License from the Department of Public Works authorizing such entity to perform installations or repairs to such system. Licenses shall be valid from January 1 through December 31 for any given year. The Department of Public Works shall issue such license only to contractors or companies ~~who~~ **which** demonstrate the ability to perform wastewater system installation and repairs in a workmanlike manner, consistent with standards maintained by the Department of Public Works. All applicants shall be required to submit evidence of general liability insurance. The City Manager shall establish an annual fee for such license. This fee shall be listed in Section ~~16.25~~ **§ 200-33**, Wastewater Rate and Fee Schedule. ~~For any applicant who holds a valid license, the fee shall be prorated from the date such license expires.~~

**Editor's Note: Amended at time of Adoption of Code (see Chapter 1, General Provisions, Art II)**

### **Codes & Ordinances Committee Recommendation for Chapter 200-6B:**

---

Section 200-7B is amended as follows: "There shall be two classes of sewer permits: for residential ~~and commercial~~ service and for service to establishments producing commercial and/or industrial wastes."

**Justification:** The wording currently makes it sound like there are 3 classification; however, there are only two. See proposed change(s) as shown in existing Chapter 16.7 (b) as follows:

~~16-7-(b)~~ **200-7 B** There shall be two ~~(2)~~ classes of sewer permits: ~~(a)~~ for residential ~~and commercial~~ service, and ~~(b)~~ for service to establishments producing **commercial and/or** industrial wastes. In either case, the owner(s) or his/her agent shall make application on a special form furnished by the City. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgement of the Director. A permit and Inspection Fee as listed in ~~Section 16-25~~ **§ 200-33**, Wastewater Rate and Fee Schedule, for a sewer permit shall be paid to the City, at the time the application is filed. This fee shall be paid regardless of whether the installation is to be accomplished by the Department of Public Works or the developer or property owner.

#### **Codes & Ordinances Committee Recommendation for Chapter 200-7B:**

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Section 200-7C is amended as follows: "In addition to the permit requirements of Subsection B above, any new construction or use other than a single-family home which exceeds 500 gallons per day of discharge, as estimated by New Hampshire Administrative Rules Section Env-Wq 1008.03, Table 1008-1, shall be required to also obtain a wastewater discharge permit and pay the reserve capacity assessment."

**Justification:** Clarification and defining of current practice which allows for uniform implementation of regulations. See proposed change(s) as shown in existing Chapter 16.7 (c) as follows:

~~16-7-c~~ **200-7 C** In addition to the permit requirements of ~~16-7(b)~~ **Subsection B** above, any new construction or use other than a single-family home which exceeds five ~~hundred (500)~~ **500** gallons per day of discharge, **as estimated by New Hampshire Administrative Rules Section Env-Wq 1008.03, Table 1008-1**, shall be required to also obtain a **wastewater discharge permit pay the reserve capacity assessment.** Application for such permit and shall be made to the Department of Public Works together with the Wastewater Discharge Permit fee as listed in ~~Section 16-25~~ **§ 200-33**, Wastewater Rate and Fee Schedule. All such requests for a Wastewater Discharge Permit are subject to the approval of the Director based on the existing sewer line's ability to handle the increased discharge.

#### **Codes & Ordinances Committee Recommendation for Chapter 200-7C:**

Section 200-7D is amended as follows: "All costs and expenses incidental to the installation and connection of ~~the~~ a new sewer service shall be borne by the owner(s). The owner(s) shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the sewer service. If installation and connection is accomplished at a location where the City has previously installed a sewer stub, the ~~property owner will also be assessed a sewer stub fee equal to~~ Sewer Enterprise Fund will bear the cost of installation of the sewer stub."

**Justification:** Clarification needed resulting from contradiction in the cross references when amendment was passed. See proposed change(s) as shown in existing Chapter 16.7 (d) as follows:

**~~16.7-d~~ 200-7 D** All costs and expenses incidental to the installation and connection of ~~the~~ **a new** sewer service shall be borne by the owner(s). The owner(s) shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the sewer service. If installation and connection is accomplished at a location where the City has previously installed a sewer stub, the ~~property owner will also be assessed a Sewer Stub Fee equal to~~ **Sewer Enterprise Fund will bear** the cost of installation of the sewer stub.

#### **Codes & Ordinances Committee Recommendation for Chapter 200-7D:**

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Section 200-7J is amended to update the reference to the Water Pollution Control Federation to the ~~Water Environment Federation~~. New Hampshire Department of Environmental Services (clerk note: Schedule A is incorrect - transcription error)

**Justification:** Correction to reference. See proposed change(s) as shown in existing Chapter 16.7 (j) as follows:

**~~16.7-j~~ 200-7 J** The connection of the sewer service into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City or the procedures set forth in appropriate specification of the ASTM and ~~the Water Pollution Environment Control Federation Manual of Practice No. 9~~ **New Hampshire Department of Environmental Services**. All such connections shall be made gastight and watertight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved by the Director before installation.

#### **Codes & Ordinances Committee Recommendation for Chapter 200-7J:**

---

Section 200-7K is amended to delete "or licensed plumber" after "licensed contractor."



**Justification:** To reduce confusion and bring into compliance with current practice The City of Rochester DPW does not allow plumbers to lay out public sewers. See proposed change(s) as shown in existing Chapter 16.7 (k) as follows:

~~16.7-k~~ **200-7. K.** All public sewers shall be laid by the Director or his/her employees or by a licensed contractor, ~~or licensed plumber~~; but the Director shall have authority to prescribe rules as to such other material to be used as is not herein specified, and all work shall be done as directed by him/her and subject to his/her inspection, and the pipe trench shall be kept open until the work has been so inspected.

### **Codes & Ordinances Committee Recommendation for Chapter 200-7K:**

---

Section 200-7S is amended to change "private sewer" to "sewer service."

**Justification:** Directly related to definitions and reduces confusion. See proposed change(s) as shown in existing Chapter 16.7 (s) as follows:

~~16.7-s~~ **200-7.S.** Whenever any ~~private-sewer~~ **service** shall become clogged, broken, or obstructed, out of order, or detrimental to the use of any public sewer, or unfit for sewerage purposes in that part situated outside of any street or private way in which public sewers are laid, the owner, agent, occupant or person having charge of any building or premises in which such ~~private~~ sewer **service** is located shall, when directed by the ~~Director~~ **Commissioner**, remove, reconstruct, alter, cleanse, or repair said sewer, as the condition thereof may require. In case of neglect or refusal to comply with such notice within five days after the same is given, the ~~Director~~ **Commissioner** may cause such sewer to be removed, reconstructed, repaired, altered, or cleansed, as he/she may deem expedient, at the expense of such owner, agent, occupant or other person so notified, who shall also be liable for a penalty in accordance with ~~Section 16.12~~ **§ 200-20 Violations and penalties**.

### **Codes & Ordinances Committee Recommendation for Chapter 200-7S:**

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Section 200-7T(1)(a) is amended as follows: "All applicants discharging over 500 gallons per day, as determined by New Hampshire Administrative Rules Section Env-Wq 1008.03, Table 1008-1, are required to file for a wastewater discharge permit."



**Justification:** To break up the long paragraph and to add the necessary reference. See proposed change(s) as shown in existing Chapter 16.7 (t) as follows:

**~~16.7-t~~ 200-7.**

**T. Reserve capacity assessments.**

- (1) Proposed multi-family dwellings, new subdivisions, **and** commercial, industrial or business structures within sewer service area or expansion of such structures~~±~~.
  - (a) Property owner or applicant shall file a sewer connection application with the Department of Public Works. All applicants discharging over 500 gallons per day, **as determined by New Hampshire Administrative Rules Section Env-Wq 1008.03, Table 1008-1**, are required to file for a Wastewater Discharge Permit. All property owners are subject to a reserve capacity assessment fee as listed in **~~Section 16.25~~ § 200-33**, Wastewater Rate and Fee Schedule for all existing and projected future usage.
  - (b) If it is determined that insufficient capacity exists for the projected flows, the applicant shall be responsible for all costs for upgrading and improving the sewers necessary to serve the project.

**Codes & Ordinances Committee Recommendation for Chapter 200-7T(a):**

---

Sections 200-8 through 200-15 are added to read as shown at the end of this schedule.

**Justification:** The City Council voted on 6/6/17 to allow for well-line metering. This language is needed for when there are meters on private well lines and there is no City water supply to the customer. This is the same language, which has been taken from the water section of the ordinance. See proposed change(s) as shown at the end of Schedule A.

**Codes & Ordinances Committee Recommendation for Chapter 200-8 through 200-15:**

---

Section 200-16B is amended as follows: "Stormwater and unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers ~~or combined sewers~~ or a natural outlet approved by the Commissioner."

**Justification:** *To bring the Code into compliance with State Law. Combined sewers have been illegal since the 1980's. See proposed change(s) as shown in existing Chapter 16.8 (b) as follows:*

~~16.8-b~~ **200-16.B.** Stormwater and unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers ~~or combined sewers~~ or a natural outlet approved by the Director. Industrial cooling water or process waters require an NPDES permit prior to discharge to a storm sewer or natural outlet.

**Codes & Ordinances Committee Recommendation for Chapter 200-16B:**

---

Section 200-16Q is added to read as follows: "A dental practice or any other similar practice or business that handles or manages dental amalgams shall install and maintain an amalgam separator and institute a management program in accordance with federal and state regulations."

**Justification:** *The existing ordinance does not define a dental practice. Which was recently added to the state law requiring local regulation See proposed change(s) as shown below:*

**Q. A dental practice or any other similar practice or business that handles or manages dental amalgams shall install and maintain an amalgam separator and institute a management program in accordance with federal and state regulations**

**Codes & Ordinances Committee Recommendation for Chapter 200-16Q:**

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Section 200-17C is amended to delete "(revised in 2003; approved April 11, 2005; and revised in 2008, approved February 28, 2008)" after the references to Schedule A (this information has been included in Schedule A).

**Justification:** *To remove the amendment dates, which will remain referenced as part of the Code in Schedule A as shown above.*

**Codes & Ordinances Committee Recommendation for Chapter 200-17C:**

---

Section 200-17I is amended to change "40 CFR(o)" to "40 CFR 2."

**Justification:** Correction to reference. See proposed change(s) as shown in existing Chapter 16.17 (i) as follows:

~~16.17 (i)~~ **200-17. I.** Public Information. Information and data submitted to the City under this part relating to wastewater discharge characteristics shall be available to the public without restriction. Other such information shall be available to the public at least to the extent provided by 40 CFR Section 2.302. The City shall comply with the maintenance and records requirements of 40 CFR ~~(e)~~ **2.**

### **Codes & Ordinances Committee Recommendation for Chapter 200-17I:**

---

Section 200-23A is amended to change "Wastewater Division" to "Division of Sewage and Waste Treatment Works."

**Justification:** Correction to title. See proposed change(s) as shown in existing Chapter 16.15 (a) as follows:

~~16.15 (a)~~ **200-23. A.** Process. Wastewater rates and fees shall be reviewed and updated periodically by the City Council. Such wastewater rates shall be computed based on the total amount budgeted for the Department of Public Works ~~Wastewater~~ **Division of Sewage and Waste Treatment Works** operations and maintenance, plus any debt service and capital outlays determined by the City Council, and projections of estimated sewer consumption, number of accounts, and/or other such factors. Wastewater rates shall be recommended to the City Council by the Utility Advisory Board and/or the City Manager and shall be established to provide sufficient revenue to at least pay the expenses of operating and maintaining the wastewater treatment works, collection system, and appurtenant facilities.

### **Codes & Ordinances Committee Recommendation for Chapter 200-23A:**

---

Section 200-27 is amended to change "Finance Director" to "Business Administrator."

**Justification:** Correction to the title of the Business Administrator. See proposed change(s) as shown in existing Chapter 16.19 as follows:

~~16.19~~ Agreements. **200-27.** An agreement between the City ~~Finance Director~~ **Business Administrator** and the customer may be signed,

on a form provided in the Business Office, if the customer is unable to satisfy their wastewater bill in full at the due date. An agreement procedure shall be established by the ~~Finance Director~~ **Business Administrator** and approved by the City Manager.

## **Codes & Ordinances Committee Recommendation for Chapter 200-27:**

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Section 200-30 is amended as follows:

In Subsection A: "The Utility Advisory Board shall rule on appeals of user and other charges and fees and perform other such duties that may be assigned by City Council."

To delete original Subsection (b), Membership, Subsection (c), Term, Subsection (d), Vacancies, and Subsection (e), Administrative Actions, and add the following: "The membership and terms of the Utility Advisory Board shall be as provided in § 260-28 of the City Code."

### **Justification:**

1. *Additional language for clarification and specificity.*
2. *Remove the repetitive language as provided in § 260-28 of the existing and proposed City Code.*
3. *See both proposed change(s) as shown in existing Chapter 16.22 as follows:*

~~(a)~~ **200-30** Utility Advisory Board.

**~~A. Function of the Board.~~** The Utility Advisory Board shall periodically make recommendations to the City Council on the level of wastewater rates to be established under this ordinance, but such recommendations are not binding on the City Council. The Utility Advisory Board shall rule on appeals of user and other charges and fees and **perform** other such duties that may be assigned by City Council.

~~(b) **Membership.** The Utility Advisory Board shall consist of five (5) members. Such members shall be nominated by the Mayor and appointed by the City Council.~~

~~(c) **Term.** Members shall serve a term of five (5) years from the date of appointment.~~

~~(d) **Vacancies.** Vacancies on the Utility Advisory Board shall be filled in the same manner that members are appointed under Section 16.22 (b). The term of a member appointed to fill a vacancy shall be equal to the remaining term of the member being replaced.~~

~~(e) **Administrative Actions.** The City Manager shall have the authority to veto or modify any action of the Utility Advisory Board.~~

**B. The membership and terms of the Utility Advisory Board shall be as provided in § 260-28 of the City Code.**

## **Codes & Ordinances Committee Recommendation for Chapter 200-30:**

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Section 200-33 is amended as follows:

In Subsection A(4): "High-volume customers (i.e., customers using more than 5,000 units\*\* monthly): \$6.08 per 100 cubic feet of water use. \*\*Note: for purposes of this section the word "unit" shall mean 100 cubic feet or 748 gallons of water use."

***Justification:*** Added language for clarification purposes and change in document formatting. See proposed change(s) as shown in existing Chapter 16.25 as follows:

~~**16.25 High Volume Customer (i.e. Customers using \$6.08 per 100 cu. ft. of water use more than 5,000 units \*\*monthly)**  
**\*\*Note: for purposes of this section the word "unit" shall mean 748 gallons of water use.**~~

**(4)** High-volume customers (i.e. customers using more than 5,000 units\*\* monthly): \$6.08 per 100 cubic feet of water use. \*\*Note: for purposes of this section the word "unit" shall mean **100 cubic feet or 748 gallons of water use.**

## **Codes & Ordinances Committee Recommendation for Chapter 200-33:**

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In Subsection G:

*\*To delete:* "Sewer stub fee: actual cost of installation"

*\*\*To add:* "Meter repair or testing: minimum charge of \$30 for the first half hour per visit plus cost of transportation of meter to testing facility and cost of testing" and "Meter damage: \$50."

*\*\*\*To delete:* "Minimum service charge: \$30 per visit."

~~**\* Sewer Stub Fee: Actual Cost of Installation**  
**\*\*Minimum Service Charge: \$30.00 per visit**~~

---

**\*\*Meter repair or testing: minimum charge of \$30 for the first half hour per visit plus cost of transportation of meter to testing facility and cost of testing" and "Meter damage: \$50.**

**Justification:** Clarification to the implementation of the Sewer Meters. This language is taken from the water section of the ordinance. The language is needed for when there are meters on private well lines and there is no City water supply to the customer.

## **Codes & Ordinances Committee Recommendation for Chapter 200-33 (G):**

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### Chapter 210, Solid Waste.

The definition of "acceptable construction and demolition debris" in § 210-1 is amended as follows: "Letters of authorization on the owner's behalf brought to the dropoff by nonresidents will not be accepted, unless approved by the ~~City and Waste Management~~ City's contracted solid waste management company (the City's waste collection contractor)."

**Justification:** To keep the City's waste collection contractor terminology consistent throughout the Code. See proposed change(s) as shown in existing Chapter 19.1 Definitions as follows:

**~~19.1~~ 210-1** Definitions. The following definitions shall apply in the interpretation and enforcement of this chapter.

### **~~Acceptable Construction And Demolition Debris~~**

**ACCEPTABLE CONSTRUCTION AND DEMOLITION DEBRIS** - Any material generated from minor renovation or demolition activities on Primary Personal Residences within the City. Debris generated at apartment or condominium units not used as Primary Personal Residence of the taxpayer shall not be accepted for free. Residents must bring any material to the drop off themselves. Letters of authorization on owner's behalf brought to the dropoff by non-residents will not be accepted, unless approved by the City and **Waste Management. City's contracted solid waste management company (the City's waste collection contractor).** Residents requesting approval must submit an application to the Department of Building, Zoning, and Licensing Services.

**Codes & Ordinances Committee Recommendation for Chapter 210-1 Definitions - acceptable construction and demolition debris:**

---

The definition of "bags" in § 210-1 is amended as follows: "Bags (stickers) shall be sold by the City for waste that will not fit into the cart provided by ~~Waste Management~~ the City's waste collection contractor for residential solid waste."

**Justification:** *To keep the City's waste collection contractor terminology consistent throughout the Code. See proposed change(s) as shown in existing Chapter 19.1 Definitions as follows:*

**19.1 Bags—BAGS—** Specially marked bags (or stickers for bags up to 30 gallons in size) designed for refuse as approved by the City of Rochester Public Works Director. Bags (stickers) shall be sold by the City for waste that will not fit into the cart provided by ~~Waste Management~~ **the City's waste collection contractor for residential solid waste** for residential solid waste.

#### **Codes & Ordinances Committee Recommendation for Chapter 210-1 Definitions - Bags:**

---

The definition of "hazardous waste and unacceptable waste" in § 210-1 is amended to change "Waste Management" and "the Company" to "the City's waste collection contractor."

**Justification:** *To keep the City's waste collection contractor terminology consistent throughout the Code. See proposed change(s) as shown in existing Chapter 19.1 Definitions as follows:*

**19.1 Hazardous Waste and Unacceptable Wastes -** Wastes classified as hazardous under Federal, State or local law and/or waste, the acceptance of which in ~~Waste Management's~~ **the City's waste collection contractor's** judgment would pose a nuisance or threat to human health or the environment, and/or waste that cannot be accepted under the ~~Company's~~ **City's waste collection contractor's waste** acceptance policy (~~waste~~ **acceptance** policy) as amended from time to time.

#### **Codes & Ordinances Committee Recommendation for Chapter 210-1 Definitions - Waste Management:**

---

The definition of "residential recycling bin" in § 210-1 is replaced with the following:

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

**Justification:** To keep the City's waste collection contractor consistent throughout the Code. See proposed change(s) as shown in existing Chapter 19.1 Definitions as follows:

**~~19.1 Residential Recycling Cart – It shall be~~A** specifically designed wheeled container or cart distributed by **Waste Management the City's waste collection contractor** to be used for the storage of acceptable recyclables in the automated collection process. No other receptacles will be permitted for collection by the City's waste collection **container contractor**.

### **Codes & Ordinances Committee Recommendation for Chapter 210-1 Definitions - Residential Recycling Cart:**

---

The definition of "rubbish and waste receptacle" in § 210-1 is replaced with the following:

RESIDENTIAL WASTE RECEPTACLE – The specifically provided or designated container distributed by the City's waste collection contractor. No other receptacles will be permitted.

**Justification:** To keep the Residential waste receptacles consistent throughout the Code. See proposed change(s) as shown in existing Chapter 19.1 Definitions as follows:

**~~19.1 Rubbish and Residential waste receptacles – Shall be a~~**  
**The** specially **provided or** designed container **with wheels or "cart"** distributed by **Waste Management the City's waste collection contractor**. **to be used for the storage of acceptable refuse in the automated collection process.** No other receptacles will be permitted. **for collection by the City's waste collection contractor.**

### **Codes & Ordinances Committee Recommendation for Chapter 210-1 Definitions - Residential Recycling Cart:**

---

The definition of "special waste" in § 210-1 is added to read as follows: "As defined in 40 CFR 240.101(z)."

**Justification:** In the existing ordinances 19.2 makes a reference to "special" waste; however, "special waste" is not defined. It is proposed that the City reference the definition of "special waste" as defined in 40 CFR 240.101(z). See proposed change(s) as follows:

**Special waste - As defined in 40 CFR 240.101(z).**



## Codes & Ordinances Committee Recommendation for Chapter 210-1 Definitions - Special Waste:

---

Section 210-3 is amended to change "the Public Works Director and Waste Management" to "the Commissioner of Public Works or his/her designee and the City's waste collection contractor."

**Justification:** *To keep the City's waste collection contractor consistent throughout the Code and allowance of designation. See proposed change(s) as shown in existing Chapter 19.2 as follows:*

~~19.2~~ **210-3 Rubbish collection.** The City of Rochester shall only collect rubbish on public streets or highways. For those properties served by streets other than public streets or highways, including but not limited to, mobile home parks, condominiums, or streets not yet accepted by the City, rubbish shall not be placed within the public street for collection unless agreed to by the ~~Public Works Director~~ **Commission of Public Works or his/her designee** and ~~Waste Management~~ **the City's waste collection contractor**.

## Codes & Ordinances Committee Recommendation for Chapter 210-3:

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Section 210-6 is amended as follows:

All residential solid waste shall be placed in suitable receptacles, as defined under § 210-1. ~~Common paper shopping bags are prohibited and wooden crates are not suitable rubbish containers.~~ Residential solid waste that does not fit in the ~~ear~~ approved receptacle shall not be collected unless such waste is recyclable materials as defined in § 210-1 and placed at curbside as described in § 210-17.

**Justification:** *To keep the approved receptacle definitions consistent throughout the Code. See proposed change(s) as shown in existing Chapter 19.5 as follows:*

~~19.5 Rubbish and Waste~~ **210-6 Receptacles for solid waste.** All residential solid waste shall be placed in suitable receptacles, as defined under ~~19.1 (v)~~ **210-1. Common paper shopping bags are prohibited and wooden crates are not suitable rubbish containers.** Residential Solid waste that does not fit in the ~~ear~~ **approved receptacle** shall not be collected unless such waste is recyclable materials as defined in section ~~19.1 (v)~~ **210-1** and placed at curbside as described in ~~section 19.15~~ **210-17**.

## **Codes & Ordinances Committee Recommendation for Chapter 210-6:**

---

Section 210-11 is amended as follows:

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

**Justification:** Update to terminology. See proposed change(s) as shown in existing Chapter 19.6 as follows:

**~~19.6~~ 210-11 Construction and demolition debris.** Acceptable construction and demolition debris as defined in ~~19.1~~ **210-1** may be brought to ~~the~~ **an approved** residential ~~Drop-off~~ **dropoff** center at no cost. Debris generated at apartment or condominium units not used as the Primary Personal Residence of the taxpayer shall be charged ~~such~~ **the same** fees as any other commercial user.

## **Codes & Ordinances Committee Recommendation for Chapter 210-11:**

---

Section 210-13 is amended to change "determined by Public Works" to "determined by the Department of Public Works."

**Justification:** Correction to title of the Department of Public Works consistent throughout the Code. See proposed change(s) as shown in existing Chapter 19.2 as follows:

**~~19.7~~ 210-13 Bulky Waste Collection.** Bulky waste, white goods and scrap metal as defined in ~~Section 19.1~~ **210-1** may be placed at curbside for collection by the Contractor. Schedule shall be as determined by **the Department of** Public Works and publicized.

## **Codes & Ordinances Committee Recommendation for Chapter 210-13:**

---

Section 210-14 is amended as follows: "Hazardous waste and unacceptable wastes, as defined in § 210-1, the definition of 'hazardous waste and unacceptable wastes,' will not be accepted for roadside pickup by the City."

**Justification:** Clarification of terminology to accurately reflect current practice. See proposed change(s) as shown in existing Chapter 19.8 as follows:

**~~19.8~~ 210-14 Hazardous waste and unacceptable wastes.** "Hazardous waste and unacceptable wastes, as defined in ~~19.1~~ **210-1**, the definition of 'hazardous waste and unacceptable wastes,' will not be accepted for **roadside** pickup by the city."

### **Codes & Ordinances Committee Recommendation for Chapter 210-14:**

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Section 210-16 is amended to change "a fine up to \$3,000" to "a civil penalty up to \$3,000."

**Justification:** Correction of legal terminology. See proposed change(s) as shown in existing Chapter 19.9 as follows:

**~~19.9~~ 210-16 Violations and penalties.** Any person, firm or corporation found to be in violation of any provision of this chapter shall be guilty of a violation punishable by a **fine civil penalty** up to \$3,000.00.

### **Codes & Ordinances Committee Recommendation for Chapter 210-16:**

---

Section 210-17 is amended as follows:

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

**Justification:** Correction of terminology. See proposed change(s) as shown in existing Chapter 19.17 as follows:

**~~19.17~~ 210-17 Residential curbside recycling.** Recyclable material will be collected from residences (as defined by **Section 19.1 210-1 of the Rochester City Code**) on the same day as rubbish collection. Recyclable material must be placed in **the approved residential recycling Bins receptacles** (as defined by **Section 19.1 210-1 of the Rochester City Code**). **Bins The approved residential recycling receptacles** must be placed at the **curb-roadside** on the evening before or, by 7:00 a.m. on the scheduled pickup day.

Unacceptable material found in the **approved** residential recycling **Bins receptacles** will not be collected.

## **Codes & Ordinances Committee Recommendation for Chapter 210-17:**

---

Section 210-18 is amended as follows: "Rochester residents may purchase ~~City approved~~ the City's approved bags (stickers) for residential solid waste to be brought to ~~the~~ an authorized residential dropoff center."

**Justification:** Correction of terminology. See proposed change(s) as shown in existing Chapter 19.18 as follows:

~~19.10~~ **210-18 Residential Drop-Off dropoff center.** Rochester residents may purchase **the** City's approved bags (stickers) for residential solid waste to be brought to **the an authorized** residential **Drop-Off dropoff c**enter. ~~—Recycling is mandatory at the Residential Drop-Off center.~~

## **Codes & Ordinances Committee Recommendation for Chapter 210-18:**

---

Original § 19.22, Savings clause, is repealed.

**Justification:** Language deleted. See proposed change(s) as shown in existing Chapter 19.22 as follows:

~~**19.22 Savings Clause.** The repeal provided therein shall not abrogate or affect any offense or act committed or done or any penalty or forfeiture incurred, or any pending litigation or prosecution or any right established, or occurring prior to the effective date of this ordinance.~~

## **Codes & Ordinances Committee Recommendation for Chapter original 19.22:**

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Chapter 218, Stormwater Management and Erosion Control

Section 218-2A(1) is amended as follows: "The City Council pursuant to RSA 47:13, 47:17, ~~VII, VIII and XVIII~~, 38:26, 149-I:3 and 149:1:6."

**Justification:** Correction of references. See proposed change(s) as shown in existing Chapter 50.2 (a) as follows:

**50.2 218-2 Authority; when effective.**

This Ordinance is adopted pursuant to the authority vested in:

~~(a) (1) The authority vested in~~ **The City Council** pursuant to RSA 47:13, RSA 47:17, ~~VII, VIII, and XVIII~~ **38:26**, RSA 149-I:3, ~~and RSA 38:26, RSA 149:I:6;~~

**Codes & Ordinances Committee Recommendation for Chapter 210-18-2A(1):**

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Sections 218-2A(3), 218-6A(5) and 218-10E are amended to change "Office of Building, Zoning, and Licensing Services Department" to "Building, Zoning, and Licensing Services Department."

**Justification:** *Correction to titles See proposed change(s) as shown in these existing sections of Chapter 50 as follows:*

**50.2 218-2 Authority; when effective.**

This Ordinance is adopted pursuant to the authority vested in:

~~(c) The authority vested in~~ **(3) The Office of** Building, Zoning, & Licensing Services Department pursuant to RSA 147:1 and 147:14.

**(5)** Emergency repairs to any stormwater management facility or practice that poses a threat to public health or safety, or as deemed necessary by the **Office** of Building, Zoning, & Licensing Services Department or **Director Commissioner** of Public Works.

~~(e) E.~~ **E.** The Department of Planning and Development, Department of Public Works, and/or ~~Office of~~ Building, Zoning, & Licensing Services Department may require the owner or his/her authorized agent to deposit in escrow with the City an amount of money sufficient to cover the City's costs for inspection and any professional assistance required for site compliance monitoring.

**Codes & Ordinances Committee Recommendation for Chapter 218-2A(3), 218-6A(5), and 218-10E:**

---

Section 218-6 is amended as follows: *(Councilor Abbott – Requested more information.)*

In the first sentence: "This chapter shall apply to any action that will hinder, interfere with, alter, or modify the existing stormwater flow, drainage, or infrastructure constructed for such purpose ~~unless and until this chapter has been complied with.~~"

**Justification:** Redundancy to existing sentence. See proposed change(s) as shown in existing Chapter 50.6 as follows:

**50.6 218-6** Applicability. This **Ordinance chapter** shall apply to any action that will hinder, interfere with, alter, or modify the existing stormwater flow, drainage, or infrastructure constructed for such purpose. ~~unless and until this Ordinance has been complied with.~~ It shall apply to any discharges into the City's Stormwater Drainage System, waterbodies, streams, and wetlands

#### **Codes & Ordinances Committee Recommendation for Chapter 218-6:**

---

In Subsection A to change "stormwater management permit (SMP)" to "stormwater permit (SWP)." (*Councilor Abbott – Requested more information.*)

**Justification:** Correction to the permit title. See proposed change(s) as shown in existing Chapter 50.6 (a) as follows:

#### **~~50.6 (a) Permit and SWMP –~~**

**218-6 A.** Permit **r** required. Except as permitted by this **Ordinance chapter**, no person shall alter land or engage in any activity which causes or contributes to stormwater runoff discharge without first having obtained a **stormwater Management permit (SMP) (SWP)** for land proposed to be altered or which will be affected by such activity. The owner shall be required to apply to the **Director Commissioner** of Public Works and obtain such permit from the **Director Commissioner Department** of Public Works (~~DPW~~) **Director**, or ~~their~~**his/her** designee, as ~~their~~**his/her** jurisdiction warrants, prior to undertaking any such action. This requirement shall apply to any activity that will disturb or impact a land area greater than 5,000 cumulative square feet unless noted as an exclusion in **Subsection A** (1) through (5) below.

#### **Codes & Ordinances Committee Recommendation for Chapter Subsection A:**

---

In Subsection B: to change "construction stormwater management and erosion control plan" to "stormwater management and erosion control plan." (*Councilor Abbott – Requested more information.*)

**Justification:** Correction to the permit title. See proposed change(s) as shown in existing Chapter 50.6 (b) as follows:

~~(b)~~—**B. Requirement of Construction stormwater management and erosion control plan** - The applicant for a permit required under ~~Section 50.6.a)-(1)~~ **Subsection A** above, shall be required, additionally, as part of the application review process, to design and submit a **Construction stormwater management and erosion control plan** (unique to the site) to the **Director Commissioner** of Public Works for distribution to the City Engineer for any tract of land being developed, redeveloped, or subdivided within the boundaries of Rochester, where one or more of the following conditions are proposed:

### **Codes & Ordinances Committee Recommendation for Chapter Subsection B:**

---

The definition of "City Engineer" in § 218-7 is amended as follows: "Intended to refer to and identify the City Engineer or his/her designee or any qualified engineering consultant which the City Council, City ~~Administrator~~ Manager, Planning Board, Building, Zoning, and Licensing Services Department, Commissioner of Public Works, or their designee(s) engage(s) for the purpose of reviewing any application or plan submitted in accordance with this chapter or determining compliance herewith."

**Justification:** Adding applicable roles. See proposed change(s) as shown in existing Chapter 50.7 (f) as follows:

#### **50.7 (f)**

**218-7** City Engineer - ~~The term "City Engineer" when contained in this Ordinance, is~~ Intended to refer to and identify the City Engineer or **his/her designee or** any qualified engineering consultant which the City Council, City ~~Administrator~~ **Manager**, Planning Board, Building, Zoning, & Licensing Services Department, ~~DPW Director~~, **Commission of Public Works**, or their designees engage(s) for the purpose of reviewing any application or plan submitted in accordance with this **Ordinance chapter** or determining compliance herewith, when, in their judgment, such review is appropriate or necessary in order to ensure compliance with this ~~Ordinance chapter~~ or determine if the provisions hereof have been violated.

### **Codes & Ordinances Committee Recommendation for Chapter 218-7:**

---

The definition of "City Inspector" in § 218-7 is amended as follows: "A City representative from the Department of Public Works, Department of Building, Zoning, and Licensing Services Department, or ~~Community Development~~ Department of Planning and Development, or their designee."

**Justification:** Correction to title. See proposed change(s) as shown in existing Chapter 50.7 (g) as follows:

**50.7 (g)** City Inspector - A City representative from the Department of Public Works, Department of Building, Zoning, & Licensing Department, or **Department of Planning and Community Development**, or their designee.

### **Codes & Ordinances Committee Recommendation for Chapter 218-7:**

---

Section 218-8C(2)(n) is amended to add "(now the Natural Resources Conservation Service)" after "Soil Conservation Service."

**Justification:** Update to existing reference (Soil Conservation Service does not exist anymore). See proposed change(s) as shown in existing Chapter 50.8 (c) (2) as follows:

#### **50.8 (c) (2) 218-8 (C) (2)**

**(n)** Drainage design should follow the guidelines presented in the Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire, as published by the New Hampshire Department of Environmental Services, Rockingham County Conservation District and the **United States Department of Agriculture Soil Conservation Service (now the Natural Resources Conservation Service)**, and additional guidelines published in the Manual on Drainage Design for Highways, as published by the State of New Hampshire Department of Transportation.

### **Codes & Ordinances Committee Recommendation for Chapter 218-8C(2)(n):**

---

Section 218-9B(1)(z)[1] is amended as follows:

For common drainage that serves an area with 10 or more acres disturbed at one time, a temporary (or permanent) sediment basin ~~must provide~~ providing storage for a calculated volume of runoff from a drainage area from a two-year, twenty-four-hour storm, or equivalent control measures, must be provided, where attainable, until final stabilization of the site.

**Justification:** Grammar correction. See proposed change(s) as shown in existing Chapter 50.9 b 1 z (i) as follows:

**50.9 (b) (1) (z) (i) 218-9B(1)(z)[1]** Sediment Basins: For common drainage that serves an area with 10 or more acres disturbed



at one time, a temporary (or permanent) sediment basin **must provide providing** storage for a calculated volume of runoff from a drainage area from a 2-year, 24-hour storm, or equivalent control measures, must be provided, where attainable, until final stabilization of the site. Where no such calculation has been performed, a temporary (or permanent) sediment basin providing 3,600 cubic feet of storage per acre drained, or equivalent control measures, must be provided where attainable until final stabilization of the site. When computing the number of acres draining to a common location, it is not necessary to include flows from off-site areas and flows from on-site areas that are either undisturbed or have undergone final stabilization where such flows are diverted around both the disturbed areas and the sediment basin. In determining whether a sediment basin is attainable, the operators may consider such factors as site soils, slope, available area on-site, etc. In any event, the operator must consider public safety, especially as it relates to children, as a design factor for the sediment basin and alternative sediment controls must be used where site limitations would preclude a safe design.

**Codes & Ordinances Committee Recommendation for Chapter 218-9B(1)(z)[1]:**

---

Section 218-11B is amended as follows:

In the first sentence: "The following provisions shall pertain and be applicable only to those plans which do not come under the jurisdictional purview of the Planning Board (site plan/subdivision review)."

**Justification:** Grammar correction. See proposed change(s) as shown in existing Chapter 50.11 (b) as follows:

**~~50.11(b)~~**

**218.11 Maintenance and Inspection.**

**B.** Other Projects. The following provisions shall pertain and be applicable only to those plans which **do not** come under the jurisdictional purview of the Planning Board (site plan/subdivision review).

**Codes & Ordinances Committee Recommendation for Chapter 218-11B:**

---

To change "Building, Zoning, and Licensing Services Department Officer" to "Building, Zoning, and Licensing Services Department Director" in Subsection B(1), (2) and (3).

**Justification:** Correction to titles. See proposed change(s) as shown in existing Chapter 50.11 (b) (1 through 3) as follows:

**50.11 (b)**

- (1) Right to inspect. The Building, Zoning, & Licensing Services Department ~~Officer~~ **Director**, and/or ~~DPW-Director~~ **Commissioner of Public Works** or their designees, are authorized to conduct inspections of any site that is the subject of a permit issued hereunder, irrespective of whether such permit also required the approval of a plan in accordance with ~~Section 50.6.b~~ **§ 218-6B** above, in order to ensure that any conditions of the issuance of such permit are being maintained and that no violation of any of the provisions of this **Ordinance chapter** are taking place.
- (2) Confirmation by registered professional engineer. Upon such inspection, when the circumstances of any suspected breach of condition or violation of this **Ordinance chapter** involve standards that implicate technical engineering criteria either included in this **Ordinance chapter** or as a condition of such permits, the Building, Zoning, & Licensing Services Department ~~Officer~~ **Director**, and/or ~~DPW-Director~~ **Commissioner of Public Works** or their designee shall seek confirmation that such circumstances constitute a violation of such criteria prior to taking any enforcement action under ~~Section 50.15~~ **§ 218-15** of this **Ordinance chapter**.
- (3) Enforcement. Upon such confirmation by a registered professional engineer, or when such confirmation is not required due to the fact that the circumstances of such violation do not implicate technical engineering criteria either included in this **Ordinance chapter** or as a condition of such permit, the Building, Zoning, & Licensing Services Department ~~Officer~~ **Director** and/or ~~DPW-Director~~ **Commissioner of Public Works** or their designees may proceed to enforce the provisions of this Ordinance or conditions of the permit in accordance with applicable statutes, rules or regulations.

**Codes & Ordinances Committee Recommendation for Chapter 218-Subsection B (1),(2), and (3):**

---

Section 218-15A is amended to change "Building, Zoning, and Licensing Services Department Officer" to "Building, Zoning, and Licensing Services Department Director."

**Justification:** Correction to title. See proposed change(s) as shown in existing Chapter 50.15 (a) as follows:

**~~50.15-(a)~~**

**218.15**

**A.** The Building, Zoning, & Licensing Services Department, Building, Zoning, & Licensing Services Department ~~Officer~~ Director, DPW

~~Director~~ **Commissioner of Public Works**, or their designee, as the case may be and subject to the provisions below, shall be responsible for enforcement of all aspects of this **Ordinance chapter**. In that regard, said official(s) shall be empowered hereby to invoke any and all statutory enforcement prerogatives that may be applicable to the purported violation as it relates to the **plan** submitted hereunder or activity regulated hereby. By way of illustration and not by way of limitation, it is contemplated that the following statutory enforcement prerogatives would apply:

## **Codes & Ordinances Committee Recommendation for Chapter 218-15A:**

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### Chapter 223, Streets and Sidewalks.

Section 223-1 is amended as follows:

To replace the definition of "Commissioner of Public Works" with the following: "COMMISSIONER – The Commissioner of Public Works or his/her designee. See § 7-18A of the City Code."

***Justification:*** *Correction to title and allowance of designation. See proposed change(s) as shown in existing Chapter:15.1 (b) as follows:*

### **~~15.1~~**

**~~(b) "Commissioner of Public Works." The individual appointed by the City Manager to have overall supervision and control of the Department of Public Works and Highways. The duties of the Commissioner of Public Works shall be those normally granted to a department head and shall include but not be limited to those duties as set forth within this Chapter. The Commissioner of Public Works shall be referred to throughout this Chapter 15 as the "Commissioner."~~**

**223-1 COMMISSIONER – The Commissioner of Public Works or his/her designee. See § 7-18A of the City Code.**

## **Codes & Ordinances Committee Recommendation for Chapter 223-1:**

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To revise the definition of "Committee" as follows:

The subcommittee of the City Council (Public Works and Building Committee) having responsibility for overseeing expenditures, maintenance and control of public buildings,

streetlights, public parks, sewerage, streets and highways and rubbish/recycle disposal. The Committee members shall be designated by the Mayor and shall enjoy membership according to rules and regulations as established by the City Council. The responsibilities of this Committee shall be enumerated by the City Council and shall further be as set forth within this article, and this Committee shall be referred to throughout this article as "Committee."

**Justification:** Clarification in title. See proposed change(s) as shown in existing Chapter 15.1 (a) as follows:

**~~15.1 (a) "Committee."~~**

**COMMITTEE** - The **sub**committee of the **City** Council (**Public Works and Building Committee**) having responsibility for overseeing expenditures, maintenance and control of public buildings, street lights, public parks, sewerage, streets and highways and rubbish **/recycling** disposal. The Committee members shall be designated by the Mayor and shall enjoy membership according to rules and regulations as established by the City Council. The responsibilities of this Committee shall be enumerated by the City Council and shall further be as set forth within this **Committee article**, and **this Committee** shall be referred to throughout this **Committee article** as "Committee."

**Codes & Ordinances Committee Recommendation for Chapter 223 definition of Committee:**

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Section 223-5A is amended as follows: (*Councilor Abbott – Requested more information.*)

Whenever any street, lane, alley, sidewalk, or other public place in the City shall, under any license granted, be dug up, obstructed or encumbered, and thereby rendered unsafe or inconvenient for travelers, the person so digging up, obstructing or encumbering shall put, and at all times keep up, a suitable railing or fence around the section or parts of any street, lane, alley, or sidewalk or other public place so dug up, obstructed or encumbered, so long as the same shall be, or remain, unsafe or inconvenient as aforesaid, and shall also keep ~~one or more lighted lanterns fixed to~~ such fence, ~~or in some proper place,~~ adequately illuminated every night from ~~twilight dusk until dawn in the evening and throughout the whole night~~ so long as such railing or fence shall be kept standing.

**Justification:** Outdated language. See proposed change(s) as shown in existing Chapter 15.5 as follows:

**~~15.5~~ 223-5 Permit License** for excavation upon highway or sidewalk.

**~~(a)~~ A.** No person shall break or dig up the ground, stone or concrete in any street, lane or alley, or in any sidewalk or common in the City, or erect any staging for building, or fence off any portion of said street or sidewalk, or place or deposit any stone, brick, timber, or other

building material thereon, without first obtaining a written license from the Commissioner and complying in all respects with conditions said Commissioner may impose. Whenever any street, lane, alley, sidewalk, or other public place in the City shall, under any license granted, be dug up, obstructed or encumbered, and thereby rendered unsafe or inconvenient for travelers, the person so digging up, obstructing or encumbering, shall put, and at all times keep up, a suitable railing or fence around the section or parts of any street, lane, alley, or sidewalk or other public place so dug up, obstructed or encumbered, so long as the same shall be, or remain, unsafe or inconvenient as aforesaid, and shall also ~~one or more lighted lanterns fixed to such fence, or in some proper place, every night from twilight in the evening and throughout the whole night so long as such railing or fence shall be kept standing.~~ **keep such fence adequately illuminated every night from dusk until dawn so long as such railing or fence shall be kept standing.** He/she shall also, at his/her expense, to the acceptance of the Commissioner, and within such reasonable time as the Commissioner shall direct, repair such street, lane, alley, sidewalk or public place.

### **Codes & Ordinances Committee Recommendation for Chapter 223-5A:**

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Section 223-7 is amended as follows:

In Subsection A: "No person shall move, or assist in moving, any house, shop or other building through any street, lane, or alley without first obtaining a written license ~~therefor~~ from the Licensing Board."

In Subsection B: ~~"In addition to the requirements of Subsection A hereof, no person shall move, or assist in moving, any house, shop or other building through any street, lane, or alley without first obtaining a written license therefor from the Licensing Board. The fee for such license shall be \$25."~~

**Justification:** (A) grammar correction and (B) redundancy. See proposed change(s) as shown in existing Chapter 15.7 and 26-.7 as follows:

### **~~15.7~~ 223-7 Moving of buildings through streets.**

- A.** No person shall move, or assist in moving, any house, shop or other building through any street, lane, or alley without first obtaining a written license ~~therefore~~ from the Licensing Board. Whenever the Licensing Board shall as aforesaid grant permission to any person to encumber any street, sidewalk, or

public squares, for the purpose of erecting, altering or moving buildings or to dig up or encumber the same in any other manner, it may, as a condition to granting such permission, require the party obtaining the same to furnish a bond of indemnity to the City of Rochester, in such sum and with such securities as the Licensing Board may deem proper.

~~26.7 B. In addition to the requirements of Section 15.7 hereof, no person shall move, or assist in moving any house, shop or other building through any street, lane, or alley without first obtaining a written license therefore from the Licensing Board.~~ The fee for such license shall be \$25.00.

### **Codes & Ordinances Committee Recommendation for Chapter 223-7 A and B:**

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Section 223-8D is amended as follows: "No theatrical or dramatic representation shall be performed or exhibited, and no parade or procession upon any public street or way, unless a special license ~~therefor~~ shall first be obtained from the ~~City Manager~~ Licensing Board."

**Justification:** *Correction grammar and title. See proposed change(s) as shown in existing Chapter 15.8 (d) as follows:*

~~(d)~~ **D.** No Theatrical or dramatic representation shall be performed or exhibited, and no parade or procession upon any public street or way, unless a special license ~~therefore~~ shall first be obtained from the ~~City Manager~~ **Licensing Board**. (See Chapter 26.7 22, Licensing Requirements. Amusements and Entertainment, Article 3, Public Dances, Circuses and Parades.)

### **Codes & Ordinances Committee Recommendation for Chapter 223-8D:**

---

Section 223-9A(1)(e) is amended to correct the reference to RSA 252:9-18 to RSA 80:88 to 80:91.

**Justification:** *Correction to grammar and reference. See proposed change(s) as shown in existing Chapter 15.8 (d) as follows:*

**E. (e)** A separate form of sewer or water agreement, providing that a person shall pay for the total cost of any sewer or water extensions, which said costs shall be determined by the Commissioner of Public Works, and each agreement shall further provide for the payment of the total cost of said sewer or water extensions plus full payment of

interest on account of any debt to be incurred by the City in the construction of said sewer or water extensions. Each agreement shall further provide that the total cost of said sewer or water extensions and payment in full of the interest on any debt to be incurred by the City in the construction of said sewer or water extensions shall be paid by the person desiring such construction by means of a special sewer or water assessment and shall constitute a lien on all land of said person. Said lien shall be transferable upon the conveyance of said improved land, provided, that all prior installments thereon have been paid. Each agreement shall further provide that said special sewer or water assessment shall be based upon the total cost of the construction plus the payment of interest on any debt incurred by the City, and may further provide that said cost and interest may be prorated over a period not exceeding ten ~~(10)~~ 10 years. Each agreement shall further provide that in the event of a transfer or sale by the original petitioner of the property serviced by said extension, the balance then owing to the City for said extension shall be paid in full. Said agreement shall be recorded in the Strafford County Registry of Deeds, and said lien shall have the full force and effect of a tax lien and be collectable as such as provided by RSA ~~252:9-18~~ 80:88 to 80:91 as presently enacted or the corresponding provisions of any recodification or amendment of ~~this~~ these sections. Said agreement shall also be signed and shall be duly witnessed and acknowledged. Any agreement for sewer or water shall be limited to individual owners of residential homes only, who shall be reimbursed for any payment made as above provided in the event that Phase II of the Water Pollution Abatement Program of the City of Rochester is adopted. Any commercial, industrial or real estate development owners shall pay their prorata share of such sewer and water improvements in cash prior to construction.

### **Codes & Ordinances Committee Recommendation for Chapter 223-9A(1)(e):**

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Section 223-11A is amended to correct the reference to RSA 231:133 in the first sentence to RSA 231:133-a and to revise Subsection A(10) as follows: "Such numbers shall be a minimum of 3.5 inches in height as to meet current Fire Code requirements."

**Justification:** To keep Code up to date with the current Fire Code (the City ordinances cannot be more strict than State regulations.) See proposed change(s) as shown in existing Chapter 15.9-b as follows:

~~(a)~~ **A.** Pursuant to the provisions of RSA 231:133-a, the Planning and Development Director of the City of Rochester, or his/her designee, shall have the authority to assign numbers to all existing residential and/or commercial structures and/or to vacant lots. In assigning



numbers to residential and/or commercial structures and/or vacant lots, the Planning **and Development** Director, or his/her designee, shall employ the following criteria:

**(10)** Any building or structure for which a number has been designated shall have such number affixed thereto in such manner as to be plainly visible from the street which abuts the main entrance to the property. Such numbers shall be a minimum ~~of 3.5 inches in~~ height **as to meet current Fire Code requirements.**

### **Codes & Ordinances Committee Recommendation for Chapter 223-11A:**

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Section 223-14 is amended to change "telephone poles" to "utility poles."

**Justification:** *Correction in terminology. See proposed change(s) as shown in existing Chapter 15.12 as follows:*

~~15.12~~ **223-14 Regulation of** Streetlighting. The Commissioner shall have supervision of all municipal lighting, **and** location of electric light and ~~telephone~~ **utility** poles within the City limits, and is authorized to prescribe rules and regulations for the marking or painting of any poles, crossarms or supporting fixtures which are located within the public highway. All persons owning or using said poles, crossarms or supporting fixtures shall paint or mark at their own expense said poles, crossarms, or supporting fixtures in accordance with the rules, regulations and directions of said Commissioner.

### **Codes & Ordinances Committee Recommendation for Chapter 223-14:**

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The definition of "newspaper" in § 223-20 is amended to change "teacher articles" to "feature articles."

**Justification:** *Transcription error – existing ordinance already reads "feature" article. See existing Chapter 35.2 as follows:*

### ~~35.2~~

~~(a)~~ **223-20** Newspaper or **News Periodicals:** A daily or weekly publication containing all of the following: current news, editorials, feature articles and advertising.

### **Codes & Ordinances Committee Recommendation for Chapter 223-20:**



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The definition of "street" in § 223-20 is amended as follows: "All that area dedicated to public use or public street purposes and shall include, but not be limited to, roadways, parkways, alleys, sidewalks, garages, parking lots, parks and playgrounds."

**Justification:** *Correction to grammar. See proposed change(s) as shown in existing Chapter 35.2 as follows:*

**~~35.2 Street:~~**

**223-20**

**STREET** – All that area dedicated to public use or public street purposes **and** shall include, but not be limited to, roadways, parkways, alleys, sidewalks, garages, parking lots, parks and playgrounds.

**Codes & Ordinances Committee Recommendation for Chapter 223-20:**

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Section 223-21C is amended as follows: "Within 60 days of the passage of this article every person or other entity shall comply with the provisions of this article with respect to each newsrack and/or public way obstruction owned by it within the City."

**Justification:** *1. This was an incomplete sentence without added language. 2. Corrected "chapter" to "article". See proposed change(s) as shown in existing Chapter 35.3 c as follows:*

**~~35.3 (c)~~**

**223-21**

**C.** Within ~~sixty (60)~~ **60** days of the passage of this **Chapter article of the General Ordinances of the City of Rochester** **every person or other entity** shall comply with the provisions of this **Chapter article** with respect to each newsrack and/or public way obstruction owned by it within the City.

**Codes & Ordinances Committee Recommendation for Chapter 223-21C:**

---

Section 223-25 is amended to change "bodily or person or property damage" to "bodily injury or damage to private or public property."

**Justification:** *Deletion due to repetition/clarification. See proposed change(s) as shown in existing Chapter 35.7 as follows:*

**~~35.7~~**

**223-25** Hold harmless agreement; **insurance**.

Every person or other entity which places or maintains a newsrack, or public way obstruction on a public sidewalk, parkway, roadway or street in the City shall file a written statement with the Licensing Board, satisfactory to the City Attorney, whereby he/she/it agrees to indemnify and hold harmless the City, its officers, City Council Members and employees, from any loss or liability or damage, including expense and costs for ~~bodily or person or property damage~~ **bodily injury or damage to private or public property** sustained by any person as a result of the installation, use or maintenance of a newsrack or public obstruction within the City. A certificate of **insurance** in a form approved by the City Attorney indicating no less than ~~One Million Dollars (\$1,000,000.00)~~ **\$1,000,000** in general liability insurance coverage and naming the City as an additional insured shall be maintained on file with the Licensing Board by each such person or entity.

**Codes & Ordinances Committee Recommendation for Chapter 223-25:**

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Chapter 254, Vehicles and Traffic.

The definition of "police officer" in § 254-1 is amended as follows: "An officer of the Municipal Police Department or any person authorized to direct or regulate traffic or to make arrests for violations of traffic regulations."

**Justification:** *Consistency of definitions as a result of combining existing Chapters 60 through Chapter 66. See proposed change(s) as shown in existing Chapter 60.8 as follows:*

**~~60.8 Police Officer.~~**

**254-1 Definitions.**

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

**Codes & Ordinances Committee Recommendation for Chapter 254-1:**

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Section 254-39 is amended as follows: "Except as otherwise provided herein, a person violating any provision of Articles I through VIII of this chapter shall be punished by a fine of not more than \$250 for each offense, except that the optional procedures set forth in § 254-42 may be used in lieu of court proceedings for violations of Article III."

**Justification:** Clarification purposes. Update to "articles" as shown in existing Chapter: See proposed change(s) as shown in existing Chapter 65.1 as follows:

### **65.1 Penalties:**

#### **254-39 Violations and penalties.**

**Except as otherwise provided herein, A** a person violating any provision of ~~Chapters 60 through 67~~ **Articles I through VIII** of **this chapter the Traffic Code** shall be punished by a fine of not more than ~~Two Hundred Fifty Dollars (\$250.00)~~ **\$250** for each offense, except that the optional procedures set forth in ~~Section 65.4~~ **§ 254-42** may be used in lieu of court proceedings for violations of ~~Chapter 62.~~ **Article III.**

### **Codes & Ordinances Committee Recommendation for Chapter 254-9:**

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Section 254-49D is amended as follows: "The Licensing Board may establish taxicab stands on such public streets and in such places and in such numbers as shall be determined to be of greatest benefit and convenience to the ~~public, business~~ public and businesses, and every such taxicab stand shall be designated by appropriate markings."

**Justification:** Clarification purposes. See proposed change(s) as shown in existing Chapter 66.6 (d) as follows:

### **66.6-(d)**

**D.** Taxicab Stands. The Licensing Board may establish taxicab stands on such public streets and in such places and in such numbers as shall be determined to be of greatest benefit and convenience to the ~~public, business,~~ **public and businesses** and every such taxicab stand shall be designated by appropriate markings.

### **Codes & Ordinances Committee Recommendation for Chapter 254-49D:**

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Section 254-49E(2) is amended as follows: "In ~~no~~ any case pick up any adults when children under the age of 16 years are alone in the cab, unless said juvenile is seated adjacent to the driver."

**Justification:** Verbiage correction for clarity purposes. See proposed change(s) as shown in existing Chapter 66.6 (e) (2) as follows:

### **66.6**

### **(e)-(2)**

**254-49 E. (2)** In ~~no~~ **any** case pick up any adults when children under the age of sixteen (16) years are alone in the cab, unless said juvenile is seated adjacent to the driver.

## **Codes & Ordinances Committee Recommendation for Chapter 254-49E(2):**

---

Section 254-50B is amended as follows:

Any taxicab driver who shall be convicted of any violation of these rules and regulations, or of any law of the State of New Hampshire, shall forthwith return his/her taxicab driver's license to the Director of the Building, Zoning, and Licensing Services Department who shall retain said license until such time as ~~a permit~~ an application has been filed in the same manner as for an original taxicab driver's license and a determination as to its issuance or denial shall have been made by the Chief of Police and/or the Licensing Board.

**Justification:** *Correction in terminology. See proposed change(s) as shown in existing Chapter 66.7 (b) as follows:*

### **~~66.7(b)~~**

#### **254-50**

**B.** Any taxicab driver who shall be convicted of any violation of these rules and regulations, or of any law of the State of New Hampshire, shall forthwith return his/her ~~taxicab driver's~~ license to the Director of Building, Zoning, & Licensing Services Department who shall retain said license until such time as ~~a permit~~ **an application** has been filed in the same manner as for an original ~~taxicab driver's~~ license and a determination as to its issuance or denial shall have been made by the Chief of Police and/or the Licensing Board.

## **Codes & Ordinances Committee Recommendation for Chapter 254-50B:**

---

Section 254-57C is amended to update the reference to RSA 31:1102 to RSA 31:102 and to update the reference to RSA 262:40-1 to 262:40-a.

**Justification:** *Update to references. See proposed change(s) as shown in existing Chapter 67.6 (c) as follows:*

### **~~67.6(c)~~**

**254-57 C.** The towing service shall, upon request of the City, tow any vehicles which have been abandoned as defined in RSA 262:32, obstructing access as defined in RSA ~~31:1102~~ **31:102** or which are in violation of private property restrictions as outlined in RSA ~~262:40-1~~ **262:40-a**. Towing and storage charges shall be as provided by law.

## Codes & Ordinances Committee Recommendation for Chapter 254-57C:

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### Chapter 260, Water.

The definition of "Business Office" in § 260-2 and §§ 260-19A and B and 260-20A are amended to change "Finance Director" to "Business Administrator."

**Justification:** Update to titles. See proposed change(s) as shown in existing Chapter's 17.2; 17.19 (a) & (b); and 17.20 (a) as follows:

#### ~~17.2 (b)~~ 260-2

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

~~17.20 (a)~~ **A.** Notification. The aggrieved user shall notify the Business Office in writing that said bill is contested before the next payment is due for water service. The notification shall explain why the bill is contested and provide the information necessary to determine the validity of the claim. The ~~Finance Director~~ **Business Administrator**, may require the use of forms to expedite the appeals process.

~~17.20 (b)~~ **B.** Resolution. Upon receipt of a notification under ~~Section 17.20(A),~~ **Subsection A** the ~~Finance Director~~ **Business Administrator**, shall submit the claim to the Utility Advisory Board with a recommendation on the validity of the claim. The **decision of the** Utility Advisory Board shall be final, except that the City Manager shall have the authority to veto or modify any action of the Utility Advisory Board. Aggrieved parties shall be allowed only one appeal per claim.

~~17.21 (a)~~ **A.** An agreement between the City ~~Finance Director~~ **Business Administrator** and the customer may be signed, on a form provided in the Business Office, if the customer is unable to satisfy **his their** water bill in full at the due date. A water shutoff notice and agreement procedure shall be established by the ~~Finance Director~~ **Business Administrator** and approved by the City Manager.

## Codes & Ordinances Committee Recommendation for Chapter 260-2 and 260-19A and B and 260-20A:

---

The definition of "Director" in § 260-2 is amended to "Commissioner" and to read as follows:  
 "The Commissioner of Public Works or his/her designee. See § 7-18A of the City Code."

**Justification:** Update to terminology (for consistency). See proposed change(s) as shown in existing Chapter 17.2 as follows:

~~(g) Director. Commissioner of Public Works as defined in Section 18 of the City Charter or his/her designee.~~

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

### **Codes & Ordinances Committee Recommendation for Chapter 260-2 Definitions – Commissioner:**

---

The definition of "water rates and charges" in § 260-2 is repealed. (*Councilor Abbott – Requested more information.*)

**Justification:** Contradictory to the rest of the ordinance (would direct the customer to the DPW instead of the ordinance where the information is published) Water rates and charges is explained in more detail under 260-17 Establishment of water rates. See proposed change(s) as shown in existing Chapter 17.2 (o) as follows:

~~17.2 (o) Water Rates and Charges. A separate listing of all deposits, water rates, charges, and violation fees can be obtained from the Department of Public Works or Business Office.~~

### **Codes & Ordinances Committee Recommendation for Chapter 260-2 Definitions – water rates and charges:**

---

Section 260-4B is amended as follows: "An estimate of the cost of work to install the service will be prepared by the applicant and verified by the Department of Public Works." (*Councilor Abbott – Requested more information.*)

**Justification:** To accurately reflect current practices. See proposed change(s) as shown in existing Chapter's 17. (b) as follows:

~~17.5 (b)~~ **260-4.B.** An estimate of the cost of work to install the service will be prepared by the **applicant and verified by the** Department of Public Works.

## **Codes & Ordinances Committee Recommendation for Chapter 260-4B:**

---

Section 260-4F is amended as follows: "Interest shall accrue on late payments at the same rate charged by the City for overdue property tax bills."

**Justification:** *Corrected for consistency on definition of interest accrued. See proposed change(s) as shown in existing Chapter 17.5 (f) as follows:*

~~17.5 (f)~~ **260-4. F.** The City of Rochester may allow applicants to enter into agreements with the City to pay all costs in equal installments over a period of time. Interest shall accrue **on late payments** at the same rate charged by the City for overdue property tax bills. Such agreements shall be recorded with the Strafford County Register of Deeds at the expense of the applicant. In the event property is conveyed; all monies owed to the City of Rochester shall be remitted in full.

## **Codes & Ordinances Committee Recommendation for Chapter 260 4F:**

---

Section 260-5 is amended to change "American Water Association" to "American Water Works Association."

**Justification:** *Update to title (never actually existed). See proposed change(s) as shown in existing Chapter 17.5 (f) as follows:*

~~17.6~~ **260-5** Size of **s**ervice and **m**eter **r**required.

The minimum size of service connections and meter installation permitted shall conform ~~with~~ to the recommendations of the American Water **Works** Association.

## **Codes & Ordinances Committee Recommendation for Chapter 260-5:**

---

Sections 260-7A and 260-25A are amended to change "Water Department" to "Division of Water Supply Works." Section 260-7A is further amended to update "firemen" to "firefighters."

**Justification:** *Update to titles. See proposed change(s) as shown in existing Chapter 17.8 (a) as follows:*

~~17.8 (a)~~ **260-7 A.** No persons except those duly authorized by the Department of Public Works, will tap any water main or connect any service pipes thereto. No unauthorized person shall shut off or turn on the water from any main within the street lines. No person except ~~firemen~~ **firefighters** shall open any hydrants without the consent of the Department of Public Works. Water taken out of the system without permission will be calculated by the **Division of Water** ~~Department~~ **Supply Works** and the violator will be required to pay same and, in addition, be subject to a fine for the violation of above provision.

~~17.26 (a)~~ **260-25 A.** Should any customer violate any regulations established by the **Division of Water** ~~Department~~ **Supply Works**, or fail to pay rates or other charges when due, his/her supply shall be shut off, or terminated, and it shall not be resumed until causes of complaint are removed and/or all charges paid.

#### **Codes & Ordinances Committee Recommendation for Chapter 260-7A; 260-25A and 260-7A:**

---

Original § 17.17, Rates, charges and fees, is repealed. (*Councilor Abbott – Requested more information.*)

**Justification:** *Contradictory to the rest of the ordinance (would direct the customer to the DPW instead of the ordinance where the info is published). See proposed change(s) as shown in existing Chapter as follows:*

~~**17.17. Rates, Charges and Fees.**~~ A separate listing of all deposits, water rates, charges, and violation fees can be obtained from the Department of Public Works or the Business Office. **260-16 Reserved.**

#### **Codes & Ordinances Committee Recommendation for Chapter 260-16 Reserved:**

---

Section 260-17 is amended to update "Water Division" to "Division of Water Supply Works."

**Justification:** *Correction to title. See proposed change(s) as shown in existing Chapter 17.8 (a) as follows:*

#### **~~17.18~~ 260-17 Establishment of water rates.**

Water rates shall be established periodically by the City Council. Such water rates shall be computed based on the total amount budgeted for



the Department of Public Works, **Water Division of Water Supply Works**, operations and maintenance, plus any debt service and capital outlays determined by the City Council, and projections of estimated water consumption, number of accounts, and/or other such factors. Water rates shall be recommended to the City Council by the Utility Advisory Board and/or the City Manager and shall be established to provide sufficient revenue to at least pay the expenses of operating and maintaining the water treatment works, transmission and distribution system, and appurtenant facilities.

### **Codes & Ordinances Committee Recommendation for Chapter 260-17:**

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Section 260-19B is amended as follows: "The decision of the Utility Advisory Board shall be final, except that the City Manager shall have the authority to veto or modify any action of the Utility Advisory Board."

**Justification:** *Addition of language for clarity purposes. See proposed change(s) as shown in existing Chapter 17.20 (b) as follows:*

~~17.20 (b)~~ **260-19 B.** Resolution. Upon receipt of a notification under ~~Section 17.20(A)~~ **Subsection A**, the ~~Finance Director~~ **Business Administrator** shall submit the claim to the Utility Advisory Board with a recommendation on the validity of the claim. The **decision of the** Utility Advisory Board shall be final, except that the City Manager shall have the authority to veto or modify any action of the Utility Advisory Board. Aggrieved parties shall be allowed only one appeal per claim.

### **Codes & Ordinances Committee Recommendation for Chapter 260:-19.5:**

---

Section 260-21 is amended as follows: "If such bills are not paid within 30 days or a payment agreement made with the Business Office, the water will be shut off or the charges will become a lien on the property, or both."

**Justification:** *Additional language for clarity purposes. See proposed change(s) as shown in existing Chapter 17.22 as follows:*

### ~~17.22~~ **260-21 Miscellaneous bills.**

Charges for labor and material, including installation costs, shall be billed upon completion of the work which the bill covers. If such bills are not paid within thirty (30) days or a payment agreement made with the Business Office, the water will be shut off or **the charges will**

become a lien on the property, or both. All late payments shall include interest charges. Collection procedures will be taken and any costs will be charged to the customer.

## **Codes & Ordinances Committee Recommendation for Chapter 260-21:**

---

Section 260-22 is amended as follows: "~~Twenty-four~~ Forty-eight hours' advance notice is normally required for turning on and shutting off water. (*Councilor Abbott – Requested more information.*)

**Justification:** *This section does not apply to emergency situations, this is for advanced/planned turn on/turn off situations. If request causes interruption to services of other customers, state law requires 48-hour advanced notice to those interrupted customers (for both turning on or off). See proposed change(s) as shown in existing Chapter 17.23 as follows:*

~~17.23~~ **260-22** Turning **on** and **off**.

~~Twenty-four (24)~~ **Forty-eight** hours' advance notice is normally required for turning on and shutting off water. The requested service will be provided as soon as possible thereafter. All expenses involved will be the responsibility of the customer. Overtime charges at the rate of time and ~~one-half~~ **1/2** will be charged before or after duty hours, with a minimum of a ~~three (3) hours~~ **three-hour** charge.

## **Codes & Ordinances Committee Recommendation for Chapter 260-22:**

---

Section 260-28A is amended as follows: "The Utility Advisory Board shall rule on appeals of user and other charges and fees and perform such other duties that may be assigned by City Council."

**Justification:** *Grammar correction. See proposed change(s) as shown in existing Chapter 17.29 as follows:*

~~17.29~~ **260-28** Utility Advisory Board.

~~(a)~~ **A.** Function of the Board. The Utility Advisory Board shall periodically make recommendations to the City Council on the level of water rates to be established under this **ordinance article**, but such recommendations are not binding on the City Council. The Utility Advisory Board shall rule on appeals of user and other charges and

fees and **perform** such other duties that may be assigned by City Council.

## **Codes & Ordinances Committee Recommendation for Chapter 260-28:**

---

Sections 260-34A and 260-43C are amended to update the reference to New Hampshire Administrative Rules Part Env-Ws 364 to Part Env-Dw 505.

**Justification:** Update to reference. See proposed change(s) as shown in existing Chapter 18.1 and 18.10 (c) as follows:

~~18.1~~ **260-34 A** New Hampshire Code of Administrative Rules, ~~Env-Ws 364~~ **Part Env-Dw 505**, requires that the City of Rochester take appropriate actions to prevent the reverse flow of water previously delivered to customers; or, the backflow of harmful substances into the public water system. Each public water system serving 1,000 or more persons must have a written cross-connection control program ordinance.

~~18.10 C~~ **260-43 C** The permit shall contain the information required in ~~Env-Ws 364~~ **Part Env-Dw 505**, Backflow Prevention.

## **Codes & Ordinances Committee Recommendation for Chapter 260-34A and 260-43C:**

---

The definition of "approved source" in § 260-35 is amended to update the references to the State Water Supply Division to "Water Division." (*Councilor Abbott – Requested more information.*)

**Justification:** Update to title. See proposed change(s) as shown in existing Chapter 18.4 (C) as follows:

~~18.4 C.~~ **260-35** Definitions:

~~Approved Source:~~

**APPROVED SOURCE** - A source of water utilized by a public water system for distribution to the public for consumption purposes and which is approved by the NHDES Water **Supply** Division for said use following a required and/or approved treatment process.

## **Codes & Ordinances Committee Recommendation for Chapter 260-35 Definitions – approved source:**

---

The definition of "auxiliary water supply" in § 260-35 is amended as follows: "Any water supply on, or available to, a premises other than the ~~Town's~~ City's approved public potable water supply."

**Justification:** Rochester is a City, not a town. See proposed change(s) as shown in existing Chapter 18.4 (D) as follows:

~~18.4-D.~~ **260-35** Definitions:

~~Auxiliary Water Supply:~~

**AUXILIARY WATER SUPPLY** - Any water supply on, or available to, a premises other than the ~~Town's~~ **City's** approved public potable water supply.

### **Codes & Ordinances Committee Recommendation for Chapter 260-35 definitions – auxiliary water supply:**

The definition of "hose bib vacuum breaker" in § 260-35 is amended as follows: "A device which is attached to a hose bib and which acts as an atmospherically permanently vacuum breaker."

**Justification:** Grammar correction. See proposed change(s) as shown in existing Chapter 18.4 (K) as follows:

~~18.4-K.~~ **260-35** Definitions:

~~Hose Bib Vacuum Breaker:~~

**HOSE BIB VACUUM BREAKER** - A device which is attached to a hose bib and which acts as an atmospheric**ally** permanently vacuum breaker.

### **Codes & Ordinances Committee Recommendation for Chapter 260-35 Definitions – hose bib vacuum breaker:**

The definition of "potable water" in § 260-35 is amended to change "Division for Human Consumption" to "Water Division."

**Justification:** Update in state organization title. See proposed change(s) as shown in existing Chapter 18.4 (FF) as follows:

~~18.4-FF. Potable Water:~~

**260-35** Definitions:

**POTABLE WATER** - Water from a source that has been approved by the ~~Division for human Consumption~~ **Water Division**.

## **Codes & Ordinances Committee Recommendation for Chapter 260-35 Definitions – potable water:**

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The definition of "premises" in § 260-35 is amended as follows: "The industrial, commercial or residential facility or dwelling subject connected to the public water supply."

**Justification:** Repetition. See proposed change(s) as shown in existing Chapter 18.4(MM) as follows:

**260-35** Definitions:

~~18.4 MM. Premises:~~

**PREMISES** - The industrial, commercial or residential facility or dwelling subject connected to the public water supply.

## **Codes & Ordinances Committee Recommendation for Chapter 260-35 Definitions - premises:**

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The definition of "water service entrance" in § 260-35 is amended to add "any" before "unprotected branch."

**Justification:** Additional language for clarification purposes. See proposed change(s) as shown in existing Chapter 18.4 (II) as follows:

**260-35** Definitions:

~~18.4 II. Water Service Entrance:~~

**WATER SERVICE ENTRANCE** - The point in the customer's water system beyond the sanitary control of the Department; generally considered to be the outlet end of the water meter and always before **any** unprotected branch.

## **Codes & Ordinances Committee Recommendation for Chapter 260-35 Definitions – waters service entrance:**

---

Section 260-36 is amended to read as follows: "The authority for this article is derived from the New Hampshire Administrative Rules Part Env-Dw 505, Backflow Prevention, and the City of Rochester public water system rules and regulations, as adopted."

**Justification:** Corrections made for clarity and update made to reference. See proposed change(s) as shown in existing Chapter 18.2 as follows:

~~18.2~~ **260-36 Authority.**

The authority for this article is derived from the New Hampshire Administrative Rules ~~Part Env-Ws~~ **Env-Dw 364 505**, Backflow Prevention, ~~Section 2.3 Responsibilities of the Water Treatment Chief Operator,~~ and the City of Rochester public water system rules and regulations, **as** adopted.

### **Codes & Ordinances Committee Recommendation for Chapter 260-36:**

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Section 260-38L is amended as follows: "All new single-family residential water services will be required to install a residential No. 7 dual check device immediately downstream of the water meter." (*Councilor Abbott – Requested more information.*)

**Justification:** Clarification to reflect state law. See proposed change(s) as shown in existing Chapter 18.5 (L) as follows:

**L.** All new **single-family** residential water services will be required to install a residential ~~#7~~ **No. 7** dual check device immediately downstream of the water meter.

### **Codes & Ordinances Committee Recommendation for Chapter 260-38-L:**

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Section 260-39 is amended to delete the following note which appeared at the beginning of the section: "Note: Homeowners are permitted to work on their own residential plumbing. A licensed plumber with a valid New Hampshire license is required for work on all industrial, commercial, and rental properties." (*Councilor Abbott – Requested more information.*)

**Justification:** Contradicts current plumbing code. See proposed change(s) as shown in existing Chapter 18.6 as follows:

#### **~~18.6 Owner:~~**

**~~260-39 Requirements of owner. NOTE: Homeowners are permitted to work on their own residential plumbing. A licensed plumber with a valid New Hampshire license is required for work on all industrial, commercial, and rental properties.~~** **A.** The Owner shall be responsible for the elimination or protection of all cross-connections on their premises.

### **Codes & Ordinances Committee Recommendation for Chapter 260-39:**

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Section 260-40 is amended to delete the following wording: "The Department will operate a cross-connection control program, to include keeping of necessary records, which fulfills the

requirements of the Division's Backflow Prevention Regulations and is approved by the Division." (*Councilor Abbott – Requested more information.*)

**Justification:** *Regulator's requirements shouldn't be included in ordinances, only requirements of those being regulated. See proposed change(s) as shown in existing Chapter 18.7 as follows:*

~~**18.7 Administration. A. The Department will operate a cross-connection control program, to include keeping of necessary records, which fulfills the requirements of the Division's Backflow Prevention Regulations and is approved by the Division.**~~

## **Codes & Ordinances Committee Recommendation for Chapter 260-40:**

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Section 260-42 is amended to delete the following wording from Subsection A: "Install an approved reduced pressure zone (RPZ) device at the public water supply service connection" and to replace Subsection B with the following: (*Councilor Abbott – Requested more information.*)

B. The Department shall not permit a cross-connection within the public water supply system unless it is considered necessary and that it cannot be eliminated.

- (1) The customer shall install an approved reduced pressure zone (RPZ) device at the public water supply service connection.
- (2) The customer shall provide the water supplier with backflow prevention device test results per required schedule or the customer's water service from the water provider will be shut off until the data is supplied to the water supplier.

**Justification:** *Increased language to more accurately reflect state regulations. (Schedule A appears to add new sections to the Code; however, most of this is existing language can be found in 18.9 and Article 4 Permits.) See proposed change(s) as shown in existing Chapter 18.9 and Article 4 Permits as follows:*

### **260-42 Auxiliary water sources.**

**A.** Where a single- or dual-family residential customer served by **the** public water supply system has or proposes to install an auxiliary water supply (i.e., well, cistern, spring , etc.), the supplier of the water shall protect the public water supply against backflow by requiring the customer to perform one of the following:

~~**18.9 A.**~~ **(1)** Permanently disconnect the auxiliary water supply from any direct connection to the public water supply system. An inspection

to determine compliance with this requirement shall be made by the supplier of the water, local Director of Building, Zoning, & Licensing Services, or his designee. The frequency of the inspections shall be at the time of the disconnection and at periodic intervals thereafter (i.e. every three to five years).

**~~18.9-B.~~ (2)** Abandon the auxiliary water supply in a manner acceptable by the water supplier.

**~~18.9-C. Install an approved reduced pressure zone (RPZ) device at the public water supply service connection.~~**

**~~Article 4 Permits.~~ B.** The Department shall not permit a cross-connection within the public water supply system unless it is considered necessary and that it cannot be eliminated.

**~~18.9-C.~~ (1)** The customer shall install an approved reduced pressure zone (RPZ) device at the public water supply service connection.

**~~18.9-D.~~ (2)** The customer shall provide the water supplier with backflow prevention device test results per required schedule or the customer's water service from the water provider will be shut off until the data is supplied to the water supplier.

## **Codes & Ordinances Committee Recommendation for Chapter 260-42:**

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Section 260-43 is amended to delete the following wording: "The Department shall not permit a cross-connection within the public water supply system unless it is considered necessary and that it cannot be eliminated." (*Councilor Abbott – Requested more information.*)

***Justification:*** State does not allow cross-connections. No change to the existing language. Existing Article 4: Permits (18.10) has been moved to Section 260-42 (B). See proposed change(s) as shown in existing Article 4 (18.10) as follows:

**~~Article 4 Permits (18.10). The Department shall not permit a cross connection within the public water supply system unless it is considered necessary and that it cannot be eliminated.~~**

**~~Article 4 Permits.~~ 260-42 B.** The Department shall not permit a cross-connection within the public water supply system unless it is considered necessary and that it cannot be eliminated.



## Codes & Ordinances Committee Recommendation for Chapter 260-43:

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Section 260-44 is amended as follows: "Where the degree of hazard has increased, as in the case of a residential installation converting to a business establishment, an existing backflow preventer must be upgraded to ~~a reduced pressure zone principle~~ an approved device, or ~~a reduced pressure zone principle~~ an approved device must be installed in the event that no backflow device is present. (*Councilor Abbott – Requested more information.*)

**Justification:** *Not all devices are reduced pressure zones, there are other approved high hazard devices. See proposed change(s) as shown in existing Chapter 18.11 as follows:*

**18.11 Existing Backflow Prevention Devices** Any existing backflow preventer shall be allowed by the Department to continue in service if in good working order unless the degree of hazard is such as to supersede the effectiveness of the present backflow preventer, or result in an unreasonable risk to the public health. Permits for existing devices shall be issued with durations to coincide with the required schedule of inspection and testing. Where the degree of hazard has increased, as in the case of a residential installation converting to a business establishment, an existing backflow preventer must be upgraded to **an approved** ~~reduced pressure zone principle~~ device, ~~or a reduced pressure zone principle device~~ must be installed in the event that no backflow device is present.

## Codes & Ordinances Committee Recommendation for Chapter 260-44:

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Section 260-45 is amended as follows: (*Councilor Abbott – Requested more information.*)

In Subsection A as follows: "Initial installations, replacements and upgrades shall be performed by ~~a plumber licensed in the State of New Hampshire~~ an individual with a current Backflow Prevention Device Inspector/Tester Certification from the New England Water Works Association (NEWWA)."

**Justification:** *Overly restrictive, one does not have to be a plumber to be a certified backflow tester. See proposed change(s) as shown in existing Chapter 18.12 as follows:*

### **18.12 260-45 Installation. Requirements.**

**A. Installation requirements.** Initial installations, replacements and upgrades shall be performed by a ~~plumber licensed in the state of New Hampshire~~ **an individual** with a current **b**ackflow **p**revention

device inspector/~~t~~ester ~~c~~ertification from the New England Water Works Association (NEWWA).

## **Codes & Ordinances Committee Recommendation for Chapter 260-45A:**

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In Subsection B(4) and (5) to change "Water Department or its designee" to "Department of Public Works or its designee." (*Councilor Abbott – Requested more information.*)

**Justification:** *Correction to title to more accurately reflect current practices. See proposed change(s) as shown in existing Chapter 18.13 as follows:*

~~18.13~~ **B.** Reduced pressure zone backflow prevention devices.

~~D.~~ **(4)** The reduced pressure zone backflow prevention device and shut-off valves must be installed in a horizontal alignment between three and four feet from the floor to the bottom of the device and a minimum of 12 inches from any wall, unless the device is approved by the ~~Water~~ Department **of Public Works** or its Designee, for vertical installations.

~~E.~~ **(5)** Tightly closing valves must be installed at each end of the device and must be immediately accessible unless otherwise approved by the ~~Water~~ Department **of Public Works** of its Designee.

## **Codes & Ordinances Committee Recommendation for Chapter 260-45B(4) and (5):**

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In Subsection B(6) as follows: "~~If~~ A drain is to be provided for a relief valve port[,]. There must be an approved air gap separation between the port and the drain line." (*Councilor Abbott – Requested more information.*)

**Justification:** *Drainage is not optional on devices with relief valve ports in accordance with state regulations. See proposed change(s) as shown in existing Chapter 18.13 as follows:*

~~F.~~ **(6)** ~~If~~ **A** drain is to be provided for a relief valve port~~7~~. **T**here must be an approved air gap separation between the port and the drain line. To be approved, the air gap must be at least twice the internal diameter of the discharge line, or two ~~(2)~~ inches minimum.

**Codes & Ordinances Committee Recommendation for Chapter 260-45B(6):**

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To add Subsection B(7) as follows: "Backflow prevention devices are not allowed to be installed below grade or other location that may be prone to unit inundation and/or submergence."  
(Councilor Abbott – Requested more information.)

**Justification:** Added language to reflect state law. See proposed change(s) as follows:

**(7) Backflow prevention devices are not allowed to be installed below grade or other location that may be prone to unit inundation and/or submergence.**

**Codes & Ordinances Committee Recommendation for Chapter 260-45B(7):**

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In Subsection C(4) and (5) to change "Water Treatment Department Chief Operator or his designee" to "Department of Public Works or its designee."

**Justification:** Correction to title to more accurately reflect current practices. See proposed change(s) as shown in existing Chapter 18.14 C (4) and (5) as follows:

**18.14 C. Double check valve assemblies**

**(4)** The double check valve assembly and shutoff valves must be installed in a horizontal alignment and the top of the double check valve assembly must be between 30 inches and 53 inches from the floor to the bottom of the device and a minimum of 12 inches from any wall, unless the device is approved by the ~~Water Treatment Department Chief Operator~~ **Department of Public Works** or ~~his~~ **its** Designee.

**(5)** Tightly closing valves must be installed at each end of the device and be immediately accessible unless otherwise approved by the ~~Water Treatment Department Chief Operator~~ **Department of Public Works** or ~~His~~ **its** Designee.

**Codes & Ordinances Committee Recommendation for Chapter 260-45C(4) and (5):**

To delete the following wording from the end of the section: "Pit installations shall be approved only as, but not limited to the requirements provided in Section 6.4 below" and "Pit installations. No backflow prevention device shall be installed in pits." (*Councilor Abbott – Requested more information.*)

**Justification:** Verbiage was deleted from the end of the section to accurately reflect state regulations and current city of Rochester practices. See proposed change(s) as shown in existing Chapter 18.14 G and 18.15 as follows:

~~**18.14 G. Pit installations shall be approved only as, but not limited to the requirements provided in Section 6.4 below.**~~

~~**18.15 Pit Installations**~~

~~**No backflow prevention device shall be installed in pits.**~~

### **Codes & Ordinances Committee Recommendation for Chapter 260-45 (18.14 G and 18.15):**

---

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Section 260-46 is amended as follows:

In Subsection B: "Testing and inspection of all devices to include reduced pressure principle backflow devices, testable double check valve assemblies, and testable pressure vacuum breakers shall be performed by ~~a New Hampshire~~ an individual with a current Backflow Prevention Device Inspector/Tester Certification from the New England Water Works Association (NEWWA)."

**Justification:** Pronoun correction. See proposed change(s) as shown in existing Article 7 B as follows:

~~**Article 7-B. 260-46B**~~ Testing and Inspection of all devices, to include reduced pressure principle backflow devices, testable double check valve assemblies, and testable pressure vacuum breakers shall be performed by ~~a New Hampshire~~ **an individual** with a current **backflow prevention device inspector/tester** certification from the New England Water Works Association (NEWWA).

### **Codes & Ordinances Committee Recommendation for Chapter 260-46:**

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In Subsection C: "Parallel installation of two devices of the same size is an effective means of ensuring that uninterrupted water service during testing and repair of devices is maintained and is strongly recommended when the owner desires such continuity." (*Councilor Abbott – Requested more information.*)

**Justification:** Added language for clarification. See proposed change(s) as shown in existing Article 7 (C) as follows:

**C.** Any backflow preventer, which fails during a periodic test, shall be repaired or replaced. When repairs are necessary, upon completion of the repair, the device shall be re-tested at owner's expense to ensure correct operation. High-hazard situations shall not be allowed to continue unprotected if the backflow preventer fails the test and cannot be repaired immediately. The owner is responsible for spare parts, repair tools, or a replacement device. Parallel installation of two ~~(2)~~ devices **of the same size** is an effective means of ensuring that uninterrupted water service during testing and repair of devices is maintained, and is strongly recommended when the owner desires such continuity.

### **Codes & Ordinances Committee Recommendation for Chapter 260-46C:**

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In Subsection E: "Failure to test a backflow prevention device as required, or failure to repair a device when needed, shall result in immediate termination of the water service." (*Councilor Abbott – Requested more information.*)

**Justification:** Constitutes a known hazard to safety of drinking water supply, legally obligated by state law to address the issue immediately. See proposed change(s) as shown in existing Article 7 (E) as follows:

**E.** Failure to test a backflow prevention device as required, or failure to repair a device when needed, shall result in **immediate** termination of the water service.

### **Codes & Ordinances Committee Recommendation for Chapter 260-46E:**

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Original § 18.16, Records, and § 18.17, Reports, are repealed. (*Councilor Abbott – Requested more information.*)

**Justification:** Regulator's requirements shouldn't be included in ordinances, only requirements of those being regulated. See proposed change(s) as shown in existing Chapter 18.16 and 18.17 as follows:

#### **~~18.16 Records~~**

**~~The Department will initiate and maintain the following:~~**

- ~~A. Master files on existing and new properties requiring backflow prevention devices.~~
- ~~B. Master files on customer cross connection tests and/or inspections for all applicable properties.~~
- ~~C. Master files on cross connection permits.~~
- ~~D. Copies of permits and permit applications.~~
- ~~E. Master files on backflow prevention device installation/inspection and testing certification forms.~~
- ~~F. Copies of lists and summaries supplied to the Division.~~

### **18.17 Reports**

~~The Department will submit the following to the Division:~~

- ~~A. Initial listing of low hazard cross connections on New Hampshire Department of Environmental Services, Water Supply Division Low Hazard form X-I (L).~~
- ~~B. Initial listing of high hazard cross connections on New Hampshire Department of Environmental Services, Water Supply Division High Hazard form X-I (H).~~
- ~~C. Annual update lists of Items I and 2, above.~~
- ~~D. Annual summary of cross connection inspections and tests. This report shall be submitted to the department no later than April 1st of the year following the inspection year.~~
- ~~E. Additionally, the Department will submit to the Division:~~
  - ~~• The permit number of the backflow prevention device~~
  - ~~• The name of the Owner of the backflow prevention device~~
  - ~~• The location of the backflow prevention device~~
  - ~~• The date of each inspection and test performed during the year of reporting~~
  - ~~• The name, certifying organization, and certification number of the certified backflow prevention device inspector who performed the inspection and test on the device~~
  - ~~• The result of each inspection and test~~
  - ~~• If the inspection or test result is unsatisfactory, the date at which the backflow prevention device was found to be satisfactory following a subsequent inspection and test in that calendar year period~~

**Codes & Ordinances Committee Recommendation for original 18.16 and 18.17:**

Section 275-1.6 is amended as follows: "If a court or any other body with appropriate jurisdiction finds that any ~~chapter~~ **article**, section, subsection, or provision of this chapter is invalid, that finding shall not invalidate any other provision of this chapter."

**Justification:** *New Code refers to "article" not "chapter". See proposed change(s) as shown in existing Chapter 42.1 (f) as follows:*

~~42.1 (f)~~ **275-1.6.** Severability. The provisions of this chapter are severable. If a court or any other body with appropriate jurisdiction finds that any chapter, section, subsection, or provision of this **chapter article** is invalid, that finding shall not invalidate any other provision of this chapter. Those other provisions shall remain in full force without any other action required.

**Codes & Ordinances Committee Recommendation for Chapter 275-1.6:**

**Planning Board Recommendation:**

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Section 275-1.8 is amended to change the "Class" of the Neighborhood Mixed-Use District in Table 1-A from "Commercial District" to "Residential District."

**Justification:** *The ordinance cited the NMU zone as both a commercial district and a residential district. It can only be one or the other. It is a residential district as noted in section 42.5 "residential zoning districts" See proposed change(s) as shown in existing Table 1-A Zoning Districts as follows:*

**TABLE 1-A Zoning Districts**

Full Name	Abbreviation	Class
Neighborhood Mixed-Use District	NMU	<del>Commercial District</del> <b>Residential District</b>

**Codes & Ordinances Committee Recommendation for Chapter 275-1.8:**

**Planning Board Recommendation:**

---

Section 275-2.1E is replaced with the following (to reflect the new numbering system in this chapter):

**Justification:** *To rid the Code of the old numbering system and to replace with the new numbering system. See details below: See proposed change(s) as shown in existing Chapter 42.2 (a) (5) as follows:*

**~~42.2(a)(5):~~**

~~For the purposes of this chapter, the words "this chapter" refers to this entire zoning ordinance, Chapter 42 of the City of Rochester General Ordinances. The words "this section" refers to a specific portion of this chapter, as designated by Arabic numerals (such as "42.1" or "42.2"). The words "this subsection" refers to a specific portion of a section as designated by a lower case letter (such as "a" or "b"). The levels continue by using an Arabic numeral (such as "1" or "2"), a capital letter (such as "A" or "B"), a lower case Roman numeral (such as "i" or "ii"), or another lower level designation. The words "this ordinance" applies to this chapter, a section of this chapter, or a subsection of this chapter, as the context may imply.~~

**275-2.1. E**

For the purposes of this chapter, the words "this chapter" refer to this entire Zoning Ordinance, Chapter 275 of the City of Rochester General Ordinances. The words "this article" refer to a specific portion of this chapter, as designated by an article number (such as "Article 1" or "Article 2"). The words "this section" refer to a specific portion of an article designated by a section number (such as "§ 275-1.1" or "§ 275-3.2"). The words "this subsection" refer to a specific portion of a section as designated by a letter or number [such as "A" or "(1)" or "(a)"].

**Codes & Ordinances Committee Recommendation for Chapter 275-2.1E:**

**Planning Board Recommendation:**

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In § 275-2.2, Definitions: (*Councilor Abbott – Requested more information.*)

The definition of "apartments or apartment buildings" is amended as follows:

Apartment Buildings: See "dwelling, apartment building," "dwelling, mixed-use," "dwelling, multifamily," and "security apartment."

**Justification:** *In the table of permitted uses, the use classification is "dwelling, apartments (apartment\mixed use building)" Therefore there is no use known as "dwelling, apartment building". See proposed change in existing Chapter 42.2 (b) (17) as follows:*

**~~42.2(b)(17)Apartment Buildings:~~**



**275-2.2. Definitions.**

**APARTMENTS or APARTMENT BUILDINGS:** See "dwelling, apartment building," "dwelling- mixed use", "dwelling, multifamily", and "security apartment".

**Codes & Ordinances Committee Recommendation for Chapter 275-2.2:**

**Planning Board Recommendation:**

---

The definition of "earth excavation" is amended to correct the reference to RSA 155 to RSA 155-E.

**Justification:** Update to RSA reference. See proposed change(s) as shown in existing Chapter 42.2 as follows:

**~~42.2 Earth Excavation (or "mining" or "resource extraction"):~~**

**275-2.2.**

**EARTH EXCAVATION (or MINING or RESOURCE EXTRACTION) -** The commercial removal of materials on or below the surface of the earth, including soil, sand, gravel, rock, stones, clay, peat, or other mineral deposits or organic substances in accordance with RSA 155-E. This does not include the removal of vegetation or materials incidental to agriculture, development site work, or building construction.

**Codes & Ordinances Committee Recommendation for Chapter 275.2.2 Earth Excavation:**

**Planning Board Recommendation:**

---

The definition of "lounge" under "eating and drinking establishments" is amended to delete "(or TAVERN)" after "LOUNGE." (*Councilor Abbott – Requested more information.*)

**Justification:** Tavern allows alcohol carry-out, where as a Lounge must keep the alcohol on premises. See proposed change(s) as shown in existing Chapter 42.2 as follows:

**~~42.2 Lounge:~~**

**275-2.2.**

**LOUNGE -** See "Eating and Drinking Establishments" **~~Lounge (or "Tavern")~~**: A section of a restaurant that sells alcoholic beverages for consumption on the premises (as an accessory use).

**Codes & Ordinances Committee Recommendation for Chapter 275.2.2 under Eating Establishments:**

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## Planning Board Recommendation:

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The definition of "hazardous substance/waste" is amended to change "Division of Environmental Services" to "Department of Environmental Services."

**Justification:** *Correction to the title of DES. See proposed change(s) as shown in existing Chapter 42.2 Definitions as follows:*

### ~~42.2 Hazardous Substance/Waste:~~

**275-2.2. HAZARDOUS SUBSTANCE/WASTE** - Hazardous waste materials are classified as such by the NH ~~Division~~ **Department** of Environmental Services under RSA 147-A: 2.

## Codes & Ordinances Committee Recommendation for Chapter 275.2.2 under hazardous substance/waste:

### Planning Board Recommendation:

---

In the definition of "junkyard" Subsection B is amended to correct the reference to RSA 236:12 to RSA 236:112.

**Justification:** *Correction to the reference of RSA 236:112,III. See proposed change(s) as shown in existing Chapter 42.2 Definitions as follows:*

~~42.2 Junk yard and /or Junkyard: "Junk yard" and/or "Junkyard" means~~ **JUNKYARD** - A place used for storing and keeping, or storing and selling, trading, or otherwise transferring old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste, or junked, dismantled, or wrecked motor vehicles, or parts thereof, iron, steel, or other old or scrap ferrous or nonferrous material. As used in this subdivision, the term includes, but is not limited to, the following types of junkyards:

- A. Automotive recycling yards, meaning a motor vehicle junkyard, as identified in subparagraph (c), the primary purpose of which is to salvage multiple motor vehicle parts and materials for recycling or reuse;
- B. Machinery junkyards, as defined in RSA 236:112, III; and
- C. Motor vehicle junkyards, meaning any place, not including the principal place of business of any motor vehicle dealer registered with the director of motor vehicles under RSA 261:104 and controlled under RSA

236:126, where the following are stored or deposited in a quantity equal in bulk to 2 or more motor vehicles:

## **Codes & Ordinances Committee Recommendation for Chapter 275.2. Definition of Junkyards:**

### **Planning Board Recommendation:**

---

Under "retail establishments" Subsection F, Retail services, is amended as follows: (*Councilor Abbott – Requested more information.*)

"Retail services" does not include retail sales except for incidental items related to the service, as an accessory use, ~~not~~ or the leasing/rental of equipment or goods if stored on the premises.

**Justification:** Clarification of the intent. See proposed change(s) as shown in existing Chapter 42.2 Definitions as follows:

**~~42.2~~ Retail Services:** A facility for providing direct personal or business services to walk-in customers. "Retail **services**" does not include retail sales except for incidental items related to the service, as an accessory use, **not** **or** the leasing/rental of equipment or goods if stored on the premises. (Also see "Office", "Retail Sales", and "Service Establishment").

## **Codes & Ordinances Committee Recommendation for Chapter 275.2. Definition of retail establishments Subsection F:**

### **Planning Board Recommendation:**

---

Under "retail establishments" Subsection H, Service establishment, is amended to change "by Building, Zoning, and Licensing Services" to "by the Director of Building, Zoning, and Licensing Services." (*Councilor Abbott – Requested more information.*)

**Justification:** Correction to the title. See proposed change(s) as shown in existing Chapter 42.2 Definitions as follows:

**Service Establishment:** Retail, wholesale, and business services of a more intensive nature than "Retail Services" including repair of heavy equipment, machines with engines, and furniture involving the significant use of chemicals; rental of large or heavy equipment; and other miscellaneous activities with greater potential performance impacts, as reasonably determined by **the Director of** Building, Zoning, and Licensing Services.

## **Codes & Ordinances Committee Recommendation for Chapter 275.2. Definition of retail establishments Subsection H:**

## Planning Board Recommendation:

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A definition of "retail services" is added to read "See 'retail establishments.'"

**Justification:** *The existing ordinance makes reference to retail service; however, it currently does not direct the reader to a definition. See proposed change(s) as follows:*

**RETAIL SERVICES - See "retail establishments."**

## Codes & Ordinances Committee Recommendation for Chapter 275.2. Definition of retail services:

### Planning Board Recommendation:

---

A definition of "setback, special" is added to read as follows: "In addition to the setbacks listed in the Tables of Dimensional Standards there are several use-specific and situational-specific setbacks noted throughout this chapter. The more restrictive setback will apply."

**Justification:** *The existing ordinance makes reference to "Setback, Special" however, it does not define "Setback, Special." See proposed change(s) as below:*

**SETBACK, SPECIAL – In addition to the setbacks listed in the Tables of Dimensional Standards there are several use-specific and situational-specific setbacks noted throughout this chapter. The more restrictive setback will apply.**

## Codes & Ordinances Committee Recommendation for Chapter 275.2. Definition of setback, special:

### Planning Board Recommendation:

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The definition of "sight triangle" is amended to delete "(For additional information see Article 27.)"

**Justification:** *The current ordinance directs reader to another chapter for more information; however there is currently no cross-reference to "sight triangle." See proposed change(s) as shown in existing Chapter 42.2 Definitions as follows:*

**42.2 275-2.2 Sight Triangle:** A triangular-shaped portion of land established at street intersections in which nothing is erected, placed, planted, or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving the intersection.  
**(For additional information see 42.27)**

**Codes & Ordinances Committee Recommendation for Chapter 275.2. Definition of sight triangle:**  
**Planning Board recommendation:**

---

The definition of "single-unit dwelling" is repealed. (*Councilor Abbott – Requested more information.*)

**Justification:** *This is a term which isn't used in the ordinances. The term used throughout the ordinances is "Single family dwelling" See proposed change(s) as shown in existing Chapter 42.2 Definitions as follows:*

Single-Unit Dwelling: ~~See "Dwelling, Single Unit".~~ **Repealed.**

**Codes & Ordinances Committee Recommendation for Chapter 275.2. Single-Unit Dwelling:**  
**Planning Board Recommendation:**

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In the definition of "solid waste facility" Subsections A and B are amended to update the reference to Chapters Env-Wm 100 to 1100 of the New Hampshire Administrative Rules to Chapters Env-Hw 100 to 1100.

**Justification.** *Update to references. See proposed change(s) as shown in existing Chapter 42.2 Definitions as follows:*

**Solid Waste Facility:** A location or system for resource recovery, recycling, collection, source separation, storage, transportation, processing, treatment or disposal of solid waste. Devices, equipment, and other structures required or ordered to be installed at a Solid Waste Facility by the Department of Environmental Services, State of New Hampshire, shall be deemed to be an accessory use of a solid waste facility. The term "solid waste facility" includes devices, equipment, buildings, uses and structures for the treatment, processing or beneficial use of by-products resulting from the treatment, processing or disposal of solid waste (such as landfill gas and landfill leachate).

- A. For the purposes of this chapter, the term "solid waste facility" shall specifically exclude hazardous waste facilities including those regulated under the NH DES **Hazardous Waste Rules (New Hampshire Code of Administrative Rules Chapters Env-Wm Hw 100 - 1100)** and, so-called, waste-to-energy facilities involving the incineration of solid waste.
- B. For the purpose of the interpretation of the provisions of this **ordinance chapter** relative to the authorization and operation of a solid waste facility, all definitions contained in Chapter 149-

M of the New Hampshire Revised Statutes Annotated and applicable regulations promulgated there under (e.g. **New Hampshire Code of Administrative Rules Chapters Env-Wm Hw 100- 1100**) as presently enacted or the corresponding provision(s) of any recodification or amendment thereof shall apply, unless a specific and more restrictive definition of any applicable term shall be adopted as part of this chapter. "Solid waste facility" includes, but is not limited to, composting facility, junkyard, and recycling facility. (See also "Composting Facility", "Junkyard", and "Recycling Facility".)

## **Codes & Ordinances Committee Recommendation for Chapter 275.2. Solid waste facility:**

### **Planning Board Recommendation:**

The definition of "temporary wireless communication facility is amended as follows:

TEMPORARY WIRELESS COMMUNICATIONS FACILITY – Any wireless communications facility designed for short-term use only for a special event or while a permanent wireless communications facility is under construction.

**Justification:** *Clarification of type of facility. See proposed change(s) as shown in existing Chapter 42.2 Definitions as follows:*

**Temporary Wireless Communication Facility:** Any wireless communication facility designed for short term use only for a special event or while a permanent wireless **communications** facility is under construction.

## **Codes & Ordinances Committee Recommendation for Chapter 275.2. Temporary Wireless Communication Facility:**

### **Planning Board's recommendation:**

The definition of "townhouse" is repealed.

**Justification:** *"Townhouse" is a style of construction, not a use. See proposed change(s) as shown in existing Chapter 42.2 Definitions as follows:*

**Townhouse:** ~~See "Dwelling, Townhouse".~~ **Repealed.**

**Codes & Ordinances Committee Recommendation for Chapter 275.2. Definition of Townhouse:**  
**Planning Board's recommendation:**

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The definition of "wireless communications facility" is repealed. (*Councilor Abbott – Requested more information.*)

**Justification:** Merging definitions of wireless communications facility and wireless communication systems, existing wireless communications systems will be retitled as "wireless communications facilities." See proposed change(s) as shown in existing Chapter 42.2 Definitions as follows:

Wireless Communications Facility: ~~See "Alternate Tower Structure Antenna and Tower"~~ **Repealed.**

**Codes & Ordinances Committee Recommendation for Chapter 275.2. Definition of Wireless communication facility:**  
**Planning Board recommendation:**

---

The definition of "wireless communications systems (or WFC)" is amended to "wireless communications facilities (or WCF)" and to add the following sentence: "See 'alternate tower structure,' 'antenna' and 'tower.'" (*Councilor Abbott – Requested more information.*)

**Justification:** Merging definitions of wireless communications facility and wireless communication systems, existing wireless communications systems will be retitled as "wireless communications facilities." See proposed change(s) as shown in existing Chapter 42.2 Definitions as follows:

Wireless Communications ~~Systems~~ **facilities** (or "WCF"): Any towers, poles, or other support structures, attached antennas, and accessory structures and elements used for the transmission or reception of signals for radio, television, paging systems, personal communications services, cellular telephone systems, or for any other spectrum-based systems. Mobile vehicle mounted or transported systems, such as used for mobile news organizations, are not considered wireless communications facilities under this ordinance. **See 'alternate tower structure,' 'antenna' and 'tower.'**"

**Codes & Ordinances Committee Recommendation for Chapter 275.2. Definition of Wireless communication systems:**  
**Planning Board recommendation:**



Section 275-2.3 is amended to change "Division of Environmental Services" to "Department of Environmental Services."

Section 275-3.2 is amended to delete the following wording (covered by § 275-1.7): (*Councilor Abbott – Requested more information.*)

It is emphasized that the requirements of this chapter constitute minimum requirements. Unless otherwise stated, clearly implied, or stipulated by other applicable law, compliance with all provisions of this chapter does not necessarily ensure approval of applications. In most cases, the applicant will need to comply with, or obtain approval under, other regulations, including Site Plan Regulations; Subdivision Regulations; the City of Rochester Building Code; State of New Hampshire statutes; other City of Rochester General Ordinances, codes, standards, and policies; and state and federal statutes and regulations.

**Justification:** *The first paragraph of 275-3.2 only reiterates the below paragraph 275-1.7 as seen below. See proposed change(s) as shown in existing Chapter 42.3(b) Definitions as follows:*

**275-1.7 Minimum requirements.** The provisions of this chapter shall be construed to be the minimum requirements for the granting of any pertinent City approvals. Compliance with these requirements, however, is not necessarily deemed sufficient for the granting of these approvals. All applicants must comply with all other applicable statutes, ordinances, regulations, rules, standards, and policies of the City of Rochester and of other governmental authorities. In particular, all applicants must comply with the City of Rochester Site Plan Regulations and the City of Rochester Subdivision Regulations which include myriad specific requirements and provide for the reasonable judgment of the Planning Board and other City authorities in reviewing applications. An application might meet all of the minimum requirements of this chapter but be legitimately denied by the Planning Board in accordance with general or specific provisions of those regulations or other applicable regulations.

**275-3.2 Effect of other laws.** ~~Minimum Requirements. It is emphasized that the requirements of this chapter constitute minimum requirements. Unless otherwise stated, clearly implied, or stipulated by other applicable law, compliance with all provisions of this chapter does not necessarily ensure approval of applications. In most cases, the applicant will need to comply with, or obtain approval under, other regulations—including Site Plan Regulations; Subdivision Regulations; the City of Rochester Building Code; State of New Hampshire statutes; other City of Rochester General Ordinances, codes, standards, and policies; and state and federal statutes and regulations.~~

- A. Most restrictive provision. Where a provision of this chapter differs from any provision contained in any other



applicable statute, regulation, ordinance, code, standard, or policy, that provision which imposes the greatest restriction or the higher standard shall govern.

- B. Overriding **state** or **federal law**. Where any state or federal law overrides any provision(s) of this chapter, the state or federal law shall be determining and any affected portions of this chapter may be disregarded or interpreted as necessary to comport with the overriding law.

### **Codes & Ordinances Committee Recommendation for Chapter 275.3.2:**

#### **Planning Board recommendation:**

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Section 275-3.3A is amended to change "building or occupancy permit" to "building permit or certificate of occupancy."

**Justification:** *To insert correct titles of the type of permit and the Certificate of Occupancy. See proposed change(s) as shown in existing Chapter 42.3 (e) (1) Definitions as follows:*

#### **~~42.3(e)(1)~~**

275-3.3 **A.** Building Permit. No building or other structure as required by the City of Rochester Building Code, as amended, shall be constructed, altered, enlarged, or moved unless a building permit for such action has been issued by the Director of Building, Zoning, and Licensing Services. In accordance with RSA 676:13 I. no building **permit** or **certificate of** occupancy **permit** shall be issued for any building or activity unless it is in compliance with the provisions of this chapter.

### **Codes & Ordinances Committee Recommendation for Chapter 275.3.3A:**

#### **Planning Board recommendation:**

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Section 275-5.3A is amended to delete the following sentence: "All development in the Residential Districts should follow the principles of Traditional Neighborhood Development (see definition in Article 2)." (*Councilor Abbott – Requested more information.*)

**Justification:** *There is no definition of "Traditional neighborhood" in the ordinances See proposed change(s) as shown in existing Chapter 42.5 (c) as follows:*

**42.5-(c)** Residential 1 and Residential 2 Districts (R1 and R2)

**A.** Character of Districts. ~~All development in the Residential Districts should follow the principles of Traditional Neighborhood Development (see definition in Section 42.2).~~ The primary goals of the R Districts are:

(1) **T**o enhance these older residential areas through sensitive, small scale in-fill construction, building renovation, and redevelopment; and

(2) **T**o foster new development in remaining open areas.

**B.** The R1 District is intended to allow single family neighborhoods and thus allows single family use with few other allowed uses. The R2 District allows for a mix of residential types and limited nonresidential uses.

**Codes & Ordinances Committee Recommendation for Chapter 275-5.3A:**

**Planning Board recommendation:**

---

Section 275-5.4 is amended to change "town water or sewer services" to "City water or sewer services."

**Justification:** Clarification on terms. See proposed change(s) as shown in existing Chapter 42.5 (d) as follows:

**42.5-(d)**

**275-5.4. Agricultural District (AG)**

The AG District includes mostly outlying areas of the **C**ity; such areas may or may not be serviced by ~~town~~ **C**ity water or sewer services.

**Codes & Ordinances Committee Recommendation for Chapter 275-5.4:**

**Planning Board recommendation:**

---

Section 275-6.3C(2)(b)[1] is amended to add the following sentence: "Also see special setbacks in Note 1 on Table 19-B."

**Justification:** Clarifies additional applicable setbacks. See proposed change(s) as shown in existing Chapter 42.6 (3) (B) (i) as follows:

**A:** (2) Setbacks.

ii. (a) Front Build to Line/Zone.

- [1] In the DC district a build-to line of 5 feet is established for all commercial buildings and for additions to such buildings fronting on the street (it is preferred, that the building be built right up to the sidewalk with no setback).
- [2] In the DC District a build-to zone between 5 and 10 feet is established for all non-commercial buildings and for additions to such buildings fronting on the street.
- [3] The build to line and build to zone may be altered by conditional use where appropriate, such as for churches and civic type buildings, which may warrant a larger front setback and landscaped or hardscaped yard or to create pedestrian oriented amenities such a pocket parks or plazas or upon a finding that the build to line or zone is not practical or to conform with prevailing existing setbacks.

iii. (b) Side/Rear Setbacks.

- [1] There are no minimum side setbacks except for spacing between buildings as specified in the Building and Fire Codes. Also see special setbacks in Note 1 on Table 19-B."
- [2] The Planning Board may alter the rear setbacks by conditional use, where appropriate, such as to accommodate rear decks for dining, to accommodate pedestrian oriented facilities, or to allow for optimal uses of lots consistent with the intent of this section. The Planning Board must determine that any reduction

does not measurably interfere with or negatively impact abutting properties, particularly residential properties.

**Codes & Ordinances Committee Recommendation for Chapter 275-6.3C(2)(b)[1]:**

**Planning Board recommendation:**

---

Section ~~275-6.3C(4)~~ **275-6.4C(4)** is amended to change "Building Safety Department" to "Building, Zoning, and Licensing Services Department."

**Justification:** *Correction to title. See proposed change(s) as shown in existing Chapter 42.6 (d)(3) (D) as follows:*

**(4) Driveways.**

No part of any driveway or curb cut may be located in front of the front façade of any primary building; rather, they must be situated along or in close proximity to side lot lines, unless otherwise approved by the Planning Board, ~~Building Safety Department~~ **Building, Zoning, and Licensing Services Department** or Department of Public Works.

**Codes & Ordinances Committee Recommendation for Chapter 275-6.3C(4):**

**Planning Board recommendation:**

---

Section 275-6.5F is amended to delete the following sentence: "Refer to Appendix D annexed hereto and entitled 'GRD Service Road Cross-Section - Figure 1' for configuration details."

**Justification:** *Correction to outdated reference. See proposed change(s) as shown in existing Chapter 42.6 (f) (6) (B) as follows:*

~~**B. Refer to APPENDIX D annexed hereto and entitled "GRD SERVICE ROAD CROSS SECTION - FIGURE 1", for configuration details.**~~

**Codes & Ordinances Committee Recommendation for Chapter 275-6.5F:**

**Planning Board recommendation:**

---

Section 275-8.6B is amended to delete the following sentence: "Refer to Appendix D annexed hereto and entitled 'GRD Service Road Cross-Section - Figure 1' for configuration details."

**Justification:** Correction to outdated reference. See proposed change(s) as shown in existing Chapter 42.8 (f) (2) as follows:

~~B. Refer to APPENDIX D annexed hereto and entitled "GRD SERVICE ROAD CROSS SECTION FIGURE 1", for configuration details.~~

**Codes & Ordinances Committee Recommendation for Chapter 275-8.6B:**

**Planning Board recommendation:**

The definition of "regulated substance" in § 275-10.3 is amended to change "department-approved facilities" to "facilities approved by the Department of Environmental Services."

**Justification:** Specified which department is designated to approve the facility. See proposed change(s) as shown in existing Chapter 42.10 (c) (9) as follows:

Regulated substance: **Any** of the following, with the exclusion of all substances used for the treatment of drinking water or wastewater at ~~department-approved~~ facilities **approved by the Department of Environmental Services.** <sup>1</sup>[Env-Wq401.03(h), NH Code of Administrative Rules]:

**Codes & Ordinances Committee Recommendation for Chapter 275-10.3:**

**Planning Board recommendation:**

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Section 275-10.9C(2) is amended as follows: "The Planning Board may, at its discretion, require a performance guarantee or bond in an amount and with conditions satisfactory to the Board, to be posted to ensure completion of construction of any facilities required for compliance with the performance standards."

**Justification:** Grammar correction. See proposed change(s) as shown in existing Chapter 42.10 (i) (3) (F) as follows:

~~42.10 (i) (3) (F)~~ **275-10.9 C (2)** The Planning Board may, at its discretion, require a performance guarantee or bond in an amount **and with** conditions satisfactory to the Board, to be posted to ensure completion of construction of any facilities required for

compliance with the Performance Standards.

**Codes & Ordinances Committee Recommendation for Chapter 275-10.9C(2):**

**Planning Board recommendation:**

---

Section 275-10.11A is amended to change "performance measures" to "performance standards."

**Justification:** *Change to industry standard terminology. See proposed change(s) as shown in existing Chapter 42.10 (k) (1) as follows:*

**A.** Any private residence, excluding home occupations, is exempt from all performance ~~Measures~~ **standards**.

**Codes & Ordinances Committee Recommendation for Chapter 275-10.11A:**

**Planning Board recommendation:**

---

Section 275-10.11H is amended to update the reference to the New Hampshire Administrative Rules from "Env-Wm" to "Env-Hw."

**Justification:** *Correction to mistitled state reference. See proposed change(s) as shown in existing Chapter 42.10 (k) (8) as follows:*

~~42.20 (k) (8)~~ **275-10.11H** Any non-reoccurring household hazardous waste collection projects regulated under NH Code of Administrative Rules Env-Wm ~~Hw~~ 401.03(b)(1) and 501.01(b) are exempt from Performance Standard 3.

**Codes & Ordinances Committee Recommendation for Chapter 275-10.11H:**

**Planning Board recommendation:**

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The definitions of "poorly drained soil" and "very poorly drained soil" in § 275-12.6 are amended to change "As defined High Intensity Soil Maps for New Hampshire Standards" to "As defined by high-intensity soil maps for New Hampshire."

**Justification:** *Correction to terminology. See proposed change(s) as shown in existing Chapter 42.12 (f) (5) and (7) as follows:*

~~42.12 (f) (5) and (7)~~ **275-12.6** "Poorly drained soil" as defined ~~High Intensity Soil Maps for New Hampshire Standards~~ **by**

**high-intensity soil maps for New Hampshire** sponsored by the Society of Soil Scientist of Northern Special Publication No. 1, Sept. 2002.

"Very poorly drained soil" as defined ~~High Intensity Soil Maps for New Hampshire Standards~~ **by high-intensity soil maps for New Hampshire** sponsored by the Society of Soil Scientist of Northern New England Special Publication No. 1, Sept. 2002.

**Codes & Ordinances Committee Recommendation for Chapter 275-12.6 definitions of "Poorly drained soils" and "Very Poorly drained soils":**

**Planning Board recommendation:**

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The definition of "wetland" in § 275-12.6 is amended as follows: "those areas that are surface inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for a life in saturated soil conditions.

**Justification:** *Updated to conform to state definition, and to remove redundant wording See proposed change(s) as shown in existing Chapter 42.12 (f) as follows:*

**~~42.12 (f) The term "wetland"~~**

**275-12.6**

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

**Codes & Ordinances Committee Recommendation for Chapter 275-12.6 definitions of "wetland":**

**Planning Board recommendation:**

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Section 275-12.8B(7) is amended as follows: "but not within 25 feet of the edge of ~~wet~~ of the adjacent wetland." (*Councilor Abbott – Requested more information.*)

**Justification:** Removed word to correct grammar See proposed change(s) as shown in existing Chapter 42.12 h 2 G as follows:

~~42.2-275-12~~ **275-12.8 (B)(7)** Production, cultivation, growing, and harvesting of any fruit, vegetable, floricultural or horticultural crops, conducted in accordance with Best Management Wetlands Practices for Agriculture (July 1993, amended September 1998; (on file with this ordinance with the City Clerk) but not within 25 feet of the edge of ~~wet of~~ the adjacent wetland.

**Codes & Ordinances Committee Recommendation for Chapter 275-12.8B(7):**

**Planning Board recommendation:**

---

Section 275-13.4F is amended to delete the following wording: "If the structure has been floodproofed, the as-built elevation (in relation to mean sea level) to which the structure was floodproofed." (*Councilor Abbott – Requested more information.*)

**Justification:** Removed section due to redundant wording. See proposed change(s) as shown in existing Chapter 42.13 (d) (6) as follows:

~~42.13 (d) (6)~~ **275-13.4F.** The Director of Building, Zoning, and Licensing Services shall maintain for public inspection, and furnish upon request, any certification of flood-proofing and the as-built elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and include whether or not such structures contain a basement. ~~If the structure has been floodproofed, the as-built elevation (in relation to mean sea level) to which the structure was floodproofed.~~ This information must be furnished by the applicant.

**Codes & Ordinances Committee Recommendation for Chapter 275-12.13.4F:**

**Planning Board recommendation:**

---

Section 275-14.5C(1) is amended to change "Building Department" to "Building, Zoning, and Licensing Services Department."

**Justification:** Update to title of department. See proposed change(s) as shown in existing Chapter 42.14 (e) (3) (A) as follows:

~~42.14 (e) (3) (A)~~ **275-14.5(C) (1)** Recognizing that a lengthy approval process can be costly to landowners, developers, and



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

### **Codes & Ordinances Committee Recommendation for Chapter 275-12.14.5C(1):**

#### **Planning Board recommendation:**

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Section 275-19.2I is amended to delete the following: "The width of a lot bordering on and providing access to a Class I through Class V public street, but excluding limited access highways, as defined by RSA 230:44, such as the Spaulding Turnpike, Route 16 and associated access ways to the Milton Town Line."

**Justification:** *This is a redundancy for the definition of Frontage "or street frontage", which already exists in 275-2.2. See proposed change(s) as shown in existing Chapter 42.19 b. 12-15 as follows:*

#### ~~**42.19 (b) (12)**~~

**(15) 275-19.2 (I)** *Frontage.*

- (1) *Continuous. An area used to meet frontage requirements must be continuous and unbroken. Two or more discrete areas may not be added together to meet frontage requirements.*
- (2) ~~**Frontage**~~ *Cul-de-Sacs. The Planning Board may reduce the required frontage on the curved end portion of a cul-de-sac by up to 20% by conditional use (due to the narrower frontage relative to lot width that naturally occurs along a cul-de-sac).*
- (3) ~~**Frontage**~~ *Depth. The front portion of every lot must be at least the width of the required frontage from the front property line extending back at least the depth of the setback from the front property line.*

~~*Frontage — Turnpike. The width of a lot bordering on and providing access to a Class I through Class V public street, but*~~

~~excluding limited access highways, as defined by RSA 230:44, such as the Spaulding Turnpike, Route 16 and associated access ways to the Milton Town Line.~~

## **Codes & Ordinances Committee Recommendation for Chapter 275-19.2I:**

### **Planning Board recommendation:**

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Section 275-20.2M(2) is amended to change "Rural Residential zone" to "Agricultural District."

**Justification:** *There is no term "Rural Residential Zone" in the current ordinances. See proposed change(s) as shown in existing ~~42.20 M~~ **275-20 M**. Outdoor ~~wood-fired Boilers~~ **hydronic heater or outdoor wood boiler**.*

~~42.20 (b) (13) (B)~~ **275-20 M. (2)** The installation and/or operation of outdoor wood-fired hydronic heaters are permitted in the ~~Rural Residential zone~~ **Agricultural District** only.

## **Codes & Ordinances Committee Recommendation for Chapter 275-20.2M(2):**

### **Planning Board recommendation:**

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Section 275-20.2N(7)(a) is amended to change "certified mail" to "verified mail, as defined in RSA 451-C:1."

**Justification:** *Corrected "certified" to "verified" as defined in RSA 451-C:1. See proposed change(s) as shown in existing Chapter 42.20 (b) (14) (G) (i) as follows:*

~~42.20 (b) (14) (G) (i)~~ **275-20.2 N(7)(a)** The Director of Building, Zoning, and Licensing Services shall notify all abutters by ~~certified~~ **verified** mail upon application for a building permit to construct a small wind energy system. The cost of abutter notification shall be paid by the applicant. Abutters shall be afforded a 30-day comment period prior to the issuance of a building permit.

## **Codes & Ordinances Committee Recommendation for Chapter 275-20.2N(7)(a):**

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**Planning Board recommendation:**

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Section 275-20.2N(8)(h)[4] is amended as follows: "If lighting is required, the applicant shall provide a copy of the FAA regulations for determination to establish the required markings and/or lights for the small wind energy system."

**Justification:** Clarification to sentence by including the word "regulations." See proposed change(s) as shown in existing Chapter 42.20 (b) (14) (H) (viii) (4) as follows:

~~42.20 (b) (14) (H) (viii) (4)~~ **275-20.2N(8)(h)[4]** A small wind energy system shall not be illuminated unless such lighting is required by the Federal Aviation Administration (FAA). If lighting is required, the applicant shall provide a copy of the FAA **regulations** for determination to establish the required markings and/or lights for the small wind energy system.

**Codes & Ordinances Committee Recommendation for Chapter 275-20.2N(8)(h)[4]:**

**Planning Board recommendation:**

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Section 275-22.3N is amended to delete the following sentence: "In addition, all of the standards articulated in Article 20, Standards for Specific Permitted Uses, under Wireless Communications Facilities and Table 20-A, Commercial Wireless Facilities Standards, shall also apply to facilities allowed by special exception."

**Justification:** Referenced standards do not exist. See proposed change(s) as shown in existing Chapter 42.22 (c)(14) as follows:

~~42.22 (c) (14). Other Standards. In addition, all of the standards articulated in Section 42.20 Standards for Specific Permitted Uses, under Wireless Communications Facilities and Table 20 A Commercial Wireless Facilities Standards shall also apply to facilities allowed by special exception.~~

**Codes & Ordinances Committee Recommendation for Chapter 275-22.3N:**

**Planning Board recommendation:**

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Section 275-23.2A(1)(e) is amended as follows: "It may be either part of the single-family dwelling or in a separate building, such as above a garage; if it is part of the single-family house

dwelling, an interior door shall be provided between the principal dwelling unit and the accessory dwelling unit."

**Justification:** *Changed verbiage to conform to current definition ("dwelling" is used as opposed to "house"). See proposed change(s) as shown in existing Chapter 42.23 (b) (E) as follows:*

~~42.23 (b) (E).~~ **275-23 A (1) (e)** It may be either part of the single-family dwelling or in a separate building, such as above a garage; if it is part of the single family **house dwelling**, an interior door shall be provided between the principle dwelling unit and the accessory dwelling unit;

**Codes & Ordinances Committee Recommendation for Chapter 275-23.2A(1)(e):**

**Planning Board Recommendation:**

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Section 275-23.2A(10)(g) is amended as follows: "Fences must conform to sight triangle requirements at corner lots (~~see Article 27, Miscellaneous Provisions~~)."

**Justification:** *The current ordinances refer to an article (Article 27 Miscellaneous Provisions) which doesn't exist. See proposed change(s) as shown in existing Chapter 42.23 (b) (10) (G) as follows:*

~~42.23 (b) (10) (G).~~ **275-23.2 A(10)(g)** Fences must conform to sight triangle requirements at corner lots. ~~(See Section 42.27 Miscellaneous Provisions).~~

**Codes & Ordinances Committee Recommendation for Chapter 275-23.2A(10)(g):**

**Planning Board recommendation:**

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Section 275-27.3G(2) is amended as follows: "Prior to granting such a waiver, the Planning Board must find that the proposed construction is entitled to the ~~four-year~~ five-year exemption provided by RSA 674:39, pursuant to that statute."

**Justification:** *Changes to conform with new state law, law previously referenced "4 years" now references 5 years. See proposed change(s) as shown in existing Chapter 42.27 (c) (7) (B) as follows:*

~~42.27(c) (7) (B)~~ **275-27.3 (G) (2)** A person may request a full or partial waiver of impact fees for construction within a subdivision or site plan approved by the Planning Board prior to the effective date of this ordinance. Prior to granting such a waiver, the Planning Board

must find that the proposed construction is entitled to the ~~four-year~~ **five-year** exemption provided by RSA 674:39, pursuant to that statute. This waiver shall not be applicable to phases of a phased development project where active and substantial development, building and construction has not yet occurred in the phase in which construction is proposed.

**Codes & Ordinances Committee Recommendation for Chapter 275-27.3G(2):**

**Planning Board recommendation:**

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Section 275-28.4I(2) is amended to update the reference to the New Hampshire State Radiological Control Agency to the New Hampshire Department of Health and Human Services.

***Justification:** Updated to reference correct state department. See proposed change(s) as shown in existing Chapter 42.28 (d) (9) (B) as follows:*

~~42.28 (d) (9) (B).~~ **275-28.4I(2)** Any emission of radiation shall be in compliance with the standards of the New Hampshire ~~State Radiological Control Agency~~ **Department of Health and Human Services.**

**Codes & Ordinances Committee Recommendation for Chapter 275-28.4I(2):**

**Planning Board recommendation:**

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Section 275-28.4K(3) is amended to update the reference to the Division of Water Supply and Pollution Control to the Division of Water and to update the reference to the Department of Public Health to the Department of Health and Human Services.

***Justification:** Updated to reference correct state department See proposed change(s) as shown in existing Chapter 42.8 (d) (11) (C) as follows:*

~~42.8 (d)~~ **275-28.4K(3)** The treatment and disposal of any waste materials, liquid and solid, including hazardous materials, shall be in compliance with all standards of the New Hampshire Department of Environmental Services, Divisions of Waste Management and Water, ~~Supply and Pollution Control~~—and of the New Hampshire Department of Public Health **and Human Services.**

**Codes & Ordinances Committee Recommendation for Chapter 275-28.4K(3):**

**Planning Board recommendation:**

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Section 275-28.4L is amended to update the reference to the New Hampshire Water Supply and Pollution Control Commission to the New Hampshire Department of Environmental Services.

**Justification:** *Updated to reference about state department. See proposed change(s) as shown in existing Chapter 42.28 (12) (d) as follows:*

~~42.28 (12) (d)~~ **275-28.4 L.** Sewage Disposal. All sewage disposal shall be in compliance with the standards of the New Hampshire ~~Water Supply & Pollution Control Commission~~ **Department of Environmental Services.**

**Codes & Ordinances Committee Recommendation for Chapter 275-28.4L:**

**Planning Board recommendation:**

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Section 275-29.3 is amended as follows: "A sign which was lawfully established prior to the adoption or amendment of this article but which does not meet the requirements of this article is considered a nonconforming sign." (*Councilor Abbott – Requested more information.*)

**Justification:** *Changed to include further amendments. See proposed change(s) as shown in existing Chapter 42.29 (c) as follows:*

~~42.29 c.~~ **275-29 (3)** Nonconforming signs. A sign which was lawfully established prior to the adoption **or amendment** of this article but which does not meet the requirements of this article is considered a nonconforming sign. Non-conforming signs and sign structures may remain or must be removed as follows:

**Codes & Ordinances Committee Recommendation for Chapter 27-29.3:**

**Planning Board recommendation:**

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Section 275-29.4 is amended to change "zoning permit" to "sign permit."

**Justification:** *Update to correct permit type. See proposed change(s) as shown in existing Chapter 42.29 (d) as follows:*

~~42.29-d.~~ **275-29.4.** Permits Required. All signs, regardless of size, shall require the issuance of a **zoning sign** permit before public display unless otherwise specifically exempt by this **Ordinance article**.

**Codes & Ordinances Committee Recommendation for Chapter 275-29.4:**

**Planning Board recommendation:**

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Section 275-29.6 is amended as follows: "Before any permit is granted for the erection of a sign or sign structure requiring such permit, construction documents shall be filed with the Building, Zoning, and Licensing Services Department ~~official~~ showing the dimensions, materials and required details of construction, including loads, stresses, anchorage and any other pertinent data."

**Justification:** *Correction to title. See proposed change(s) as shown in existing Chapter 42.29 (f) as follows:*

~~42.29-(f)~~ **275-29.6** Construction Documents. Before any permit is granted for the erection of a sign or sign structure requiring such permit, construction documents shall be filed with the Building, Zoning, and Licensing Services **Department official** ~~official~~ showing the dimensions, materials and required details of construction, including loads, stresses, anchorage and any other pertinent data. The permit application shall be accompanied by the written consent of the owner or lessee of the premises upon which the sign is to be erected and by engineering calculations signed and sealed by a registered design professional where required by the International Building Code.

**Codes & Ordinances Committee Recommendation for Chapter 275-29.6:**

**Planning Board recommendation:**

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Section 275-29.9E is amended as follows: "Vehicles and trailers used primarily as static displays, advertising a product or service, ~~not~~ **or** utilized as storage, shelter or distribution points for commercial products or services for the general public."

**Justification:** *Correction of clerical error (typo). See proposed change(s) as shown in existing Chapter 42.29 (i) (5) as follows:*

~~42.29-(i)-(5)~~ **275-29.9 E.** Vehicles and trailers used primarily as static displays, advertising a product or service, ~~not~~ **or** utilized as storage, shelter or distribution points for commercial products or services for the

general public.

## **Codes & Ordinances Committee Recommendation for Chapter 275-29.9E:**

### **Planning Board recommendation:**

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In § 275-29.11, Definitions: *(Councilor Abbott – Requested more information.)*

The definition of "canopy" is amended to "canopy (attached)."

**Justification:** *Changed to further clarify types of canopies. See proposed change(s) as shown in existing Chapter 42.29 Definitions as follows:*

**Canopy:** **CANOPY (ATTACHED)** - A multisided overhead structure or architectural projection supported by attachments to a building on one or more sides and either cantilevered from such building or also supported by columns at additional points. The surface(s) and/or soffit of an attached *canopy* may be illuminated by means of internal or external sources of light. See also "Marquee."

**Canopy (Free-Standing):** A multisided overhead structure supported by columns, but not enclosed by walls. The surface(s) and or soffit of a free- standing *canopy* may be illuminated by means of internal or external sources of light.

**Canopy Sign:** A sign affixed to the visible surface(s) of an attached or free- standing *canopy*.

## **Codes & Ordinances Committee Recommendation for Chapter 275-29.11. Definition of Canopy:**

### **Planning Board recommendation:**

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The definition of "development of complex sign" is amended to "development complex sign."

**Justification:** *Grammar correction. See proposed change(s) as shown in existing Chapter 42.9 Definitions as follows:*

### **~~42.29 Development of Complex Sign:~~**

**DEVELOPMENT COMPLEX SIGN** - A freestanding sign identifying a multiple-occupancy development, such as a shopping center or planned industrial park, which is controlled by a single owner or



landlord, approved in accordance with ~~Section 1009.2 of this chapter~~ **§ 275-29G.**

## **Codes & Ordinances Committee Recommendation for Chapter 275-29.11. Definition of Development Complex Sign:**

### **Planning Board recommendation:**

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The definition of "marquee sign" is amended to "marquee." (*Councilor Abbott – Requested more information.*)

**Justification:** *Removed word "sign" for redundancy (Marquee is a sign). See proposed change(s) as shown in existing Chapter 42.29 Definitions as follows:*

**42.29 Marquee Sign:** **MARQUEE** – A permanent roof-like structure, including the structural support system, projecting beyond a building wall at the entrance to a building or extending along and projecting beyond building wall.

## **Codes & Ordinances Committee Recommendation for Chapter 275-29.11. Definition of Marquee:**

### **Planning Board recommendation:**

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The definition of "nonconforming sign" is amended as follows: "Any sign that existed lawfully prior to the adoption or amendment of this article which now does not conform to the provisions of this article." (*Councilor Abbott – Requested more information.*)

**Justification:** *Changed to include future amendments. See proposed change(s) as shown in existing Chapter 42.29 Definitions as follows:*

**42.29 Nonconforming Sign:** Any sign that existed lawfully prior to the adoption **or amendment** of the Sign **Ordinance article** which now does not conform to the provisions of this ordinance.

## **Codes & Ordinances Committee Recommendation for Chapter 275-29.11. Definition of Nonconforming Sign:**

### **Planning Board recommendation:**

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The definition of "premises sign" is repealed. (*Councilor Abbott – Requested more information.*)

**Justification:** *Remove for redundancy purposes (development complex sign) addresses this type of sign. See proposed change(s)*

as shown in existing Chapter 42.29 Definitions as follows:

~~**42.29 Premises Sign:** A lot or number of lots situated a building or group of buildings designed as a unit or on which a building or group of buildings are to be constructed housing multiple businesses.~~

**Codes & Ordinances Committee Recommendation for Chapter 275-29.11. Definition of premises sign (repealed):**

**Planning Board recommendation:**

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The definition of "projecting sign" is amended to delete the following sentence: "For visual reference, see Section 1003."

**Justification:** Deleted reference to a section which does not exist in the current ordinance. See proposed change(s) as shown in existing Chapter 42.29 Definitions as follows:

~~**42.29 Projecting Sign:**~~

**PROJECTING SIGN** - A sign other than a wall sign that is attached to or projects more than 18 inches (457 ~~mm~~ **millimeters**) from a building face or wall or from a structure whose primary purpose is other than the support of a sign. ~~For visual reference, see Section 1003.~~

**Codes & Ordinances Committee Recommendation for Chapter 275-29.11. Definition of projecting sign:**

**Planning Board recommendation:**

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The definition of "wall sign" is amended to "wall or fascia sign." (*Councilor Abbott – Requested more information.*)

**Justification:** Expanded definition to include "or fascia", which is terminology used in the current ordinance. See proposed change(s) as shown in existing Chapter 42.29 Definitions as follows:

~~**42.29 Wall sign:**~~

**WALL OR FASCIA SIGN** - A sign that is attached to a vertical wall of building that projects not more than 18 inches from the building or structure wall.

**Codes & Ordinances Committee Recommendation for Chapter 275-29.11. Definition of Wall sign:**

**Planning Board recommendation:**

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The definition of "window sign" is amended as follows: "A sign within one foot of a window ~~message~~ intended to be visible to and readable from the public way or from adjacent property."  
(*Councilor Abbott – Requested more information.*)

**Justification:** *Clarifying the intent of the definition. See proposed change(s) as shown in existing Chapter 42.29 Definition as follows:*

**~~42.29 Window Sign:~~**

**WINDOW SIGN** - A sign within one foot of a window ~~message~~ intended to be visible to and readable from the public way or from adjacent property.

**Codes & Ordinances Committee Recommendation for Chapter 275-29.11. Definition of window sign:**

**Planning Board recommendation:**

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Section 275-29.12F is amended to change "code official" and "Building, Zoning, Licensing, Services official" to "Director of Building, Zoning, and Licensing Services."

**Justification:** *Correction to titles. See proposed change(s) as shown in existing Chapter 42.29 (I) (6) as follows:*

**~~42.29 (I) (6).~~ 275-29.12 F.** Maintenance, repair and removal. Every sign permitted by this ordinance shall be kept in good condition and repair. When any sign becomes insecure, in danger of falling or is otherwise deemed unsafe by the code official, or if any sign shall be unlawfully installed, erected or maintained in violation of any of the provisions of this ordinance, the owner thereof or the person or firm using same shall, upon written notice by the **Director of** Building, Zoning, Licensing, Services ~~official~~ forthwith in the case of immediate danger, and in any case within not more than 10 days, make such sign conform to the provisions of this ordinance, or shall remove it. If within 10 days the order is not complied with, the ~~code official~~ **Director of Building, Zoning, Licensing, Services** shall be permitted to remove or cause such sign to be removed at the expense of the owner and/or the user of the sign.

**Codes & Ordinances Committee Recommendation for Chapter 275-29.12F:**

**Planning Board recommendation:**

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Section 275-29.12G is amended as follows: "All landlord or single-owner controlled multiple-occupancy development complexes, such as shopping centers or planned industrial parks, shall

submit to the Building, Zoning, and Licensing Services Department a master sign plan prior to issuance of new sign permits."

**Justification:** *Correction to title. See proposed change(s) as shown in existing Chapter 42.29 (l) (7) as follows:*

~~42.29 (l) (7)~~ **275-29.12 G.** Master sign plan required. All landlord or single-owner controlled multiple-occupancy development complexes, such as shopping centers or planned industrial parks, shall submit to the Building Zoning and Licensing Services **Department** a master sign plan prior to issuance of new sign permits. The master sign plan shall establish standards and criteria for all signs in the complex that require permits, and shall address, at a minimum, the following:

### **Codes & Ordinances Committee Recommendation for Chapter 275-29.12G:**

#### **Planning Board recommendation:**

Section 275-29.13D is amended to delete the following: "Not more than 25% of the area of any directional sign shall be permitted to be devoted to business identification or logo, which area shall not be assessed as identification sign area."

**Justification:** *Deleted due to repetition (also found in E.) See proposed change(s) as shown in existing Chapter 42.29 (m) (4) (D) as follows:*

#### ~~42.29 (M) (4) (d)~~ **275-29.13 D.**

1. Directory Signs. For businesses located on Secondary Streets within the Downtown Commercial District.
  - A. Not to exceed four (4) square feet in area.
  - B. Permission must be obtained in writing from the property owner on whose premise the sign is to be placed.
  - C. These signs shall not obscure any portion of road, intersection, or sidewalk.
  - ~~D. Not more than 25 percent of the area of any directional sign shall be permitted to be devoted to business identification or logo, which area shall not be assessed as identification sign area.~~

### **Codes & Ordinances Committee Recommendation for Chapter 275-29.13D:**

Section 275-29.13F(1)(c) is amended as follows: "Development and construction signs may not be displayed until after the issuance of ~~construction building~~ permits by the ~~Building Official Building, Zoning, and Licensing Services Department~~ and must be removed not later than 24 hours following issuance of ~~an occupancy permit~~ a certificate of occupancy for any or all portions of the project."

**Justification:** *Correction to titles. See proposed change(s) as shown in existing Chapter 42.29 (m) 6.1 as follows:*

~~42.29 (M) 6.1~~ **275-29.13 F. (1)(c)** Development and construction signs may not be displayed until after the issuance of ~~construction~~ permits by the building ~~official~~ **Building, Zoning, and Licensing Services Department**, and must be removed not later than 24 hours following issuance of ~~an~~ **a certificate of occupancy permit** for any or all portions of the project.

### **Codes & Ordinances Committee Recommendation for Chapter 275-29.13F(1)(c):**

#### **Planning Board recommendation:**

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Section 275-29.13I is replaced with the following: "Home occupation signs. See Article 24, Home Occupations."

**Justification:** *Repeats info already found in article 24. See proposed change(s) as shown in existing Chapter 42.29 (m) (9) through (11) as follows:*

#### ~~42.29 (m)~~ **275-29.13**

- ~~9. Home Occupation 1 Sign. No signs are permitted.~~
- ~~10. Home Occupation 2 Sign. There may be only one sign for the business visible from the street. The sign shall be non-illuminated and shall not exceed three (3) square feet.~~
- ~~11. Home Occupation 3 Sign. There may be only one sign for the business visible from the street. The sign shall be non-illuminated and shall not exceed four (4) square feet.~~

#### **I. Home occupation signs. See Article 24, Home Occupations.**

### **Codes & Ordinances Committee Recommendation for Chapter 275-29.13I:**

#### **Planning Board recommendation:**

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Section 275-29.13L(6) is replaced with the following: "Political signs shall not require a sign permit."

**Justification:** *Removed additional verbiage for clarity. See proposed change(s) as shown in existing Chapter 42.29 (m) (14) (F) as follows:*

~~42.29 (m) (14) (F):~~ **275-29.13 (L)(6)** ~~No sign, except for political signs, shall be erected until a permit for same has been obtained from the Director of Building, Zoning, & Licensing Services.~~ **Political signs shall not require a sign permit.**

**Codes & Ordinances Committee Recommendation for Chapter 275-29.13L(6):**

**Planning Board recommendation:**

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Section 275-29.14B(3) is amended as follows: "No wall sign shall exceed 10% of the area of the building frontage as measured by the width of the wall containing the main public entrance by the height (measured from the floor level to the top of the first floor cornice area, or to one foot below secondary story window) of the building to which it is attached."

**Justification:** *Added language for clarification purposes. See proposed change(s) as shown in existing Chapter 42.29 (n) (2) (C) as follows:*

~~42.29 (n) (2) (C):~~ **275-29.14 B (3)** Wall Signs. No wall sign shall exceed ~~ten percent (10%)~~ **10%** of the area of the building frontage as measured by the width of the wall containing the main public entrance by the height (measured from the floor level to the top of the first floor cornice area, or to one foot below secondary story window) **of the building** to which it is attached. For buildings with multiple tenants having store fronts only, the façade rented by the tenant shall be considered as wall area for a sign.

**Codes & Ordinances Committee Recommendation for Chapter 275-29.14B(3):**

**Planning Board recommendation:**

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Section 275-29.14B(4) is amended as follows: "Permits are required for these signs with a fee of ~~\$10~~ set by the City Council."

**Justification:** *Clarification to reflect current practices. See proposed change(s) as shown in existing Chapter 42.29 (n) (2) (D) as follows:*

~~42.29 (n) (2) (D)~~ **275-29.14 B**

**(4)** Temporary signs. One temporary sign is allowed at any one time, including portable and banner signs. For portable signs (where they are permitted;—(see below) the maximum area is **8-eight** square feet and the maximum height is 4 feet. Banner signs, not exceeding 60 square feet, are permitted for grand openings of new business only, and may be displayed for a maximum of 30 consecutive days. Permits are required for these signs with a fee ~~of \$10~~ **set by the City Council.**

**Codes & Ordinances Committee Recommendation for Chapter 275-29.14B(4):**

**Planning Board recommendation:**

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Section 275-33.1A is amended to change "Land Use Plan" to "Master Plan."

**Justification:** *Correction to title being referenced. See proposed change(s) as shown in existing Chapter 42.33 (a) (1) as follows:*

~~42.33 (a) (1)~~ **275-33 1 A** Master Plan. Promotion of conservation subdivisions is a core goal of the City of Rochester ~~Land Use Master~~ Plan. This section is adopted pursuant to RSA 674:21, Innovative Land Use Controls (f) "Cluster Development".

**Codes & Ordinances Committee Recommendation for Chapter 275-33.1A:**

**Planning Board recommendation:**

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Section 275-33.2A is amended to change "Land Use Master Plan" to "Master Plan."

**Justification:** *Correction to title being referenced. See proposed change(s) as shown in existing Chapter 42.33 (b) (1) as follows:*

~~42.33 (b) (1)~~ **275-33.2 A**

- ~~(1)~~ **A.** Conditional Use. A conservation subdivision is a major subdivision involving the creation of a new road. It is allowed by conditional use in the R1, R2, AG, OC, and HC Districts when the Planning Board determines that the proposal meets the intent of a conservation subdivision as expressed in this ~~section~~ **article**, in the Subdivision Regulations, and in the City of Rochester ~~Land Use~~ Master Plan. While the conservation subdivision is the preferred form of subdivision it is allowed by conditional use rather than by right in order to ensure that it does meet this intent.

**Codes & Ordinances Committee Recommendation for Chapter 275-33.2A:**

## Planning Board recommendation:

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Section 275-33.7 is amended as follows: "Two-family, three-family, and four-family dwellings and townhouses are permitted in conservation subdivisions provided:"

***Justification:*** *Townhouse is a style of construction, not a "use." See proposed change(s) as shown in existing Chapter 42.33 (g) as follows:*

~~42.33-(g).~~ **275-33.7** Allowed Uses. All uses permitted in the zoning district within which the conservation subdivision is located are permitted in the conservation subdivision under the same terms. Two family, three family, four family dwellings, ~~and townhouses~~ are permitted in conservation subdivisions provided:

## Codes & Ordinances Committee Recommendation for Chapter 275-33.7

### Planning Board recommendation:

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Table 18-A, Residential Uses, is amended to delete the row beginning "Dwelling, three and four family" and to change "outdoor wood-fired hydronic boiler" to "outdoor wood-fired hydronic heater."

Table 19-A, Dimensional Standards – Residential Districts, is amended to change "Multifamily" under Residential-2 (R2) to "Five- or more family."

Table 19-B, Dimensional Standards – Commercial Districts, is amended to add the following to Note 2: "For multifamily dwellings/developments within the DC Zone, the minimum lot area per dwelling unit shall be 500 square feet."

## Codes & Ordinances Committee Recommendation for Chapter Table 18-A, 19-A & B:

### Planning Board recommendation:



**Sections added to Chapter 200, Sewers: (Councilor Abbott – Requested more information.)**

Exact language from the water section of the ordinance. This language is needed for when there are meters on private well lines and there is no City water supply to the customer .Council voted 6/6/17 to allow for well-line metering.

**Codes & Ordinances Committee Recommendation for Chapter Table 18-A, 19-A & B:**

**§ 200-8. Sewer only meters.**

- A. Sewer only properties may be metered via the private water supply line. A common meter will be provided for rented units or lots. All meters will be maintained by the Department of Public Works, but the customer will be charged for any damage to meters caused by abnormal conditions, i.e., freezing, fire, tampering, etc. The Department of Public Works will set only one meter for any one service and the owner of the premises shall be liable for the entire amount of wastewater generated on the premises irrespective of leases of individual customers.
- B. Meters are installed for measurement of all water used by the consumer. Customers shall provide a clean, dry, warm, safe, and accessible place (always free from debris) for installation of a meter. The location shall be easily accessible by a person in the upright position for reading, maintaining, and changing.
- C. All customers billed for wastewater must keep their own fixtures, and service pipes within their property lines, in good repair and fully protected from injury by frost, and all such pipes and connections shall conform to the Rochester Plumbing Code.

**§ 200-9. Sewer deduct meter.**

Upon application and approval by the Department of Public Works, a customer may install a meter to measure water that will not be disposed of in the City's sewer system. The purpose of the meter would be to meter uses including, but not limited to, in-ground sprinkler systems, outside spigots, and commercial air-conditioning systems. The cost of the meter, inspection, and installation by the City is entirely the responsibility of the customer. The meter will fully meet the requirements of § 200-8 of this article.

**§ 200-10. Meter repairs.**

- A. All meters shall be kept in repair by the Department of Public Works except when damaged by the customer or by his/her negligence, including freezing. In case of any such damage, the cost of repairs shall be charged to the owner of the premises.
- B. If the reader is out of repair or fails to register, the customer will be charged at the average daily consumption as shown by the reader when in order or the flat rate structure, whichever is less. Subsequently, if the actual amount of water metered is determined to be different than the amount previously estimated, the charge will be on the subsequent billing by the difference between the two.

- C. If a customer, after being so notified, does not allow the Department of Public Works access in order to test and/or correct a faulty meter or reader, the customer's subsequent bill will be 1.5 times the average daily consumption as historically shown on the meter.
- D. No person, except the duly authorized agent of the Department of Public Works, shall be allowed to reset, take off, or repair a meter.

**§ 200-11. Meter testing.**

- A. Only the Department of Public Works shall replace or remove and test all meters. No meter shall be placed in service or permitted to remain in service if the error of registration exceeds 2% or as established by the latest American Water Works Association (AWWA) meter standards, whichever is less.
- B. The Department of Public Works may test a meter for accuracy in registration upon complaint of the sewer consumer. There shall be a minimum service charge for any complaint-driven service call. The minimum service charge shall be as listed in § 200-33, Wastewater Rate and Fee Schedule. Any meter found to be accurate in accordance with this article will not be replaced by the Department of Public Works due to a complaint.
- C. Should the meter in question be found to be within the accuracy limits established by the latest AWWA meter standards, all applicable fees associated with testing shall be paid by the customer. If the meter in question is found to be inaccurate, all fees will be waived.
- D. The percent of error of registration shall be taken as the average of the error at the intermediate and maximum rates of test flow. Any determination of charges shall be based on this average error.

**§ 200-12. Sealing of meter.**

Upon completion of adjustment and test of any meter under the provisions of these rules, the Department of Public Works shall affix thereto a suitable seal in such a manner that the adjustment of registration of the meter cannot be tampered with without breaking the seal. Disruption of the seal will be cause for discontinuance of service.

**§ 200-13. Tampering with meter.**

- A. No customer or his/her agent shall perform a tampering event with regard to a meter without having first received written consent and authorization of the Commissioner of Public Works or his/her designee to take such action. In the event that the Commissioner of Public Works and/or his/her designee shall determine that a customer and/or his/her agent has performed a tampering event with respect to a meter, such customer shall be subject to the following charges:
  - (1) A charge in an amount based upon the actual metered usage to such meter prior to the tampering event, if determinable.
  - (2) A charge in an amount based upon twice the estimated usage for the premises serviced by the meter in question during the preceding billing period(s) or the corresponding billing period(s) during the year immediately preceding such tampering event, whichever is greater.
  - (3) A charge for all costs associated with the repair and/or replacement of such meter.
  - (4) A reconnection fee as listed in § 200-33, Wastewater Rate and Fee Schedule.

- B. Anything in Subsection A above to the contrary notwithstanding, should a customer or his/her agent, as a result of an emergency or other circumstances beyond his/her control, perform a tampering event with respect to a meter, without having received the prior written consent and authorization of the Commissioner of Public Works or his/her designee, such customer may, upon appeal to the Utility Advisory Board in accordance with the provisions of § 200-30 and within its discretion, be relieved of any and all of the charges listed in Subsection A(1) through (4) above, provided that such customer shall have notified the Department of Public Works, in writing, of the tampering event in question within three business days of the occurrence of such event.

**§ 200-14. Outside reader.**

All customers shall be required to have an outside reader with radio read capability for their meter. The outside reader shall be installed at a place on the premises acceptable to the City and according to the specifications available at the Department of Public Works. The customer shall be responsible for repairs or replacement of damaged outside readers and associated wiring when damage is due to abuse, neglect, and/or negligence of the customer. The City shall render a bill for labor, equipment, and materials for all such repairs or replacement. The outside reader and appurtenances shall be the property of the City. The customer shall be responsible for providing safe access to City personnel for reading. The customer shall remove potential hazards and nuisances such as snow, ice, vegetation, and dogs from the outside reader's access. Exceptions may be granted by the Commissioner of Public Works, in which case reasonable access shall be granted to Department of Public Works personnel for the purposes of reading and maintenance. If satisfactory access is not provided, the City reserves the right to produce an estimated bill.

**§ 200-15. Inspections.**

The Department of Public Works employees or its agents shall be allowed access to the customer's premises between the hours of 8:00 a.m. and 6:00 p.m. for examination of pipes, fixtures, connections, the quality of water used, and manner of use.