

**Codes and Ordinances Committee**

Councilor Peter Lachapelle, Chair  
Councilor Elaine Lauterborn, Vice Chair  
Councilor Donna Bogan  
Councilor Robert Gates  
Councilor Ray Varney



**AGENDA**

**CODES AND ORDINANCES COMMITTEE**

Of the Rochester City Council

**Thursday August 6, 2015**

City Council Chambers

31 Wakefield Street, Rochester, NH

7:00 PM

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- 1. Call to Order**
- 2. Public Input**
- 3. Approval of the Codes and Ordinances Committee Minutes**
  - June 4, 2015**
- 4. Green Infrastructure Grant - Chapter 50**
- 5. Discussion - Fireworks**
- 6. Discussion - Panhandling**
- 7. Certification of Chapter 42 - Separate Attachment to the Packet**
- 8. Other**
- 9. Adjournment**

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**CODES AND ORDINANCES COMMITTEE**

Of the Rochester City Council

**Thursday June 4, 2015**

City Council Chambers

31 Wakefield Street, Rochester, NH

7:00 PM

**Committee Members Present**

Councilor Peter Lachapelle, Chair  
Councilor Elaine Lauterborn, Vice Chair  
Councilor Donna Bogan  
Councilor Robert Gates  
Councilor Ray Varney

**Others Present**

Councilor Hamann  
Jim Campbell, Planning Director  
Tim Fontneau, Planning Board  
Member  
Terence O'Rourke, City Attorney

**MINUTES**

**1. Call to Order**

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

**2. Public Input**

Tim Fontneau, Planning Board member and resident, was present to discuss Chapter 42 definitions and terminology for Multi-Family Dwellings. He also explained that he was on the Re-Zoning Committee that had worked on Chapter 42.

Mr. Fontneau wanted to encourage the Codes and Ordinances Committee to take these changes into consideration. He said that the Re-Zoning Committee took into consideration two sides: one being the property owners' rights, as well as the public's interest. The committee tried to satisfy both.

Mr. Fontneau said that the recommendations were to fix a flaw that the Planning Board found within the ordinance. This flaw is allowing some developers to come before the Planning Board and it was not the intent for the board to allow this.

Councilor Lachapelle asked how the Planning Board voted on this recommendation. Mr. Fontneau said that the vote was unanimous.

Mr. Fontneau stated that they have two goals. The first goal was to require any multi-family unit containing three or more residential units to be on City water and sewer. The second goal addressed multi-family developments which would be on the same parcel of land. He gave the Codes and Ordinance Committee some scenarios that would apply.

Mr. Fontneau explained that there was a loophole in the definitions where the three and four multi-family units were left out.

Councilor Varney asked what are they looking to fix. Mr. Fontneau explained that with the three and four units being left out of the definitions a developer could put up these multi-family units.

Jim Campbell, Planning Director, explained that a multi-family unit will now reflect three or more residential units within a building with this change. Councilor Varney asked if they still needed the definitions of the three and four units. Mr. Campbell said that they do not; they are still in the table of uses and in the dimensional table.

Councilor Varney wanted to confirm that the multi-family units, which contain three or more units, are not allowed in the agricultural zone. Mr. Campbell said that was correct.

Councilor Varney briefly discussed Quail Drive with Mr. Campbell.

Mr. Fontneau discussed the different standards with the Codes and Ordinances Committee.

### **3. Approval of the Codes and Ordinances Committee Minutes**

- **May 7, 2015**

Councilor Gates **MOVED** to **ACCEPT** the Committee minutes of May 7, 2015. Councilor Varney seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

### **4. Trustees of the Trust Fund**

Terence O'Rourke, City Attorney, explained that he had brought a resolution forward to change the Trustees of the Trust Fund from three members to five member, which the RSA allows. He said that this request came from the Finance Committee.

Mr. O'Rourke said with the change they will also stagger the appointments. Councilor Lauterborn said that there appears to be an error in the wording as to the appointments. She said that because there will be five members; some years there will only be one appointed and the next year two will be appointed.

The Codes and Ordinances Committee discussed this further with Mr. O'Rourke. He stated that he will make the necessary changes to the resolution. Councilor Lauterborn agreed with the amendments

Councilor Gates **MOVED** to recommend the amended resolution to the Trustees of the Trust Fund to the full City Council. Councilor Varney seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

## 5. Chapter 42 Multi-Family Dwellings

Councilor Lachapelle asked if any committee member had any further questions regarding Chapter 42, Multi-Family Dwelling, since they had covered this during public input.

The Committee discussed that this should go before the City Council on June 9, 2015, for a first reading. This change to the ordinance will also require a public hearing, which will be determined at that time.

Councilor Varney **MOVED** to recommend Chapter 42, Multi-Family Dwellings to the full City Council for the June 2, 2015, meeting. Councilor Lauterborn seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

## 6. Other

Councilor Lachapelle explained that the committee was asked to look at Chapter 40, pertaining to permit fees. This came from the City Council's June 2, 2015, meeting. Jim Grant, Director of Building, Zoning, and Licensing Services, had asked for this change under the Issues and Options part of his budget.

Mr. Grant was not present, however Mr. O'Rourke explained the change that had been requested. Mr. O'Rourke explained that the BZLS is looking to raise the building application fee from \$10 dollars to \$25 dollars.

Councilor Varney thought that other fees were also going to be changed. Councilor Hamann said that it was only going to be the application fee.

Councilor Bogan asked if there were two separate fees, one for commercial and one for residential. It was agreed that there is only the one fee.

Councilor Lauterborn did not agree with the change for the application fee. She stated that you will have to pay this fee anytime you want to do work on your house.

Councilor Gates felt that with raising the fee, fewer residents will apply and they will do the work without getting a permit.

The Codes and Ordinances Committee discussed this issue further. Councilor Hamann stated that Rochester's fee is one of the lowest in the area. Councilor Bogan asked if they could possibly meet somewhere in the middle and suggested an increase to \$15 dollars versus \$25 dollars. Councilor Lauterborn stated that they were never given anything in writing pertaining to other communities' fees. Councilor Gates suggested leaving the fee as is. The committee discussed not changing the fee.

Councilor Varney **MOVED** to not recommend the proposed fee change under Chapter 40 to the City Council on June 9, 2015. Councilor Gates seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Hamann informed the committee that the fee change was accepted at the June 2, 2015, meeting. It was discussed giving the City Council the committee's recommendation; however, the full City Council could still approve the change.

Councilor Lauterborn wanted clarification on the increased revenue that was mentioned at the June 2, 2015, meeting. She questioned how the increase of \$15 dollars could generate \$34,000 dollars. The committee discussed how Mr. Grant came to that number.

Mr. O'Rourke wanted to make the committee aware of how some of the public notices are being published in the Foster's Daily Democrat. He explained that they had been appearing in the obituary section. He said that originally it was questioned that there was a law that prohibited this. Mr. O'Rourke stated that there was not a law to prohibit this. Councilor Varney said that the obituaries are the most read section of the newspaper.

Councilor Lachapelle informed the Codes and Ordinances Committee that they will not be meeting in July. He said their next meeting will be August 6, 2015.

## 7. Adjournment

Councilor Gates **MOVED** to **ADJOURN** the Committee meeting at 7:30 PM. Councilor Bogan seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Respectfully submitted,

Nancy Carignan  
Assistant City Clerk

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## City of Rochester, New Hampshire

### PUBLIC WORKS DEPARTMENT

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### INTEROFFICE MEMORANDUM

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**TO:** Daniel Fitzpatrick, City Manager

**FROM:** Michael Bezanson, PE, City Engineer 

**DATE:** July 29, 2015

**SUBJECT:** Ordinance Revisions for the Codes and Ordinances Committee -  
Chapter 50, Stormwater Management and Erosion Control  
Site Plan Regulations - Art. III, Sec. 13 "Stormwater Management"  
Subdivision Regulations - Section 5.4 "Drainage"

**CC:** John Storer, PE, Director of City Services  
James Campbell, Director of Planning & Development  
James Grant, Director of Building, Zoning and Licensing Services  
Terence O'Rourke, City Attorney

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Attached are proposed ordinance and regulation changes to address stormwater management in the City. The City of Rochester currently addresses stormwater mitigation practices in several documents and regulations, including the Site Plan Regulations, Subdivision Regulations, Public Works Infrastructure Design Standards, and Chapter 50 of the City Ordinances. Staff have found these documents to be outdated; the adopted/recommended Best Management Practices are no longer the best options for sizing and treating stormwater runoff, which is resulting in the approval of subpar stormwater systems that are stressing the existing public drainage systems and degrading wetlands, rivers, and aquifers, all of which increase economic stresses and health-related costs. Additionally, these documents were not all created or updated simultaneously, resulting in inconsistencies and outdated references between the documents.

The Conservation Commission and Planning Board have been involved in drafting the revisions, and both groups support the changes proposed to Chapter 50 and the Site Plan and Subdivision Regulations. Before the effort to revise the Ordinance and Regulations began a year ago, the City Council supported the need and effort to make the revisions.

Please forward the attached documents to the Codes and Ordinances Committee for review. Thank you.

## CHAPTER 50

### STORMWATER MANAGEMENT AND EROSION CONTROL

#### SECTION ANALYSIS

- 50.1 Purpose and Objectives.
  - 50.2 Authority.
  - 50.3 Jurisdiction.
  - 50.4 Severability.
  - 50.5 Amendments.
  - 50.6 Applicability.
  - 50.7 Abbreviations/Definitions.
  - 50.8 Design Standards.
  - 50.9 Application, Approval and Review.
  - 50.10 Responsibility for Installation/Construction/Inspection.
  - 50.11 Maintenance and Inspection.
  - 50.12 Other Required Permits.
  - 50.13 Post-Construction Operation.
  - 50.14 Illicit Discharge and Connection.
  - 50.15 Enforcement and Penalties.
  - 50.16 Mandatory Regulated MS4s in Urbanized Areas – Map.
- Map 1: City of Rochester “Urbanized Areas”

#### **50.1 Purpose and Objectives.**

The purpose of this Ordinance is to provide for the health, safety, and general welfare of the citizens of the City of Rochester through the regulation of discharges into the City’s Stormwater Drainage System, waterbodies, streams, and wetlands in a manner compliant with the requirements of State and Federal law, including the provisions of the Federal Stormwater Management Legislation for Municipal Separate Storm Sewer Systems (MS4s), as amended. The objective of this Ordinance shall be to:

- (a) Prohibit unpermitted discharges into the Stormwater Drainage System;
- (b) To set forth the legal authority and procedures to carry out all inspection, monitoring, and enforcement activities necessary to ensure compliance with this Ordinance and applicable State and Federal law; and
- (c) To establish, for new construction, design and construction standards for stormwater drainage systems that will result in the construction of systems that will be compliant with this Ordinance and State and Federal laws and to have such standards incorporated into the existing standards and review processes governing new construction in site plan and subdivision review, as well as building permits that implicate the requisite disturbance of the site.

#### **50.2 Authority.**

This Ordinance is adopted pursuant to the authority vested in:

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- (a) The authority vested in the City Council pursuant to RSA 47:13, RSA 47:17, VII, VIII, and XVIII, RSA 149-I:3, RSA 38:26, RSA 149:I:6;
- (b) The Planning Board pursuant to RSA 674:35 and 36, and RSA 674:44; and, RSA 155-E:11; and
- (c) The authority vested in the Office of Code Enforcement pursuant to RSA 147:1 and 147:14.
- (d) The Ordinance shall become effective upon adoption by the City of Rochester City Council, in accordance with the statutory sections identified above.

### **50.3 Jurisdiction.**

- (a) This Ordinance shall pertain to all land within the boundaries of the City of Rochester, New Hampshire.
- (b) In any case where a provision of the Ordinance is found to be in conflict with a provision of any other Ordinance, regulation, code, or covenant in effect in the City of Rochester or with any State Statute, with particular reference to NHRSA Chapter 676:14 and 674:16 and 674:17 and the relevant sections therein, the provision which is the more restrictive shall prevail.

### **50.4 Severability.**

The invalidity of any section, subsection, paragraph, sentence, clause, phrase, or word of this Ordinance shall not be held to invalidate any other section, subsection, paragraph, sentence, clause, phrase, or word of this Ordinance.

### **50.5 Amendments.**

This Ordinance may be amended by the approval of the several boards or entities identified in Section 50.2 above, provided that each such agency complies with any applicable statutory or local procedures governing their authority to adopt such Ordinance. Amendments to zoning aspects must be approved by City Council.

**50.6 Applicability.** This Ordinance 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

(a) **Permit and SWMP - Permit Required.** Except as permitted by this Ordinance, 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) for land proposed to be altered or which will be affected by such activity. The owner shall be required to apply to the Director of Public Works and obtain such permit from the Department of Public Works (DPW) Director, or their designee, as their 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 (1) through (5) below.

- (1) Normal maintenance and improvement of land in agricultural use provided Best Management Practices as established by NHDES Regulations are being observed.

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- (2) Maintenance of existing landscaping, gardens, or lawn areas associated with a single-family dwelling.
- (3) The construction of any fence that will not alter existing terrain or drainage patterns.
- (4) Construction of utilities (gas, water, electric, telephone, etc.) other than drainage, disturbing less than 20,000 contiguous square feet, within the limits of an existing paved roadway, which will not permanently alter terrain, groundcover, or drainage patterns, where trenches are paved at the end of each working day.
- (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 Code Enforcement or Director of Public Works.

**(b) Requirement of Construction Stormwater Management and Erosion Control Plan** - The applicant for a permit required under Section 50.6.a).(1) 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 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:

- (1) A cumulative disturbed area exceeding 20,000 square feet, unless the disturbance is solely related to construction or reconstruction of a street or road, which will allow up to one (1) acre of disturbance prior to requiring a complete Construction Stormwater Management and Erosion Control Plan.
- (2) A subdivision of more than three building lots.
- (3) Phasing of greater than three lots per year of an existing or proposed subdivision.
- (4) Construction of utilities (gas, water, electric, telephone, etc.) requiring contiguous ground disturbance of greater than 20,000 square feet unless the disturbance is proposed within the limits of an existing paved roadway utilizing a contractor with no history of erosion concerns.
- (5) Proposed work in or adjacent to a critical area (see Definitions).

**(c) Standards and Requirements of Plan Submission** - Such plans shall be submitted to the Director of Public Works for distribution to the Planning Board, Office of Code Enforcement, Director of Planning and Development, or designees, for review and approval to the extent that the proposed use involves areas of their jurisdiction. The Planning Board, Office of Code Enforcement, DPW Director, or designees may, if in their judgment they deem it necessary or helpful to assist them in their review of such plan, require that the plan be reviewed by a Registered Professional Engineer or other professional consultant acceptable to them, the cost of which shall be borne by the applicant. The Plan, which shall be unique to the site, shall contain all information required by Sections 50.8 and 50.9 below.

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## **50.7 Abbreviations/Definitions.**

(a) **Best Management Practice (BMP)** - A proven or accepted structural, non-structural, or vegetative measure; the application of which reduces erosion, sediment, or peak storm discharge, or improves the quality of stormwater runoff.

(b) **BMP** - Best Management Practice.

(c) **Cease and Desist** - Document issued related to a parcel or activity in violation of the City of Rochester Stormwater Management and Erosion Control Ordinance and/or the City of Rochester Site Plan, Subdivision, other Land Use Regulations or Ordinances, or plans approved thereunder.

(d) **Certified Soil Scientist** - A person qualified in soil classification and mapping who is certified by the State of New Hampshire Board of Natural Scientists.

(e) **City** - The City of Rochester, New Hampshire.

(f) **City Engineer** - The term "City Engineer" when contained in this Ordinance, is intended to refer to and identify the City Engineer or any qualified engineering consultant which the City Council, City Administrator, Planning Board, Office of Code Enforcement, DPW Director, or designees engage(s) for the purpose of reviewing any application or plan submitted in accordance with this Ordinance or determining compliance herewith, when, in their judgment, such review is appropriate or necessary in order to ensure compliance with this Ordinance or determine if the provisions hereof have been violated.

(g) **City Inspector** - A City representative from the Department of Public Works, Code Enforcement, Community Development, or their designee.

(h) **Critical Areas** - Disturbed areas of any size:

- (1) Within 35 feet of the ordinary high water mark of a permanent or intermittent vernal pool, stream, bog, water body (including but not limited to the Named Streams and Surface Waters specifically identified as part of the Conservation Overlay District); or
- (2) Within 35 feet of poorly or very poorly drained soils; floodplain; or
- (3) Disturbed areas exceeding 2,000 square feet in highly erodible soils; or
- (4) Disturbed areas containing slope lengths exceeding 25 feet on slopes greater than 15 percent.

(i) **Development** - Any construction or land disturbance or grading activities other than for agricultural and silvicultural practices.

(j) **Disturbed Area** - An area where the natural vegetation has been removed exposing the underlying soil or where vegetation has been covered.

(k) **Environmental Protection Agency (EPA)** - The Federal agency of the United States responsible for implementing the Clean Water Act, including the National Pollutant Discharge Elimination System (NPDES) program.

(l) **EPA** - (United States) Environmental Protection Agency.

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- (m) **Erosion** - The detachment and movement of soil or rock fragments by water, wind, ice, or gravity.
- (n) **Highly Erodible Soils** - Any soil with an erodibility class (K factor) greater than or equal to 0.43 in any layer as found in Table 3-1 of the Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire.
- (o) **National Pollutant Discharge Elimination System** - An EPA Clean Water Act Permit program.
- (p) **NOI** - Notice of Intent.
- (q) **NOPV** - Notice of Probable Violation.
- (r) **NOT** - Notice of Termination.
- (s) **Notice of Intent (NOI)** - Document to apply for coverage under the EPA's Construction General Permit for stormwater discharges from construction activities.
- (t) **Notice of Probable Violation (NOPV)** - Document describing nonconformance with the City of Rochester Stormwater Management and Erosion Control Ordinance.
- (u) **Notice of Termination (NOT)** - Document to end coverage of a construction activity under EPA's Construction General Permit.
- (v) **NPDES** - National Pollutant Discharge Elimination System.
- (w) **Project Area** - The area within the subdivision or site plan boundaries plus any areas with associated off-site improvements.
- (x) **Sediment** - Solid material, either mineral or organic, that is in suspension, is transported, or has been moved from its site of origin by erosion.
- (y) **Sewage** - The spent water of a community.
- (z) **Stabilized** - When the soil erosion rate approaches that of undisturbed soils. Soils which are disturbed will be considered protected when covered with a healthy, mature growth of grass, or a good covering of straw mulch or other equivalent (seedless) mulch (2 tons/acre). Mulch is only a temporary measure; ultimately, the site needs vegetation.
- (aa) **Stormwater Management and Erosion Control Plan (SWMP)** - A plan which may be required by the City which outlines project features, proposed temporary and permanent erosion control features, maintenance schedules and practices, and design basis used to establish temporary and permanent stormwater design features. If a SWPPP is required under Federal law, the applicant may completely incorporate SWMP requirements into the SWPPP and request that the SWPPP cover both the SWPPP and SWMP requirements.
- (bb) **Stormwater Permit (SWP)** - A permit issued by the City of Rochester per the requirements outlined in this Ordinance.
- (cc) **Stormwater Pollution Prevention Plan (SWPPP)** - A plan required by the Environmental Protection Agency (EPA) that clearly describes appropriate pollution control measures that include a description of all pollution control measures (i.e., BMPs)

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that will be implemented as part of the construction activity to control pollutants in stormwater discharges and describes the interim and permanent stabilization practices for the site.

(dd) **Stormwater Runoff** - The water from precipitation that is not absorbed, evaporated, or otherwise stored within the contributing drainage area.

(ee) **Stream** - Areas of flowing water occurring for sufficient time to develop and maintain defined channels but which may not flow during dry portions of the year. Includes, but is not limited to, all perennial and intermittent streams located on U.S. Geological Survey Maps.

(ff) **SWMP** - Stormwater Management and Erosion Control Plan.

(gg) **SWP** - Stormwater Permit.

(hh) **SWPPP** - Stormwater Pollution Prevention Plan.

(ii) **UA** - Urbanized Area.

(jj) **Urbanized Area (UA)** - An area as defined by the EPA (based upon data collected from the US Census Bureau) serving a population of 10,000 or greater and a population density of 1,000 people per square mile.

(kk) **Watercourse** - Any body of water flowing in an identifiable channel or course at least six (6) months of the year.

## **50.8 Design Standards.**

(a) **Temporary/Construction Stormwater Management Design** - The following standards shall be applied in planning for stormwater management and erosion control as related to construction: (These standards are in addition to requirements that may be found in this and other sections of the Site Plan, Subdivision, other Land Use Regulations or Ordinances.)

- (1) All measures in the Plan shall meet as a minimum the Best Management Practices set forth in the Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire, Rockingham County Conservation District, NH Department of Environmental Services, Soil Conservation Service (now the Natural Resources Conservation Service), August 1992, as amended.

Additional BMPs are available at the following locations:

- A. <http://www.des.state.nh.us/factsheets/wqe/wqe-6.htm> - NHDES Environmental Fact Sheet WD-WQE-6, (Soil Erosion and Sediment Control on Construction Sites, 1996)
- B. <http://cfpub.epa.gov/npdes/stormwater/menuofbmps/index.cfm> EPA National Pollution Discharge Elimination System, (NPDES) (Stormwater Menu of Best Management Practices (BMPs) and Construction Site Stormwater Runoff Control)).

Note: The web site links in this section are provided for information and

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are subject to change. The most current link reference should be utilized.

- (2) Whenever practical, natural vegetation shall be retained, protected, or supplemented. The stripping of vegetation shall be done in a manner that minimizes soil erosion.
- (3) Appropriate erosion and sediment control measures shall be installed. The City Engineer or his/her designee shall review and approve installation of the measures prior to land disturbance.
- (4) The area of disturbance shall be kept to a minimum. Disturbed areas remaining idle for more than 30 days shall be stabilized.
  - A. Measures shall be taken to control erosion within the project area. Sediment in runoff water shall be trapped and retained within the project area using approved measures. Wetland areas and surface waters shall be protected from sediment.
  - B. Off-site surface water and runoff from undisturbed areas shall be diverted away from disturbed areas where feasible or carried non-erosively through the project area. Integrity of downstream drainage systems shall be maintained.
  - C. Measures shall be taken to control the post-development peak rate and volume of runoff so that it does not exceed pre-development runoff rates or volumes for the 2-, 10- and 25-year, 24-hour storm events and for additional storm event frequencies as specified in the design criteria of the Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire.
  - D. Priority should be given to preserving natural drainage systems including perennial and intermittent streams, wetlands, swales, and drainage ditches for conveyance of runoff leaving the project area.
  - E. All temporary erosion and sediment control measures shall be maintained in functioning condition until final site stabilization is accomplished.
  - F. All temporary erosion and sediment control measures shall be removed after final site stabilization. Trapped sediment and other disturbed soil areas resulting from the removal of temporary measures shall be permanently stabilized within 30 days unless conditions dictate otherwise.
  - G. Naturally occurring streams, channels, and wetlands shall be used for conveyance of runoff leaving the project area only after appropriate sedimentation control measures have been employed.

(b) **Permanent Stormwater Management General Design Criteria** - The following standards shall be applied in planning for stormwater management and erosion control as related to long-term management of municipal water quality:

- (1) Under One Acre of Total Disturbance (includes non-contiguous areas) will require a basic stormwater quality management system. At a minimum, all stormwater must pass through basic pretreatment (beyond catch basin sumps) prior to leaving the site.

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(2) Over One Acre of Total Disturbance (includes non-contiguous areas) requires a properly designed, systematic permanent stormwater quality management system. Latest technology and most up-to-date performance data must be considered when selecting permanent control measures. As noted above, catch basin sumps alone are not considered a valid water quality control measure. Mechanical devices may be required to supplement any proposal. Maintenance programs and schedules will be required as part of the proposal. In addition to the one-time maintenance bond at the time of road acceptance, off-site water quality control measures may require long-term escrow funds to cover future maintenance expenses (including removal of erosion control measures not removed as part of the project). Sites with appropriate separation to the seasonal high groundwater table must also consider groundwater recharge. All groundwater recharge systems will require on-site test pit and percolation test data to be submitted as part of the review.

(3) Adjacent to a Critical Area (Any Size Disturbance):

- A. Any new project adjacent to a Critical Area will require permanent water quality control measures.
- B. Projects involving redevelopment or expansion will be considered on a case-by-case basis.

(4) Municipal Projects:

All municipal projects will comply with water quality control measures defined in this Ordinance. Nothing regarding municipal projects is intended to impose any greater requirement than is already required by RSA 674:54.

**(c) Permanent Stormwater Management Technical Design Criteria**

(1) All measures in the plan shall, as a minimum, meet the Best Management Practices set forth in the Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire, Rockingham County Conservation District, NH Department of Environmental Services, Soil Conservation Service (now the Natural Resources Conservation Service), August 1992, as amended.

(2) The design of proposed features must consider the following:

- A. Existing and proposed methods of handling stormwater runoff so that there will be no increase in the rate or volume of runoff that leaves the boundaries of the site. (The Planning Board may permit an increase in off-site stormwater runoff on submission of a detailed downstream study and on the recommendation of the City Engineer.)
- B. Engineering calculations used to determine drainage requirements based upon 25-year storm frequency, 24-hour duration shall be provided. All closed drainage systems, culverts, major ditches, swales, and detention facilities must be sized for the 25-year storm frequency. All drainage pipes larger than 48 inches must be designed to accommodate a 50-year storm frequency event. All structural measures such as

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detention/retention facilities must be reviewed for 50-year storm impacts.

- C. If the project will affect drainage flow to an existing roadway culvert, or if a detention or retention area is proposed, a minimum of a 25-year storm shall be used to evaluate potential off-site effects. If a State-owned or maintained culvert is affected by the development, State of New Hampshire Department of Transportation (NHDOT) Guidelines shall be used for evaluation of the culvert. Written approval from the NHDOT must be submitted before final approval is granted.
- D. Access for maintenance of stormwater facilities must be included as part of the design, where necessary. Access easements may be required.
- E. All temporary erosion and sediment control measures shall be removed after final site stabilization. Trapped sediment and other disturbed soil areas resulting from the removal of temporary measures shall be permanently stabilized within thirty (30) days unless conditions dictate otherwise. If local, State, or Federal authorities determine that the trapped sediment contains pollutants, trapped sediment must be tested to determine specific contaminants, then removed and disposed of in a manner which satisfies Federal, State, and local regulations.
- F. Velocities of less than 10 feet per second (10 fps) are required prior to entering a sedimentation swale. The maximum design velocity within the swale shall be 1.0 feet per second during passage of the 25-year storm.
- G. Flows less than 10 cubic feet per second (10 cfs) are required prior to entering a sedimentation swale.
- H. All slopes equal to or steeper than 2:1 adjacent to a public right-of-way must have special stabilization details provided with the submission.
- I. Forebays for stilling and sediment trapment must be included in all basin and swale designs.
- J. Velocities of 10 feet per second (10 fps) or less are desirable within a closed drainage system. Higher velocities may be allowed provided special design criteria have been used.
- K. A minimum velocity of two feet per second (2 fps) is required within a closed drainage system.
- L. Proposed riprap within a public right-of-way shall be placed a minimum of 12 inches deep.
- M. Seasonal highwater table elevations must be accounted for in all BMP design criteria.
- 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

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District and the USDA Soil 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.

#### **50.9 Application, Approval and Review.**

(a) **Initial Application Requirements** - The following minimum requirements apply to all demolition or construction projects 50.6.a) or 50.6.b). Additional requirements may be found in this and other sections of the Site Plan, Subdivision, or Other Land Use Regulations. If the project is part of a formal Planning Board Approval process, documents must be submitted for consideration as part of Final Approval.

- (1) Site drawing drawn to scale of existing and proposed conditions including:
  - A. A project narrative including a description of the development.
  - B. Locus map showing property boundaries.
  - C. North arrow, scale, and date.
  - D. Property lines.
  - E. Easements.
  - F. Structures, utilities, roads, and other paved areas.
  - G. Topographic contours at an interval agreed to by the City Engineer.
  - H. Critical areas, as defined herein.
  - I. Surface water and wetlands, drainage patterns, and watershed boundaries within 200 feet of the site.
  - J. Vegetation.
  - K. Limits of work.
- (2) Soils information for design purposes or for determining highly erodible soils shall be determined from a National Cooperative Soil Survey (NCSS) soil series map. A High Intensity Soil Map of the site, prepared in accordance with the Society of Soil Scientists of Northern New England (SSSNE) Special Publication No. 1, can only be used for design purposes and not for determining highly erodible soils.
- (3) Construction details and/or application procedures for temporary and permanent stormwater management and erosion and sediment control BMPs.
- (4) Areas and timing of soil disturbance.
- (5) A schedule for self-inspection and maintenance of all BMPs. (The schedule must be included within the plan set.)
- (6) Narrative section including discussion of each measure, its purpose, construction sequence, and installation timing as they apply to the site.
- (7) If infiltration or exfiltration is proposed as part of the drainage solution, test pit

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information including estimated seasonal high water table elevations shall be provided at the location and approximate elevation of the proposed infiltrating or exfiltrating device.

- (8) Calculations for the infiltration or exfiltration system. These calculations should also account for frozen ground conditions, when the devices may not function at their optimal design.
- (9) Any other specific study, calculation, or investigation as requested by the City.
- (10) The drainage plans and calculations portion of the SWMP or SWPPP shall be certified by a Licensed Professional Engineer, registered in the State of New Hampshire.

**(b) Final Application Requirements** - The following additional requirements shall be required (in paper and electronic form) as part of the final plan unless the project is deemed of sufficiently minimal impact to qualify for the minimum requirements specified in Section 50.8 (Design Standards) of this Ordinance as determined by the Public Works Director or City Engineer. Applicants with projects approved prior to the effective date of this Ordinance, whose submission(s) included an Erosion Control Plan and a Stormwater Management Plan as a component of such submission(s) may present such submission(s) in lieu of the requirements of Section 50.9.a) and Section 50.9.b).

**(1) Construction Drawings/Supporting Documents:**

- A. A project narrative including a description of the development.
- B. Locus map showing property boundaries.
- C. North arrow, scale, date.
- D. Property lines.
- E. Easements.
- F. Structures, roads, and utilities.
- G. Topographic contours at two-foot (2') intervals.
- H. Critical areas.
- I. Within the project area and within 200 feet of project boundary surface waters, wetlands, and drainage patterns and watershed boundaries.
- J. Vegetation.
- K. Extent of 100-year floodplain boundaries if published or determined.
- L. Soils information for design purposes from a National Cooperative Soil Survey (NCSS) soil series map or a High Intensity Soil Map of the site, prepared in accordance with Society of Soil Scientists of Northern New England (SSSNE) Special Publication No. 1. Highly erodible soils shall be determined by soil series.
- M. Areas of soil disturbance.
- N. Areas of cut and fill.

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- O. Locations of earth stockpiles.
- P. Locations of equipment storage and staging.
- Q. Locations of proposed construction and/or permanent vehicle or equipment fueling.
- R. Stump disposal plan.
- S. Highlighted areas of poorly and very poorly drained soils.
- T. Highlighted areas of poorly and/or very poorly drained soils proposed to be filled.
- U. Construction and earth movement schedule including project start and completion dates, sequence of grading and construction activities, sequence for installation and/or application of soil erosion and sediment control measures, and the sequence for final stabilization of the project site.
- V. Locations, descriptions, details, and design criteria and calculations for all structural, non-structural, permanent, and temporary erosion and sedimentation control measures and BMPs. This information should include seeding mixtures and rates, types of sod, methods of seedbed preparation, expected seeding dates (or limitations on seeding timeframes), type and rate of lime and fertilizer application, and type and quantity of mulching for temporary and permanent control facilities.
- W. Identification of all permanent control measures.
- X. Identification of permanent snow storage areas.
- Y. Identification of snow management measures during construction.
- Z. Description of the combination of sediment and erosion control measures which are required to achieve maximum pollutant removal such as:
  - i. 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 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,

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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.

- ii. Drainage locations which serve 10 or more disturbed acres at one time and where temporary sediment basins or equivalent controls are not attainable, smaller sediment basins and/or sediment traps should be used. At a minimum, silt fence, vegetative buffer strips, or equivalent sediment controls are required for all downslope boundaries (and for those side slope boundaries deemed appropriate as dictated by individual site conditions).
- iii. Drainage locations serving less than 10 acres may utilize smaller sediment basins and/or sediment traps. At a minimum, silt fence, vegetative buffer strips, or equivalent sediment controls are required for all downslope boundaries (and for those side slope boundaries deemed appropriate as dictated by individual site conditions) of the construction area unless a sediment basin providing storage for a calculated volume of runoff from a 2-year, 24-hour storm or 3,600 cubic feet of storage per acre drained is provided.

(2) Stormwater Management and Erosion Control Plan (SWMP) shall include the following:

- A. Design calculations for all temporary and permanent structural control BMP measures.
- B. A proposed schedule for the inspection and maintenance of all measures for the site prior to achieving final site stabilization. Inspections must be conducted at least once every 7 calendar days, or once every 14 calendar days and within 24 hours of the end of a storm event of 0.5 inches or greater.
- C. Identification of all permanent control measures and responsibility for continued maintenance.
- D. Drainage report with calculations showing volume, peak discharge, and velocity of present and future runoff for the 25-year, 24-hour storm event.
- E. Plans showing the entire drainage area affecting or being affected by the development of the site. Proposed lot boundaries and drainage areas shall be clearly shown on the Plan.
- F. The direction of flow of runoff through the use of arrows shall clearly be shown on the Plan.
- G. The location, elevation, and size of all existing and proposed catch basins, drywells, drainage ditches, swales, retention basins, and storm sewers shall be shown on the Plan.
- H. When detention structures are planned to reduce future condition peak discharge, the soil cover complex method shall be used to compute the

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runoff volume and peak discharge for designing the structure. The design will conform to the criteria outlined for those types of structures given in the Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire.

- I. Copies of pertinent State and Federal Permits.
- J. An example SWMP table of contents is as follows:
  - i. Project overview.
  - ii. Owner.
  - iii. Address of development.
  - iv. Location of the site.
  - v. Description of receiving waters.
  - vi. Nature and purpose of the land disturbing activity.
  - vii. Limits of disturbance.
  - viii. Construction schedule.
  - ix. Existing conditions summary.
  - x. Definition of topography, drainage patterns, soils, groundcover, critical areas, adjacent areas, upstream areas draining through site, existing development, existing stormwater facilities, on- and off-site utilities, construction limitations, buffers, wetlands, streams, sensitive areas, and other pertinent features.
  - xi. Include an existing conditions plan (drawing) showing the above existing conditions and labeled per the narrative above.
  - xii. Off-site analysis.
  - xiii. Description of the tributary area (include at least ¼-mile downstream), drainage channels, conveyance systems, and downstream receiving waters.
  - xiv. Summary of a review of existing or potential problems resulting from the development including, but not limited to, sedimentation, erosion, water quality issues, and chemical spills.
  - xv. Demonstration that development of the site will not negatively affect the downstream systems.
  - xvi. Demonstrate adequate capacity of the downstream system to handle flow conditions after development.
  - xvii. As applicable, include an off-site drainage plan (the plan may be part of the existing conditions plan).
  - xviii. Special reports, studies, and maintenance information related to any existing (to remain) or proposed treatment devices.

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- xix. As applicable, include test pit log forms, soil conditions data, and wetland delineation information.
- xx. As applicable, include information regarding long-range maintenance of any closed drainage systems, detention/retention facilities, etc.
- xxi. Appendix (include copies of all tables, graphs, charts, and test pit and percolation test data used in any of the above calculations).

**(c) Plan Approval and Review**

- (1) The DPW or other agency having jurisdiction (per 50.6.c)) shall indicate approval of the SWMP, as filed, if it complies with the requirements and objectives of this Ordinance. As applicable, such approval shall be a component of subdivision or site plan approval.
- (2) Final SWMP approval shall be contingent upon collection of any required fees or escrow amounts related to technical review of any SWMP prepared under this Ordinance.

**50.10 Responsibility for Installation/Construction/Inspection.**

(a) The applicant and the applicant's engineer (or technical representative) shall schedule and attend a mandatory preconstruction meeting with the City Engineer or designee at least one week prior to commencement of construction. All required escrow deposits and bonding must be in place prior to the scheduled meeting. Three copies of the Stormwater Pollution Prevention Plan (SWPPP) and Notice of Intent (NOI) (if required), the SWMP, up-to-date construction schedule, and associated construction documents must be provided at that time. The SWMP must bear the seal and signature of the New Hampshire Registered Professional Engineer preparing the documents. The SWMP may be combined with the SWPPP if labeled as both, meeting the requirements of both. Prior to commencement of construction, the Department of Planning and Development will confirm that the documents submitted meet the conditions of plan approval. An appropriate notation will be made on the "official" construction set used by the Code Enforcement and Public Works Departments. (Note: Preconstruction conferences will typically not be required for construction of one single-family home or one residential duplex, not part of a larger plan of construction.)

(b) The Department of Planning and Development and/or Department of Public Works reserve the right to prepare and request the applicant's acknowledgement of a preconstruction checklist.

(c) The applicant shall bear final responsibility for the installation, construction, inspection, and disposition of all stormwater management and erosion control measures required by the provisions of this Ordinance.

(d) The Department of Public Works or Department of Planning and Development may require a bond or other security with surety conditions in an amount satisfactory to the City, providing for the actual construction, installation, and removal of such measures within a period specified by the City and expressed in the bond or the security.

(e) The Department of Planning and Development, Department of Public Works, and/or

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Office of Code Enforcement 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.

(f) Site development shall not begin before the SWMP and SWPPP (if required) have been reviewed and approved by the City, a NOI has been acknowledged by the EPA, and NHDES has been contacted regarding impaired waters in accordance with a NOI (if applicable). Best Management Practices shall be installed as designed and scheduled as a condition of final approval of the SWMP.

(g) **Commercial and Industrial Development and/or Redevelopment.** The applicant, owner, and owner's legally designated representative (if any) shall all hold responsibility for implementing the SWMP and SWPPP (if required).

(h) **Residential Development and Redevelopment.** The applicant is responsible for implementing the SWMP and SWPPP (if required). Excluding any post-development requirements of plan implementation, there are two ways for the City to consider an applicant to be removed as the responsible party (the applicant may also be required to comply with other regulating entities' additional requirements):

- (1) The applicant completes the project in a manner satisfactory to the City and files a Notice of Termination (NOT) with the EPA in accordance with the terms of the Federal requirements.
- (2) The applicant passes legal responsibility for the Plan to another competent party. In the case of a new subdivision where lots may be transferred to a different entity for construction of the buildings, it is the applicant's responsibility to ensure that the applicant has a legal basis to require compliance by the new entity.

(i) **Individual Homeowner Development.** The homeowner or a homeowner who has taken control of a subdivided property bears responsibility for compliance with the approved SWMP and SWPPP (if required). If the homeowner is contracting building services to another person or entity, the homeowner may choose to pass legal responsibility of compliance to the contracted entity. If the responsibility is not passed, the homeowner remains the responsible party and must comply with the terms of the original Plan.

#### **50.11 Maintenance and Inspection.**

(a) **Maintenance and Inspection.** Planning Board Approved Projects. The following provisions shall pertain and be applicable only to those plans which come under the jurisdictional purview of the Planning Board (site plan/subdivision review).

- (1) A narrative description of ongoing construction and operational maintenance requirements for water quality measures required by the SWMP after final Planning Board approval shall be incorporated into the final Plan and supporting documentation or development agreement of the property on which such measures are located and recorded at the Strafford County Registry of Deeds. The narrative shall be in the form of a typical site plan management or development agreement, or as otherwise set forth by the Planning Board.

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- (2) If the applicant is unable to adequately provide the required maintenance activities during construction, work may be stopped and the City may require additional escrow funding to be used by either the applicant or the City solely to repair, replace, and/or maintain the required measures.
- (3) The City may require periodic compliance inspections to verify ongoing maintenance of water quality protection measures. Such inspections shall be performed by the City or their designee at reasonable times to the landowner. The City may also require the developer to provide a maintenance agreement.
- (4) As a condition of Planning Board approval, the owner, his/her successor, and assigns shall consent to periodic compliance inspections by the City Manager's designee for compliance with this Ordinance.
- (5) Self-inspections are to be performed in accordance with the SWMP and SWPPP (if required).
- (6) Self-inspection reports are to be filed on-site in a location readily accessible to a City Inspector.

(b) **Maintenance and Inspection - Other Projects.** The following provisions shall pertain and be applicable only to those plans which come under the jurisdictional purview of the Planning Board (site plan/subdivision review).

- (1) Right to inspect. The Code Enforcement Officer, and/or DPW Director or their designee, 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), 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 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 involve standards that implicate technical engineering criteria either included in this Ordinance or as a condition of such permits, the Code Enforcement Officer, and/or DPW Director 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 of this Ordinance.
- (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 or as a condition of such permit, the Code Enforcement Officer and/or DPW Director or their designee may proceed to enforce the provisions of this Ordinance or conditions of the permit in accordance with applicable statutes, rules or regulations.

**50.12 Other Required Permits.** In addition to local approval, copies of the following permits shall be required if applicable:

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(a) **Terrain Alteration (Site Specific Permit).** RSA 485-A:17 requires a permit from the Department of Environmental Services for "...any person proposing to significantly alter the characteristic of the terrain, in such a manner as to impede natural runoff or create an unnatural runoff ...". Regulations require this permit for any project involving more than 100,000 contiguous square feet of disturbance or 50,000 contiguous square feet in the protected shoreland.

(b) **National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit.** A permit issued by the EPA or by the State under authority delegated pursuant to 33 USC, section 1342 (b) that authorizes the discharge of pollutants to waters of the United States. For a cumulative disturbance of one acre of land that EPA considers "construction activity", which includes, but is not limited to, clearing, grading, excavation, and other activities that expose soil typically related to landscaping, demolition, and construction of structures and roads, a Federal Permit will be required. Consult EPA for specific rules. This EPA Permit is in addition to any State or local permit required. To apply, the entity or individual responsible for construction site operations shall file a NOI with the EPA at least 7 days prior to work beginning. Discharge is authorized when the application status is listed as "authorized" in the EPA public NOI database or when the applicant receives an EPA authorization letter by mail.

(c) **Wetlands Permit.** RSA 482-A requires a permit from the Department of Environmental Services for any person desiring to "...excavate, remove, fill, dredge or construct any structures in or on any bank, flat, marsh, or swamp in and adjacent to any waters of the State . . .".

### **50.13 Post-Construction Operation.**

(a) **Stormwater Discharges Associated with Commercial/Industrial Activities.** Each commercial and industrial facility approved under this Ordinance is required to perform annual site inspections (at a minimum). The site inspection must be documented and at a minimum should include: review of stormwater flow paths; condition of any sediment or contaminant control devices; water quality notations; corrective actions and time frames if unacceptable water quality runoff is noted; and the name and position of the inspector. All records of the inspections must be made available to the City or authorized agent upon request.

(b) **Notification for Spills or Other Non-Stormwater Discharges.** As soon as any person responsible for a facility, site, activity, or operation has information of any known or suspected release of pollutants or non-stormwater discharges which are resulting or may result in illicit discharges or pollutants discharging into stormwater, the City of Rochester's municipal storm system, State waters, or waters of the United States, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release as to minimize the effects of the discharge. (If said individual is not competent to assess, contain, or clean-up, that person shall immediately notify another competent individual or firm.) If the substance poses an immediate health or safety concern, the City of Rochester Emergency Services must immediately be notified. If the substance does not pose an immediate concern, the City of Rochester Office of Code Enforcement, and Department of Public Works should be notified. This notification

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should be made as soon as possible; however, no later than next business day post event. This notification does not preclude and must be made in addition to any Federal or State required notifications.

#### **50.14 Illicit Discharge and Connection.**

##### **(a) Prohibition of Illegal Discharges**

- (1) No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials, including but not limited to, pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water.
- (2) The commencement, conduct, or continuance of any illegal discharge to the storm drain system is prohibited except as follows:
  - A. Water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rinsing groundwater, groundwater infiltration to storm drains, uncontaminated pumped groundwater, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioner condensate, springs, non-commercial washing of vehicles, material riparian habitat or wetland flows, dechlorinated swimming pool water (less than one ppm chlorine), fire-fighting activities, and any other water source not containing pollutants.
  - B. Discharges specified in writing by the City and other governing bodies as being necessary to protect public health and safety.
  - C. Dye testing is an allowable discharge, but requires a verbal notification to the Department of Public Works and other pertinent governing bodies prior to the time of the test. Such verbal notification shall be followed by written notification within two (2) business days to the Department of Public Works.
- (3) Any non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the EPA, provided that the discharger is in full compliance with all requirements of the permit, waiver or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm sewer system.

##### **(b) Prohibition of Illicit Connections**

- (1) The construction, use, maintenance, or continued existence of illicit connections to the storm drain system is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- (2) A person is considered to be in violation of this Ordinance if the person connects a line conveying sewage to the MS4 or allows such a connection to continue.

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**(c) Watercourse Protection**

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

**50.15 Enforcement and Penalties.**

(a) The Office of Code Enforcement, Code Enforcement Officer, DPW Director, 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. 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:

(b)

Type of Proposal	Applicable Board or Authority	Applicable Enforcement Statute
Site Plan/Subdivision Proposals	Planning Board	RSA 676:15, 16, 17, 17-a, & 17-b
Proposals affecting single existing tracts	Office of Code Enforcement/ Health Officer/ Planning Board	RSA 147:9 RSA 676:17, RSA 673:1(V), and RSA 676
Proposals affecting existing public roads or public stormwater systems in place	City Council/DPW	RSA 47:17, RSA 625:9-V-a.
Proposals affecting any water/sewer infrastructure in place	City Council/DPW	RSA 38:26, II, and RSA 149-I:6, III
Proposals implementing or involving Earth Material Removal Permits or other activities regulated by RSA 155-E	Planning Board	RSA 155-E:10

The Office of Code Enforcement, DPW Director, Health Officer, or their designee is authorized by means of this Ordinance to take any action to enforce the conditions

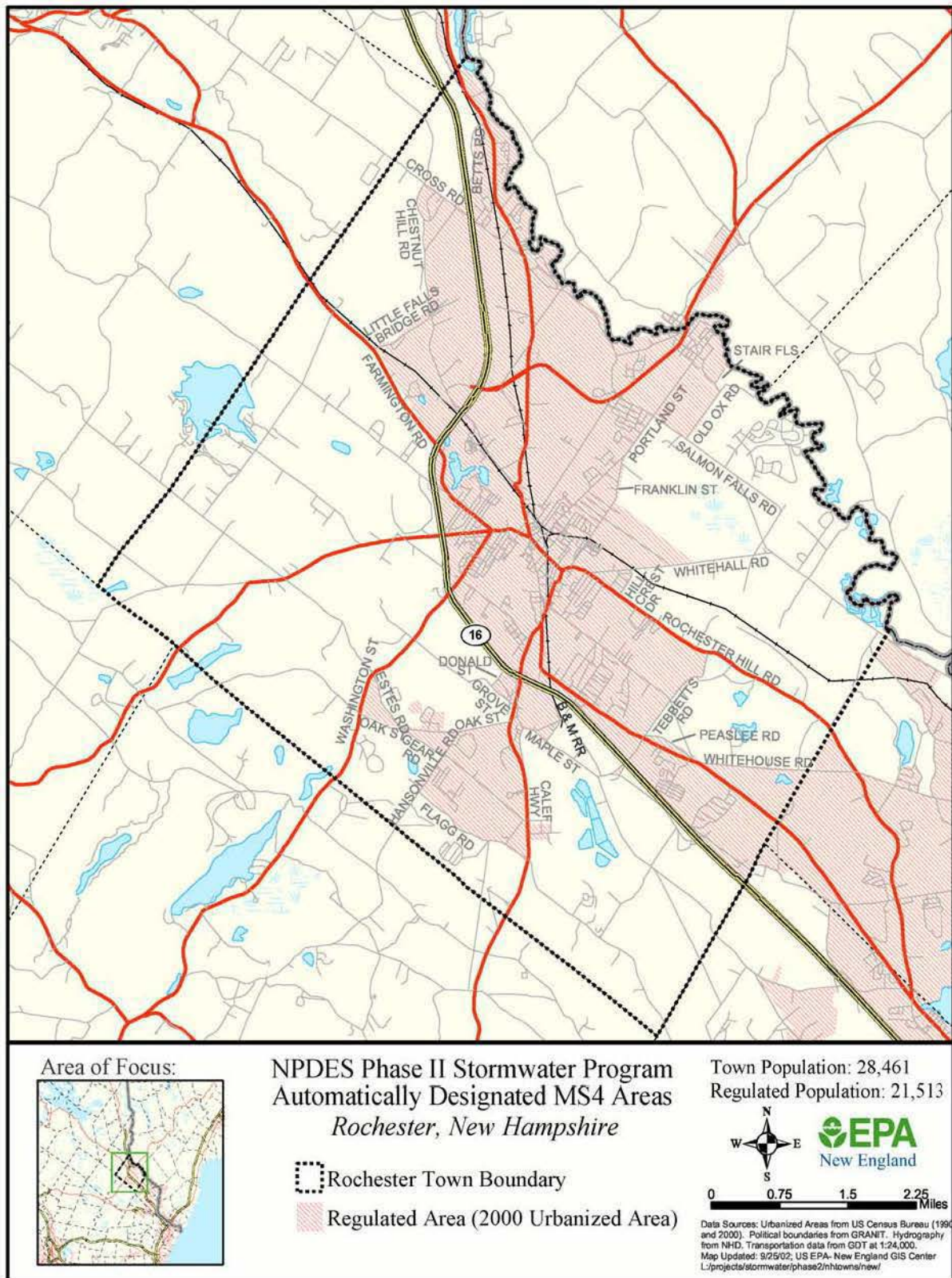
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hereof and to act on behalf of the various boards or agencies identified above, depending on the nature or form of the conduct constituting the alleged violation. It is intended that said Office of Code Enforcement, DPW Director, Health Officer, or their designee shall have the authority to seek individual specific remedies, including, where appropriate, injunctive relief, the issuance of Notices of Violation, the pursuit of civil and/or criminal sanctions, or, without limitation, any other sanction as authorized by applicable law, regulation or statute, and said Officer(s) are hereby designated as the appropriate designee of any board or agency having jurisdiction, whenever there is reason to believe that a violation of any of the provisions of this Ordinance or any permit issued hereunder has taken place. Nothing herein shall be interpreted to limit or otherwise curtail any statutory authority which such board or agency is entitled to exercise independent of this Ordinance.

(c) Further, nothing in this section is intended to limit, in any way, the Office of Code Enforcement, DPW Director, Health Officer, or their designee from exercising any authority that State law allows them to exercise on behalf of any State agency which has preemptive or concurrent jurisdiction over any conduct that would be considered a violation of this Ordinance.

**50.16      Mandatory Regulated MS4s in Urbanized Areas – Map.**

Municipal Separate Storm Sewer Systems (MS4s) within “urbanized areas” (UA), as defined by the Bureau of Census, fall under mandatory regulation under EPA Phase II Stormwater Management Regulations. Within the UA, all roads and streets and associated drainage systems, both open and closed, fall under regulation. Map 1 depicts the two urbanized areas in Rochester. All land in Rochester shall comply with this Ordinance.



**Map 1: City of Rochester "Urbanized Areas" 5/6/08**



# Proposed Changes to Site Plan Regulation - Section 13 “Stormwater Management”

These changes are proposed in order to make the Site Plan Regulations consistent with the proposed changes being made to Chapter 50 of the City Ordinances.



## **SECTION 13 - STORMWATER MANAGEMENT**

### **(A) References.**

The design and implementation of stormwater management systems shall be guided by the following documents, as appropriate. The requirements of the New Hampshire Stormwater Manual apply to all sites regardless of area of disturbance (alteration of terrain permits are required only for sites with at least 100,000 square feet of disturbance).

- (1) Chapter 50 Stormwater Management and Erosion Control of the City of Rochester Code of Ordinances, most recent version.
- (2) New Hampshire Department of Environmental Services, Alteration of Terrain Program, New Hampshire Stormwater Manual, Volume 2 Post Construction Best Management Practices Selection and Design, latest or most recent version.  
(<http://des.nh.gov/organization/divisions/water/stormwater/manual.htm>.)
- (3) New Hampshire Department of Environmental Services, Alteration of Terrain Program, New Hampshire Stormwater Manual, Volume 3 Construction Phase Erosion and Sediment Controls, latest or most recent version.

~~(4) All requirements of the NHDES Env-Wt 900 regarding the crossing of streams.~~

- (4) New Hampshire Department of Environmental Services, Env-Wt 900 Stream Crossing Guidelines, or most recent version.  
(<http://des.nh.gov/organization/commissioner/legal/rules/documents/env-wt900.pdf>)

### **(B) Miscellaneous provisions**

~~(1) Where a development is traversed by a watercourse or drainage way, the Planning Board may require a storm water easement or drainage right-of-way, measuring at least 25 feet in width.~~

~~(2) It is the policy of the City of Rochester to not require fences around drainage basins.~~

~~(3) In order to create a smooth and safe transition between newly graded areas and adjoining properties, there shall be no significant grading within 5 feet of any side or rear property line.~~

~~(4) The use of~~

- (1) Refer to Chapter 50, Section 50.2, Figure 1 for the application and review process for Major Site Plan Review, and to Figure 2 for Minor Site Plan Review.

(2) Low Impact Development (LID) site planning and design strategies for must be used to the maximum extent practicable (MEP) in order to reduce the generation of the stormwater management is encouraged. ~~LID is an alternative design approach that minimizes disturbance to the natural drainage patterns on the landscape, provides for high water quality discharge, and results in significant groundwater recharge. It reduces the amount of runoff~~ volume for both new development and ~~thus the need for irrigation. The techniques~~

include biofilters, raingardens, shallow swales, subsurface infiltration devices/drywells, and others.

- ~~(5) No additional burden may be placed on neighboring properties unless an easement is obtained from those property owners.~~
- ~~(6) If down gradient public drainage structures are not capable of handling the~~redevelopment projects. An applicant must document in writing why LID strategies are not appropriate if not used to manage ~~stormwater runoff, the applicant may be required to upgrade such facilities at his/her own expense.~~
- (3) Where there is a conflict in the Site Plan Regulations and Chapter 50, the latter holds precedent.

**23.13 Prohibition and Regulation of Fireworks.****[7][8][9]**

- A. In accordance with the provisions of RSA 160-C, it shall be illegal for any person, firm, partnership or corporation to offer for sale, expose for sale, sell at retail, purchase, possess, use, explode or display any permissible fireworks within the City of Rochester, except as specifically provided for in this ordinance.
- B. As used in this ordinance:
  - i. “Display” means the use, explosion, activation, ignition, discharge, firing or any other activity which is intended to cause or which causes a firework to do what it was manufactured to do.
  - ii. “Permissible fireworks” means those consumers firework devices defined as “permissible fireworks” in RSA 160-C, as the same currently exists or as, from time to time, hereinafter amended.
  - iii. “Fire Chief” means the Fire Chief of the City of Rochester or his/her designee.
  - iv. “Police Chief” means the Police Chief of the City of Rochester or his/her designee.
- C. Subject to, and in accordance with the provisions of Chapter 160-C of the New Hampshire Revised Statutes Annotated it shall be lawful to possess and/or display permissible fireworks upon compliance with the following requirements:
  - i. A person who is 21 years of age or older may display permissible fireworks on private property with the written consent of the owner or in the owner’s presence, subject to the provisions of this ordinance and RSA Chapter 160-C, and any other applicable ordinance regulation or statute.
  - ii. No display of permissible fireworks shall be permitted within the City except between the hours of 6 PM and 11 PM on Saturdays in the months of June and July and between the hours of 6 PM and 10 PM on Saturdays between the months of August through May. Permissible fireworks shall be permitted on the following holidays; Labor Day, Fourth of July (including the evening of July 3<sup>rd</sup> beginning at 6PM, including from such time until midnight on any rain date established for the annual city-wide fireworks display held at the Rochester Fairgrounds), on New Year’s Eve (December 31<sup>st</sup>), provided, however, that on New Year’s Eve such display shall be permitted to occur between the hours of 6 PM on December 31<sup>st</sup> and 1:00 AM on January 1<sup>st</sup>.
  - iii. The display of permissible fireworks shall be of such a character, and so located and conducted, that it shall not be hazardous to property or endanger any person. In accordance with the provisions of RSA Chapter 160-C no permissible

fireworks shall be permitted on public property and must be at least 50 feet from nearby buildings, nearby trees, electrical and telephone lines or other overhead obstructions, and the location of any nearby storage of flammable or combustible liquids or gases.

- iv. No permissible fireworks may be used, discharged, exploded, or displayed during periods of very high or extreme fire danger as determined by the Fire Chief or the NH Division of Forests and Lands.
  - v. Permissible fireworks may be used, discharged, exploded, or displayed in a manner such that any all discharge debris shall remain within the property lines of the lot on which the display originates.
  - vi. 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 twenty-four hours. Anyone failing to remove such debris shall be financially responsible for its clean up.
  - vii. Display of permissible fireworks shall be permitted on public property the evening of July 3<sup>rd</sup> beginning at 6PM, including from such time until midnight on any rain date established for the annual city-wide fireworks display held at the Rochester Fairgrounds, provided that such display shall be authorized in a duly issued Block Party Application/Permit from the City's Licensing Board covering the public property on which the display is to occur."
- [11]

- D. A violation of this ordinance shall be subject to the penalties provided for in Chapter 23, Section 23.11, Penalty, of the City of Rochester General Ordinance.
- E. This ordinance shall be construed consistently with NH Code of Administrative Rules Sa c 2600, as made applicable by state statute and as adopted by reference in Section 23.1, of the General Ordinances of the City of Rochester, and is not meant to repeal any section thereof. Nothing in this ordinance shall be interpreted so as to conflict with the provisions of Chapters 160-B or 160-C of the New Hampshire Revised Statutes Annotated, as currently written, or as from time to time hereafter amended. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such provision shall be deemed a separate, distinct independent provision and such holding shall not affect the validity of the remaining portions thereof.11-9-10
- F. The Police Chief or Fire Chief may suspend the use of permissible fireworks for any of the following reasons:
  - i. Unfavorable weather conditions, including but not limited to, lightning storms or high wind conditions exceeding 20 miles per hour or higher.

- ii. If any person under the age of 21 possesses, uses, discharges or explodes, used, discharged or exploded any permissible firework device.
  - iii. If any person who is using, discharging, exploding, or displaying the permissible fireworks appears to be under the influence of alcohol or drugs;
  - iv. If, in the opinion of the Police Chief or Fire Chief, the use, discharge, exploding, or display of permissible fireworks would create a threat to public safety.
- G. The Police Chief and/or Fire Chief are authorized to seize, take, remove or cause to be removed, at the expense of the owner, all firework devices that are being discharged in violation of this ordinance.”



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Back in March I was parked on Wakefield Street waiting for my son to get out of school. While I was waiting, I decided to return some emails. I wasn't aware of my surroundings and looked up to see a man right next to my driver's side door, with his face pressed up against my window staring in. I jumped and then he started banging on my car asking for money. Of course, my purse was sitting on the passenger seat. I locked my doors and he yelled at me and proceeded down Wakefield Street banging on other cars that were parked. Not fully understanding what was going on with panhandling at the time, I did not report it and sadly, I wish I had.

One month later, on April 1st to be exact (I only know the date because I made a rant on facebook about it), I was coming out of Hannaford early morning with some groceries. I heard someone yelling only to look behind me and see the same man running toward me in the parking lot. I jumped in my car and he came and banged on my door asking me once again for money. Again, not aware that if I reported it maybe something could have been done.

Two days later, driving towards town, I saw that same man was chasing a woman who was coming out of Subway to her car.

Since these incidents, I have been stared down by the man at Hannaford and the man at Exit 15. I struggle with having to run to the grocery store and not only have to worry about the man from the parking lot, but the one at the lights as well. I am not even sure how standing at lights hasn't caused a problem or an accident. I, for one, am at the point of doing what I can to make it through that light before it turns red. I don't want to be stopped next to him or near the man at Exit 15 who thinks it's okay knock on car doors or yell at people for not giving him money while they're sitting at the lights. Also, there are a large number of complaints about the littering being done at Exit 15. Has that been addressed?

I am not alone with being terrified, frustrated, concerned, disappointed, feeling unsafe and nervous for my children. Here are some similar experiences my friends have shared.

I've had Evan bang on my window at 10:30 in the evening. I was pulling off of Bicycle Ave onto Brock Street and he was yelling at me telling me I had to give him money and a ride. That is a very dark area and I was instantly freaked out and even more freaked out since he was heading my direction where I was working on that road. That night I was afraid he was going to damage my vehicle while it was parked or even approach the residence where I worked. I did not contact the police but now I am afraid to drive in certain areas without my husband, especially with my children. They should not be witness to the yelling and screaming when you don't give them money. ~ mother to 3 children, Rochester

On more than one occasion I have been parked at the Commons in Rochester on the Saint Charles side and while bent over into my car trying to buckle/unbuckle my toddler from his car seat a man has approached me from behind. When I turned around, he was face to face with me. One time I was holding my two year old in my arms with my back up against my car and he asked me for money. I said I had none he then looked past me and into my car and asked if I had change. I said no and moved past him. It's very unsettling to feel like I can't take my kids to the park without being nervous about being approached. The same man has approached me while I was at a local shopping center and that time I was alone so I was able to quickly say no and

move past him but after shopping I knew I had to exit the store and was nervous he would still be outside. ~ Jody, Rochester

As I was leaving the library on a Friday afternoon through the Friendly's parking lot, Evan came straight towards the van and was not stopping. I kept going knowing who he was while he was trying to get me to stop. He jumped out of the way, gave me the finger and yelled at me. I kept going without looking back. I did have my girls with me. They didn't get scared just wanted to know who that crazy man was. ~ mother to 4 children, Rochester

My young son and I came out of CVS across from Hannaford and a man approached us and asked for money. He followed us all the way to my car and when we tried to ignore him, he knocked on my window. My son was terrified and it's horrible your kid has to be afraid of going to the store because of these people. They make people feel very uncomfortable. ~ Christine, Rochester

I have had them bang on my car window at Hannaford on North Main Street. They have also yelled at me and got mad when I did not stop and give them money at Exit 15. I'm afraid they'll reach into my car if my windows are down as they come close to me. It is really scaring me. ~Dinah, Rochester

One man came and was tapping on my car window. I was alone going to pick up food at the China Palace in Rochester. I had my back turned so he had startled me. I cracked my window and he preceded to ask if I had any money I could give him. I said, no and closed my window and waited for him to walk away. I was afraid leaving my car and that maybe he was mad. A couple of weeks ago I saw the same man approaching several different elderly ladies at the Salvation Army. He would stand by the road and approach the ladies as they were getting out of their cars. This is so unsettling. ~ mother to 4, Rochester

Evan Post has come right to my car door at the island near Kohls screaming "I know you have some money! Come on!!" He stares me down now every time I see him at the lights near Route 11. I just saw him today on 125. He is everywhere and he is just not right. He was knocking on doors on Lowell Street last fall asking to mow their lawns for cash. He has no limitations and only cares about getting high. I wish they would ban him from this city. He truly scares me. ~ mother to 3 children, Rochester

I was yelled at twice aggressively with fists and the finger while turning into the Lowes/Kohls parking lot. It was Evan Post. I should be able to shop in peace. He's also approached my parents house asking for money to shovel and he didn't bring a shovel with him. I'm glad I was there to tell him no. It's getting out of hand. ~ mother to 2 children, Rochester



My son had an encounter with one of the panhandlers who frequents Hannaford on North Main Street in Rochester when he was working at a local food place. The man came up to him as he was leaving work for the night and demanded money. My son replied that he did not have any and the man gave him a hard time so he went back inside to get someone to walk out with him. The second time the man did it, he started to dial 9-1-1 but then the man left him alone. My son was afraid when he went to take out his phone that the man would attack him as he said he had “wild eyes” and had heard how guys on drugs can seem that way. After that, he made sure he exited with someone else from work. ~ mother of 2, Rochester

My son was pumping gas in Rochester and was approached by one of the men. He asked him for money. When my son told him he didn't have any, he insisted that he had an atm card and he could go into the store and get him money. He has also been approached with my other son while in the car in Rochester. My son was a minor at the time. ~ mother to 2 children, Rochester

Evan came to my house when I was home alone with my one year old. My family was on vacation in Florida for two weeks. We went from six people in the house with lights and tv on all the time, to just me and my son. I barely watch tv, and there was only the kitchen light on. On the day before Thanksgiving it started snowing and I was expecting a family friend to stop by and plow that evening. Around 9:00 that night, the motion light came on and Evan pressed the door bell several times and then opened the screen door and banged on the door. I had fallen asleep on the couch with my son. I jumped up to answer the door expecting it to be a friend of the family who was going to plow (it was dark and late). It was Evan! I only knew that from seeing him on the Rochester Police Departments facebook page all the time. He told me he was going to shovel for \$5.00. I said no I have someone on their way to plow. He said again, I will shovel it for \$5.00 and he didn't even have a shovel. I started to pretend to talk to someone in the house so he didn't think I was alone and he quickly left. I called the police. A female officer came and informed me he had several trespass, burglary and other charges I should be aware of and he got served so he couldn't come near our property. I believe that because he walks around Rochester every night he probably noticed that the lights weren't on as they always were and if I wasn't there, I'm not sure what would have happened and if he would have broke in. I'm tired of being scared. ~ mother to one child, Rochester