

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 December 3, 2015

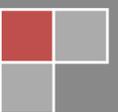
City Council Chambers

31 Wakefield Street, Rochester, NH

7:00 PM

- 1. Call to Order**
- 2. Public Input**
- 3. Approval of the Codes and Ordinances Committee Minutes P - 3**
 - **October 1, 2015**
- 4. Pawnbrokers/Second Hand Dealers Ordinance Amendments**
 - **Current P - 17**
 - **Proposed P - 23**
- 5. Out Door Dining Ordinance Proposed 26.10 P - 27**
- 6. Sign Ordinance Chapter 42**
- 7. Polling Locations - Ward 1 - Ward 3 - Ward 4**
- 8. Permits - Chapter 40.16 Amendments**
 - **Current P - 31**
 - **Proposed P - 35**
- 9. Other**
- 10. Adjournment**

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CODES AND ORDINANCES COMMITTEE

Of the Rochester City Council

Thursday October 1, 2015

City Council Chambers

31 Wakefield Street, Rochester, NH

7:00 PM

Committee Members Present

Councilor Elaine Lauterborn, Vice Chair

Councilor Donna Bogan

Councilor Robert Gates

Councilor Ray Varney

Committee Members Excused

Councilor Peter Lachapelle, Chair

Others Present

Terence O'Rourke, City Attorney

Councilor Gray

Councilor Keans

Brian LaBranche, Trinkets &
Treasures

Felicia LaBranche, Trinkets &
Treasures

Michael Provost, Executive
Director Main Street

Tom Velardi, Strafford County
Attorney

Roland Hersey, Gold & Things

Marc Saxby, Collec-tiques

Jeff Walters, Seacoast Gun & Pawn

Stacey Marchionni, Revolution
Taproom and Grill

Chris Bowlen, Director of
Recreation and Arena

David Anctil, Chair of Arena
Advisory Commission

MINUTES

1. Call to Order

Councilor Lauterborn called the Codes and Ordinance Committee meeting to order at 7:00 PM. Nancy Carignan, Assistant City Clerk, took a silent roll call. All committee members were present, with the exception of Councilor Lachapelle, who was excused.

2. Public Input

Councilor Lauterborn explained to members of the public that they would be allowed time to speak during the meeting as it pertained to their concerns on any of the agenda items. She asked if any member from the audience wanted to address the Codes and Ordinances Committee in regards to any other item that was not on the agenda. There was no discussion at that time.

3. Approval of the Codes and Ordinances Committee Minutes

- **August 6, 2015**

Councilor Bogan **MOVED** to **ACCEPT** the Codes and Ordinances Committee meeting minutes of June 4, 2015. Councilor Varney seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

4. Pawnbrokers/Second Hand Dealers Ordinance Amendments

Councilor Lauterborn asked Terence O'Rourke, City Attorney, to address the amendments to the Pawnbrokers/Second Hand dealers ordinance that he is recommending. Mr. O'Rourke explained that prior to working for the City of Rochester he worked with other County Attorney offices within the state and with this experience there had been issues pertaining to these businesses within the City of Rochester. Mr. O'Rourke stated that there had been suspicious record keeping in the past. He explained that he saw that the Codes and Ordinances Committee tried to make this ordinance stricter in 2013 by adding a holding period and suggesting an electronic filing process; however, those amendments were not passed. The committee cited that they were going to wait and see if the State was going to take any action on the issue.

Mr. O'Rourke made reference to the City of Manchester's ordinance, which had been overturned through the courts. He reviewed the Manchester ordinance and the Rochester ordinance to find comparisons. He explained that it has been two years since this was brought to committee and the State has done nothing, thus the victims have no way to recover their items.

Mr. O'Rourke explained that he also worked closely with the Strafford County Attorney, Tom Velardi, who was present in the audience, to make the suggested amendments. Mr. O'Rourke would like community support on this. He felt that the proposed amendments needed to go to the full City Council at this time.

Brian LaBranche, owner of Trinkets & Treasures, thanked Mr. O'Rourke for his input; however, he questioned the holding and reporting process that his business would have to abide by. Mr. LaBranche said that he felt his business was doing things the right way and explained his process of taking in merchandise.

Mr. LaBranche stated that the shop owners were not notified that the City was looking at amending the ordinance. He addressed the Codes and Ordinances Committee minutes from their August, 2013 meeting, which indicated that the City was going to wait for information from the State. It was his understanding that there had been a committee formed at the State level and this committee was going to be reporting back to the State in 2016.

Mr. LaBranche commented on the increase of the licensing fees and asked how the City could mandate who he does business with, plus add on transaction fees. He also felt the thirty day holding period was unreasonable and where the market fluctuates this would affect his cash flow. Mr. LaBranche stated that the hold period would make him more vulnerable to thefts, because he would be carrying a large inventory.

Mr. LaBranche considered himself an antique dealer. He was unclear of the definition of such a dealer, because if he fell into that category he would be exempt from this ordinance. He asked that the committee keep the current status of this as the minutes from 2013 addressed, and wait for the State of New Hampshire to make a decision.

Roland Hersey, owner of Gold & Things, expressed his concerns that the shop owners had no notice that this ordinance was back on the table. He also felt that the holding period would not work for the businesses.

Mr. Hersey asked why was the Police Department not coming to see them if there were issues, and he felt that his business works closely with the Police Department. He mentioned that he keeps good records and complies with the Police Department's random spot checks. Mr. Hersey said that his inventory is computerized, which helps.

Mr. Hersey compared the holding period to holding someone's paycheck for thirty days. He mentioned that after speaking previously with Chief Allen he was under the impression that things within the City were working.

Jeff Walters, owner of Seacoast Gun & Pawn, addressed the Codes and Ordinances Committee with his concerns on the transaction fees. He gave the committee a few statistics where he could see a cost to his business for the sum of \$2,600 on a given year. He, as well, referenced the minutes from the Codes and Ordinances August 2013 meeting.

Mr. Walters felt that he had a good reputation with the Police Department. He asked if other communities, which use this system currently, have shown a reduction in thefts.

Felicia LaBranche, owner of Trinkets and Treasures, asked Attorney O'Rourke why the City was bringing this ordinance back to the table.

Ms. LaBranche also stated that pawn shops and second hand dealers are two separate types of businesses. She also was under the impression that this ordinance was not coming back to committee until the State of New Hampshire addressed the issue.

Ms. LaBranche cited that antique dealers are not defined by the City and that she felt that the State of New Hampshire did not have a definition for them either.

Ms. LaBranche briefly voiced her thoughts of what is motivating these thefts. She asked how is the Police Department contributing to help where other area Police Departments call or email them.

Michael Provost, Executive Director of Main Street Program, had received several calls regarding this ordinance after some of the local businesses were made aware of the amendments. He felt that this ordinance needs a lot of work and the committee should wait until the State takes action.

Mr. Provost addressed the fees and cited that Rochester is not the only place in the Seacoast that is having this issue.

Mr. Hersey commented that the theft numbers are down. He mentioned that there was a questionable shop and that shop has now been shut down. Mr. Hersey added that maybe the ordinance should have terminology for repeat offenders.

Tom Velardi, Strafford County Attorney, addressed the Codes and Ordinances Committee, keeping to the content at hand. Mr. Velardi expressed that the area does have an opiate addiction problem and a lot of

these types of thefts are due to that issue. He explained that the items being pawned are considered liquid items. These are small items that may not be as noticeable as a large item.

Mr. Velardi did mention that Mr. Hersey had good records, but there are other businesses that do not. He explained that some of these businesses just record weight totals for what precious metals they take in. These items could be gone within forty-eight hours and a small item might not be noticed in that time frame.

Mr. Velardi agreed with some of the previous speakers and urged the City Council to continue to work on this issue within the City.

Councilor Keans asked Mr. Velardi if he had been to other communities. He said that he had. Councilor Keans asked him how he thought it would work. Mr. Velardi mentioned within the Tri-City area.

Marc Saxby, owner of Collec-tiques, saw the ordinance as an attack on the businesses and not helping the victims. He explained that the businesses that were present all keep in communication with each other. If there is a problem they notify each other. Mr. Saxby questioned if the City really has a problem.

Mr. Saxby asked if this ordinance might hurt more than it will protect. He asked that the City find the problem businesses and leave businesses that are doing the right thing alone. He addressed Mr. O'Rourke on the issue and they debated the various avenues of record keeping. Mr. O'Rourke mentioned that a company know as "Leads Online" is one such company. Mr. Saxby questioned if this ordinance would apply to yard sales. He mentioned that there was a shop already shut down so he felt that the current system works.

Councilor Lauterborn asked if anyone had talked to a Manchester shop owner. Mr. Saxby said that he had spoken with a small "Mom and Pop" business and they had to move out of the City of Manchester due to the cost. He added that some businesses might move out of Rochester. He asked if they could help the victim without hurting the businesses and wait for the State to make a decision.

Councilor Lauterborn asked Chief Allen if he would like to comment on the amendments to this ordinance.

Chief Michael Allen wanted to correct some of the inaccuracies that have been made. He stated that the Police Department does follow-up; however, not on every case. This happens to be very demanding on the detective division where they are also responsible for doing compliance checks on these businesses. At times the workload is overwhelming.

Chief Allen said that the comment regarding the shop mentioned, which was closed, is also inaccurate. He explained that when the amendments to this ordinance first came about it was two years prior to this shop closing.

Chief Allen also added that this issue is part of the drug problem within the City. He said that it is one hundred percent accurate that the property crime is down in the City, which he is very proud of. He did contribute some of this to the drug arrests being made.

Chief Allen stated that it is his job is to protect the community. He felt that the City does need a holding period or electronic record keeping.

Chief Allen gave statistics from the state of Maryland, which has the electronic filing, and has seen a significant impact in the recovery of stolen items. He said that the system works.

Chief Allen said that he did not want hurt business he wanted to help his Police Department recover property for the victims. He mentioned that he had sat on the committee at the State level and he is hoping for a statewide implementation; however, he thought maybe the State wanted to keep it within the local communities.

Councilor Keans mentioned that two years ago some of the shop owners were receiving emails from other communities on stolen property and why is Rochester not doing this. Chief Allen reiterated his previous answer, which had answered that question. He explained that he would have to dedicate one officer to handle the notifications. Councilor Keans felt that sending out an email would be more manageable then sending out an officer to the shops.

Councilor Keans asked Chief Allen for more statistics from other communities who have seen an improvement in the recovery of stolen property. She stated that he gave them dollar amounts recovered, but not the dollar amount of what was stolen. He said he will work on that.

Councilor Varney questioned the software that was looked at in 2013 and would it help the Police Department. He asked about the fee schedule and transaction schedule. Mr. O'Rourke said that they have the option of a flat fee or per transaction fee. He explained there was a typo. The fees would be decided by the City Council. Councilor Lauterborn also questioned the annual fee versus the transaction fee. She mentioned that a scrap dealer has a \$.50 transaction fee, where a pawn shop would have a \$1 transaction fee. Mr. O'Rourke explained the difference for the two amounts.

Councilor Varney said that if you do not have the holding period and just the electronic tracking then you are not going to recover items. Chief Allen agreed that they would need the holding period.

Councilor Gates asked the business owners if they had ideas to help achieve the objective of returning stolen goods to the victims.

Ms. LaBranche reiterated that she does not know where the issues are. There are different types of shops doing business different ways, why can't the City impose consequences for those shops not doing business properly.

Mr. Saxby agreed that the shop owners should put in writing what they would like to see in the new ordinance. He also believed in creating a group to discuss these issues. Councilor Gates suggested that the shops meet with Chief Allen and Mr. O'Rourke to come up with a solution. Mr. Hersey agreed and suggested the Police Department possibly come up with a red list for individuals who might be possibly involved in theft crime. Mr. LaBranche also agreed, but thought they should have more communication with the Police Department. Councilor Gates reiterated that they should open a dialog to work together.

Mr. LaBranche said that he would rather give \$300 to helping the addiction problem versus paying the fee for the electronic system.

Councilor Lauterborn stated that these amendments would not be decided tonight.

Councilor Gray questioned the study by the County Attorney. He agreed that there should be a system, but the businesses will incur costs. He gave some examples of how to improve the system. He addressed the waiting period and the definitions of the dealers. He felt that if the City had an electronic system there would be a shorter waiting period. Councilor Gray mentioned that they should not have a waiting period on a piece of one

hundred year old furniture. He would be willing to help them address this ordinance if that is their desire.

Councilor Keans would recommend to the Mayor that he put a committee together for this issue. Councilor Lauterborn agreed. The Codes and Ordinances Committee made suggestions on the members that should be on this committee. Councilor Varney mentioned if there is no willingness to have a holding period then they might not accomplish the goal at hand.

Mr. O'Rourke advised the committee that antique dealers are defined in Chapter 42 of the Zoning Ordinance. He read the section of the ordinance to the committee. He stated that he was not against discussing the ordinance further; however, it is not an unusual ordinance, and this type of ordinance is used across the country. He mentioned that when it comes to heirlooms and precious metals, once they are gone, they are gone. He was looking to help victims while trying to slow down the drug issues. Mr. O'Rourke said that nothing has happened to this ordinance since 2013 and he really felt that it should go to the City Council. He understood it was not perfect, but it was in good shape.

Councilor Keans did not feel it was right for a business in Rochester to have to pay a third party to do business in the City. Mr. O'Rourke disagreed.

Councilor Varney explained that this ordinance needs to stay in committee. A system like this could be very technical. He said that there could be training associated with the electronic system. If that is so, then the IT department would have to be involved and they are overwhelmed now. He would like a few more answers.

Councilor Varney **MOVED** to keep the Pawnbroker and Second Hand Dealer amendments in committee. Councilor Gates seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Varney wanted written feedback, not just complaints, from the business owners. Councilor Gates agreed that they need to have positive suggestions. Councilor Lauterborn advised them that they can submit their letters to the City Manager's Office, directed to the Codes and Ordinances Committee.

5. Outdoor Dining Ordinance - Proposed

Michael Provost, Executive Director of Main Street Program, addressed the Codes and Ordinances Committee on behalf of the Board of Directors. He

explained that this was a recommendation that came from their August 2015 meeting. He cited that this was a fair and equitable ordinance in the downtown district where there is no ordinance in place at this time. The City has had various situations where some businesses were allowed to have outdoor dining and some were not.

He stated some of the benefits of having outdoor dining in the City. He explained that it could bring more vibrancy and foot traffic to the downtown.

Mr. Provost mentioned that the Board of Directors recommended bump outs for those businesses who may not have enough sidewalk area; this would be at their cost and would need to be removed at the end of the season. He is looking for a partnership between the City and the downtown businesses. He was asking for the City to keep the fees low at this time.

Mr. Provost endorsed this ordinance and felt that it was a good start. Councilor Lauterborn discussed this further with Mr. Provost and the committee. Councilor Lauterborn thought the ordinance was fair.

Stacey Marchionni, owner of the Revolution Taproom and Grill, is pleased to see such an ordinance. She asked to address her concerns with the ordinance as it pertains to various terminology and guidelines. She felt that the businesses wanted reasonable expectations.

Ms. Marchionni said that she felt that the City needed to allow the businesses to keep their outdoor space every season, which she felt was too short of a season and asked if that could be changed. She understood that she would have to reapply for the license every year; however, if they invest money to accommodate the space for dining she would hope that City allow them to continue to use the space year after year.

Ms. Marchionni expressed her concern that the City can, at their request, use the space for a special municipal event. Her thought was that the City only should be allowed to use the space for emergencies. She questioned the square foot price of \$10. Mr. O'Rourke explained that the price was not set in stone and it would be up to the City Council. Councilor Varney suggested a flat rate. Mr. O'Rourke explained that the sizes allotted would vary. He felt where it was City property it would need to be at fair market value. After further discussion the committee concluded that the price varies from community to community.

Ms. Marchionni said that some of the technical language needed to be re-written and she wanted more defined authorized uses. She explained that with the various liquor licenses that the State issues the City should not include that they have to serve food in the ordinance.

Ms. Marchionni added that the ordinance was vague when it came to allowing the City to shutdown an outside dining area at will. She felt that this should be addressed.

Ms. Marchionni questioned the specific types of enclosures for these dining areas. Councilor Varney believed that they were looking at consistency in the downtown. She also questioned outside entertainment.

Ms. Marchionni had concerns with the primary advertising not being allowed. Mr. O'Rourke explained that indirect advertising would be allowed.

Councilor Lauterborn asked Ms. Marchionni to provide Mr. O'Rourke a written copy of her suggestions for revisions. Ms. Marchionni stated that she would provide this to him.

Mr. O'Rourke addressed her concerns with the Codes and Ordinances Committee and discussed the liquor licenses with Ms. Marchionni and Mr. Provost. Mr. O'Rourke will look into the licenses further. He did want the committee to look at this as city property and would having a bar on the sidewalk be appropriate. He said it would be up to the City Council.

Councilor Gate **MOVED** to keep the proposed Outdoor Dining Ordinance in committee until they receive a revised copy. Councilor Varney seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

6. Recreation, Parks and Youth Services, Arena Ordinance Amendment

Chris Bowlen, Director of Recreation and Arena, gave the committee a little background in regards to why they are looking to amend these ordinances. He referred to his "Master Plan" from 2010-2011. Where they work close together it only makes sense to make them a singular advisory board.

Mr. Bowlen explained that they have been working on this for month and it is now at the formality stage. He explained that the board has been

working with the City Attorney on this and the commission now wanted to see the merge move forward.

Councilor Lauterborn asked why the committee has fourteen members. She thought that was too many. Mr. Bowlen felt that they needed that amount, but understood her wanting the reduction. He referred to the recommendation from their consultant, which suggested ten members. Councilor Lauterborn felt that they should have an odd number of members. Mr. Bowlen explained that they are a non-voting committee and are just an advisory committee.

Councilor Lauterborn mentioned that they currently have a vacancy, and if they do not fill that position it would at least reduce the committee by one. Mr. Bowlen agreed.

Councilor Lauterborn and the committee discussed non-residents on the commission. David Anctil, Chair of the Arena Advisory Commission, addressed this issue for the committee. He said that the non-residents are very valuable and they have done a lot for the commission. They also have been involved with the arena through the years with other organizations, some that contracted the arena for their services.

Mr. O'Rourke said the commission was at fourteen with staggered terms. He advised the Codes and Ordinances Committee of input from the members currently on the commissions, and they all seem to be in agreement with the terms and the number of members.

The Codes and Ordinances Committee discussed with Mr. Bowlen the two non-recreation members. He explained that these are in place for such organizations like the "Big Buddy Program" and similar organizations.

Councilor Lauterborn wanted more clarification on the two non-resident members. She felt that the wording in the ordinance should be changed from "shall be" to "maybe." Councilor Varney said if those two members are dropped then that would lower the number on the commission. Mr. Bowlen reiterated that those two members are very high functioning and have value to the commission. The committee further discussed changing the non-resident members.

Councilor Varney discussed 21.1 (c) of the chapter as it pertained to members, which shall not be involved in non-recreation services. He felt that it should be removed from the definitions.

Councilor Varney **MOVED** to strike the last sentence of 21.1 (c). Councilor Gates seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

The Codes and Ordinances Committee discussed this briefly and Mr. Bowlen stated that there was not a member on the commission that as non-recreation; however, it was listed in the current ordinance. The committee addressed that this commission does consist of one City Council member and one School Board member. The committee continued to discuss the non-residents and vacant position. Councilor Varney reiterated that these amendments are a combination of both commissions.

Councilor Lauterborn **MOVED** to change "shall consist of two non-residents" to "may consist of up to two non-residents." Councilor Gates seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Varney wanted to see a commission consisting of ten members, excluding the City Council and School Board members. Councilor Gray felt that the School Board member should be included and explained that they are valuable to the interface should a problem arise. Councilor Lauterborn agreed, but wanted Mr. Bowlen to follow-up with the School Board so they have a member that will attend regularly. Mr. Bowlen did confirm that the City Council member attends regularly.

Councilor Lauterborn mentioned that if they are looking to reduce numbers maybe they should look at members whose terms are expiring. Mr. Anctil gave his reasons why these numbers should not be reduced by expiration. He explained that quite a few of the members whose terms are expiring are the original members with a lot of experience. Councilor Lauterborn asked if thirteen would be acceptable. Councilor Varney thought that the members should all have to reapply. Councilor Keans asked why should the City Council dictate the number of members.

Mr. Anctil wanted to reiterate that this commission is just an advisory board. The members discuss issues and come to an agreement to advise; they do not vote. Councilor Lauterborn wanted to see the number at thirteen. Mr. Bowlen did not have a problem with that as attendance varies. The committee and Mr. Bowlen agreed with that number he would need at least seven members present to have a quorum.

Councilor Lauterborn **MOVED** to change the number of members for the Recreation and Arena Commission from fourteen to thirteen. Councilor

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

Councilor Lauterborn asked Mr. Bowlen to check into the staggered terms. Mr. O'Rourke mentioned that with a new commission everyone would need to apply. Councilor Lauterborn believed that because of this they would need to have a resolution. Mr. O'Rourke agreed. The committee agreed that the City Council and School Board members would stay at their two year term because that was how they are elected. Committee members addressed whether the terms for all other members should be three or four, since each commission has a different term.

Councilor Gray described further as to how the appointments committee would address this. He thought there would be formal meetings for re-appointments.

Councilor Varney asked about the Arena Department supplying the City Council their fee schedule under 2.18 (b) paragraph five. He said it does not look like that is getting done. Mr. O'Rourke felt that they need to look at that and maybe it should be stricken. The Codes and Ordinances Committee discussed this further with Mr. Bowlen and Mr. Anctil. Mr. Bowlen said that they could have the fee schedule by May during the budget season. Councilor Varney reiterated that the City Council needs to check these fees to compare to the expenses.

Councilor Bogan **MOVED** to have Chapter 3 Boards and Commissions, and Chapter 21 Recreation and Arena, with revisions sent to the City Council on November 4, 2015, meeting. Councilor Gates seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

7. Aggressive Panhandling Discussion

After reviewing the aggressive panhandling as it pertained to the City with Mr. O'Rourke, which he informed them that this type of ordinance could be overturned. It was the consensus of the Codes and Ordinances Committee that no action be taken.

8. Other

Councilor Varney wanted to address casinos within the City and questioned what the definition of a casino was. Mr. O'Rourke had hand outs for H.B. 651 and H.B. 113, which pertained to this discussion. He will work on the definition as it would apply to the City.

Councilor Keans stated that if the State does not allow casinos, why are we addressing them. Councilor Varney said that he had spoken to Jim Grant and per zoning they are allowed in the City with the exceptions of R1 and R2. He was concerned with where these establishment could go if allowed. The Codes and Ordinances Committee debated this further. Councilor Gray added that the City already had a Charitable Casino License. Mr. O'Rourke explained that this would be a gaming license and he mentioned that in the 2015 H.B. the casino was dropped.

The committee had a further discussion on this where there is an establishment within the City that has gaming. Councilor Varney would like this followed up on. Councilor Gray and Councilor Keans reviewed the charitable casino license aspect.

Councilor Lauterborn stated that this topic will stay in committee until the November Codes and Ordinances Committee meeting.

9. Adjournment

Councilor Gates **MOVED** to **ADJOURN** the Codes and Ordinances Committee meeting at 9:48 PM. Councilor Bogan seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Respectfully submitted,

Nancy Carignan
Assistant City Clerk

Current

CHAPTER 26**PUBLIC LICENSE****SECTION ANALYSIS**

- 26.1 Licensing Board Established
- 26.2 Licenses Required
- 26.3 Pawnbroker's License
- 26.4 Junk Dealer's License
- 26.5 Boxing and Wrestling Exhibitions
- 26.6 Public Dances, Circuses, Parades, etc.
- 26.7 Moving of Buildings Through Streets
- 26.8 Bowling Alleys and Billiard Tables
- 26.9 Soliciting Funds

26.1 Licensing Board Established.

There is hereby established a Licensing Board for the City of Rochester which shall consist of the City Manager, Chief of Police, and one other person to be appointed by the Mayor in accordance with the provisions of Section 74 of the Rochester City Charter, at the first January meeting of the City Council following the regular municipal election for a term of two (2) years. The Licensing Board shall have such powers and duties as are prescribed in RSA 286.

26.2 Licenses Required.

The Licensing Board may grant blanket licenses to theaters and in such case the licensee shall pay in advance the following fees: (1) For the public showing of moving pictures, \$50.00 for the first three months and \$20.00 for every three months thereafter; (2) For exhibitions, vaudeville, entertainment, and presentations other than moving pictures or in addition to moving pictures, \$100.00 for the first three months and \$75.00 for every three months thereafter, provided, however, that if a licensee has paid a fee for a license for a motion picture, the fee for occasional exhibitions, vaudeville, entertainment and presentations shall only be such sum in addition to a motion picture fee as the Board may deem just and reasonable; but the fee for a license to exhibit in any hall shall not exceed \$50.00.

26.3 Pawnbroker's License.

The provisions of RSA 398 relative to pawnbrokers are hereby accepted. A pawnbroker's license shall designate the place where the licensee may carry on his/her business and the licensee shall not carry on said business at any other location within the City. The fee for a pawnbroker's license or any renewal thereof shall be \$50.00 a year, payable in advance.

26.4 Junk Dealer's License.

The fee for a junk dealer's license or any renewal thereof granted under the provisions of RSA 322 shall be \$50.00 a year, payable in advance.

Current

26.5 Boxing and Wrestling Exhibitions.

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 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.

26.6 Public Dances, Circuses, Parades, etc.

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 shall be \$2.00.

26.7 Moving of Buildings Through Streets.

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.

26.8 Bowling Alleys and Billiard Tables.

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

26.9 Soliciting Funds.

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

CHAPTER 34

JUNK AND SECOND-HAND DEALERS

SECTION ANALYSIS

- 34.1 Junk Dealer Defined
- 34.2 Second-Hand Dealer Defined
- 34.3 Licenses Required
- 34.4 License Applications
- 34.5 License Revocation/Expiration
- 34.6 Purchases from Minors
- 34.7 Second-Hand Dealers' Records
- 34.8 Junk Dealers' Records
- 34.9 Exclusions
- 34.10 Penalty
- 34.11 Severability

34.1 Junk Dealer Defined. A “junk dealer,” within the meaning of the provisions of this ordinance, shall be a person, firm or corporation engaged in the purchase, sale or barter of old iron, steel, chain, aluminum, brass, copper, tin, lead or other base metals, belting, waste paper, old rope, old bags, bagging barrels, piping, rubber, glass, empty bottles and jugs of all kinds and quantities of less than (1) gross, and all other articles discarded or no longer used as manufactured articles composed of any one (1) or more of the materials hereinbefore mentioned.

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

34.3 License Required. No person, firm or corporation shall engage in the business of junk dealer or second-hand dealer as herein defined unless licensed therefore by the Licensing Board.

Current

34.4 License Applications. Applications for licenses shall be made to the Licensing Board and filed with the Director of Building, Zoning, & Licensing Services Department upon blanks furnished by the Director of Building, Zoning, & Licensing Services Department for that purpose, and shall be submitted by the Director of Building, Zoning, & Licensing Services Department to the Chief of Police who shall cause an investigation to be made of the fitness of the applicant to engage in the business of a junk dealer or second-hand dealer and report his findings to the Licensing Board before such license is acted upon by the City Council. The license fee for each license shall be Fifty Dollars (\$50.00) per year payable in advance to the Building, Zoning, & Licensing Services Department. There shall be no fee for non-profit charitable organizations, public schools, and public institutions. [1]

The Licensing Board, after a satisfactory investigation by the Police Chief, may issue a temporary license to existing junk or second-hand dealer establishments when there is only a change of ownership. [3]

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

34.6 Purchases from Minors. No junk dealer or second-hand dealer shall, directly or indirectly, either purchase or receive by way of barter or exchange, any of the articles aforesaid, of a minor under the age of eighteen (18) years, knowing or having reason to believe him to be such; except when said minor shall be accompanied by a parent or legal guardian who shall sign the transaction record in person before said dealer.

34.7 Second-Hand Dealers' Records. Every second-hand dealer, upon acquisition of any article either by purchase or exchange, enumerated in Section 34.2 hereof, shall prepare and keep a written record of the transaction stating the full name, address, month, day and year when the transaction took place, and a full, accurate, and detailed description of each article so purchased or exchanged, with the price paid thereof, and cause said record to be signed by the seller in person. A copy of said record shall be available for inspection by any Rochester Police Officer or the Rochester Director of Building, Zoning, & Licensing Services Department at any and all times.

34.8 Junk Dealers' Records. Every junk dealer, upon the acquisition of any items, enumerated in Section 34.1 hereof, shall keep a permanent record of such transactions which shall include a full, accurate, and detailed description of the item with the full name and address of the seller, together with the registration number of any vehicle used by the said seller in delivery of said items and the month, day and year of the said transaction. A copy of said record shall be available for inspection by any Rochester Police Officer or the Rochester Director of Building, Zoning, & Licensing Services Department at any and all times.

34.9 Exclusions. Specifically excluded from the provisions of this Chapter 34 are the following:

Current

- (1) Antique dealers
- (2) Purchases from private residences
- (3) Wearing apparel stores

34.10 Penalty. Any person, firm, corporation or association violating any of the provisions of this ordinance, in addition to the revocation of his/her license, shall be liable to a fine or penalty of not more than One Hundred (\$100.00) Dollars for each offense.

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

[1] Amended 5/1/07

[2] **Amended 10/15/2013** – Director/Department of Code Enforcement to Director/Department of Building, Zoning, & Licensing Services

[3] Amended Section 34.4 on 2/3/2015

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26.3 Pawnbroker's License.

(a) - - -

(b) All pawnbrokers shall be subject to the holding period restrictions and requirements set forth in Section 34.7 of the General Ordinance of the City of Rochester.

34.2 Second-Hand Dealer Defined.

A "second-hand dealer", within the provisions of this Ordinance, shall be a person, firm or corporation engaged in the business of selling, exchanging, dealing in or dealing with second-hand articles, including, but not limited to, firearms, opera glasses, telescopes, watches, clocks, diamonds or other precious metals, jewelry, furs, fur coats, or other kinds of wearing apparel, antique furniture, furnishings, glass and dishes, musical instruments, radios, electronics, automobile accessories, office and store fixtures and equipment, gas and water meters, antique and collectibles as those terms are defined in Ordinance 42.2.b.219 (A), and all classes of fixture and their connections. For purposes of this definition, yard sales, flea markets, garage sales, attic sales or similar commercial activity established as business for the sale of other people's property as described in this Ordinance or such a sale that exceeds three days duration or is held more than three times a year shall be considered a second-hand dealer.

34.7 Second-Hand Dealers' Records and Inspection.

(A) Every pawnbroker or secondhand dealer, upon acquisition of any article enumerated in Section 34.2 of the Ordinance, shall prepare transaction records electronically as directed by the Chief of Police or his designee, and submit said form electronically, detailing the proven identity of the seller including his name, date of birth, address, type of identification and identification number if there is one. A digital photograph of said person shall accompany the electronic filing of the transaction. Only government issued forms of identification will be accepted. No transaction shall occur if the identity of the seller cannot be proven. The record of the transaction shall also contain the month, day, and year when the transaction occurred as well as full, accurate, and detailed description of each article purchased brand name and serial number, if any, with the price paid therefor, and cause the record to be signed by the seller in person along with a digital color photograph of the property pursuant to the following requirements:

(1) *Individually identifiable articles.* Articles that are individually identifiable by a serial number or other applied numbers, letters, characters or markings or other unique features that serve to distinguish it from any other similar article and can be used to establish ownership.

a. Each individually identifiable article brought in to a pawnbroker or secondhand dealer for sale, barter, trade, pledge or pawn during a single transaction shall be itemized separately. Articles shall not be grouped together (i.e. five gold monogrammed rings), but must provide a complete and thorough description of each item to include the following:

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1. Type of article;
2. Brand name/make/manufacture (if applicable);
3. Model number (if applicable);
4. Serial number (if applicable);
5. Color/finish; and
6. Any other identifying marks, writing, engraving, etc.

b. A digital photograph(s) shall be taken of each individually identifiable article, sufficiently detailed to allow reasonable identification of the article. The digital photograph(s) shall capture any identifying numbers, marks, writing, engraving, etc., or any other distinguishing characteristics.

(2) *Non-individually identifiable articles.* Articles that cannot be distinguished from any other similar article may be described in groups of similar types of articles, but only within the same transaction.

a. Non-individually identifiable articles brought into a pawnbroker or secondhand dealer for sale, barter, trade, pledge or pawn during a single transaction may be grouped and shall include reasonable descriptions of the number and types of items within each group to enable the Police Department to determine if they may have been stolen during a particular crime. (For example, the licensee receives a video game controller, five video game discs, and numerous items of jewelry. The licensee would have to individually itemize and photograph the video game controller as outlined in (A)(1) above, as it would have a serial number. The remaining items shall not be listed as "miscellaneous video games and jewelry." Instead, the licensee shall describe them as follows: "five video game discs to include the following titles..." and "miscellaneous jewelry to include two yellow gold necklaces, one silver necklace, two pairs of silver earrings, one women's yellow gold ring, one women's white gold diamond ring and two silver bracelets.")

b. A colored digital photograph(s) shall be taken of each group of similar types of articles within the same transaction. The articles may be photographed together as a group but each individual article shall be visible in the photograph. (For example, given the circumstances outlined in (A)(2)(a) above, the five video game discs would be photographed together as a group, side-by-side, and the jewelry items would be photographed together as a group with each item laid out so to be individually viewable.)

(B) When filed electronically, a copy of the record shall be forwarded to the Police Department or authorized data storage site as soon as possible, but no later than 24 hours after completion of the transaction. The dealer shall retain a copy of the record at his local place of business for one

Proposed

year from the date of transaction which, along with any article therein listed, may be inspected by any duly authorized police officer. No article so purchased shall be sold, changed, altered in its appearance or otherwise within 7 days after the purchase thereof, except with written consent of the Chief of Police or his designee. All items purchased or pawned shall remain on the premises during the waiting period with the exception of pawned items being redeemed by the owner. The record shall be available at the local place of business for inspection by any duly authorized police officer for one year from the date of transaction.

34.8 Junk Dealers' Records and Inspection.

(A) Every junk dealer, upon the acquisition of any item enumerated in Section 34.1 of the Ordinance, shall prepare transaction records electronically as directed by the Chief of Police or his designee. When filed electronically, a copy of the record shall be forwarded to the Police Department or authorized data storage site as soon as possible, but no later than 24 hours after completion of the transaction. The electronic record shall detail the proven identity of the seller including his name, date of birth, address, type of identification, and identification number if there is one. Only government issued forms of identification will be accepted. If the identity of the seller cannot be proven, no transaction may occur. Furthermore, a digital photograph of said person shall accompany the electronic filing of the transaction. The owner, corporation, or company shall maintain at his local place of business, a record of the transaction detailing the proven identity of the seller. The record shall include a full, accurate, and detailed description of the item, including brand name and serial number, if any, along with a color digital photograph of item(s) pursuant to the following photographing requirements:

(1) Articles that cannot be distinguished from any other similar articles may be described in groups of similar types of articles, but only within the same transaction by the same customer. Licensees/owners/employees shall provide reasonable descriptions of the number, weight and/or types of items within each group to enable the Police Department to determine if they may have been stolen during a particular crime.

(2) A colored digital photograph(s) shall be taken of each group of articles, provided however, that similar types of articles contained within some type of container does not have to be photographed individually. A color digital photograph of the container and a reasonable representation of its contents will be sufficient.

(B) All electronic records submitted by junk dealers and/or scrap yards shall also include a complete and accurate description of any vehicle used by the seller, to include year, make, model, color, registration number and state, to be included with the electronic filing of the transaction. The record shall also include the day, month, and year when the transaction occurred. The record shall be available at the local place of business for inspection by any authorized police officer for one year from the date of transaction. No article so purchased shall

Proposed

be sold, changed, altered in its appearance or otherwise within 7 days after the purchase thereof, except with written consent of the Chief of Police or his designee.

34.9 Exclusions.

(1) Any person, firm, partnership or corporation whose exclusive business is the retail buying, selling, buy-back, exchanging, dealing in or dealing with furs, fur coats, books, magazines, used furniture, used clothing, or used motor vehicles/motorcycles by legally recognized vehicle dealerships, shall be exempt from the requirements of Sections 34.7 and 34.8.

(2) Coins or stamps sold/purchased in bulk (meaning the purchase at one time, at a reduced price, of a large quantity of a coins or stamps) may be resold to individuals or wholesalers (meaning a person or company that sells things to businesses and not to individuals) without record, provided that the sale/purchase occurs after the 7-day hold period and the photographing requirements of Sections 34.7 and 34.8 have been met.

(3) Sales by persons not required to be licensed as secondhand dealers from private residences are exempt from the provisions of Chapter 34.

(4) An organization that purchases secondhand goods, whether directly or indirectly, from a not-for-profit organization and does not purchase any secondhand goods from the general public is exempt from the provision of Chapter 34.

(5) Sellers/buyers of used video games over two years old, used video gaming consoles (including hand-held devices) over 10 years old, collectable cards, games or toys.

34.12 Fees.

Every pawnbroker or secondhand dealer that purchases an item in which a transaction record must be prepared pursuant to Section 34.7 of the Ordinance shall pay to the City of Rochester a single annual licensing fee of \$50.00, regardless of whether they conduct business both as a pawnbroker and secondhand dealer.

The Effective Date of these changes shall be April 1, 2016.

CHAPTER 26

PUBLIC LICENSE

26.10 Use of City Property for Outdoor Dining.

1. Requests for use of City property for outdoor dining providing food and alcohol service shall be made in writing to the City Manager on an annual basis by February 1st with no expectation of continued year-to-year use of the City property on a continuing basis. Requests will only be accepted by businesses licensed to serve food to the public. In the event that a new business opens during the outdoor dining season and wishes to incorporate outdoor dining in its plans, an application will be allowed for the remainder of the dining season only.
2. Such requests shall include a dimensioned site plan of the existing conditions, including a depiction of public infrastructure such as curb lines, light poles, bike racks, street trees, tree grates, manhole covers, meters, licensed A-frame signs, adjacent on-street parking and loading zones, adjacent accessible sidewalk curb cuts and the like. Such requests shall also include a dimensioned site plan depicting the proposed table/chair layout plan for outdoor dining dimensioned routes of travel within the outdoor dining area and on the adjoining public sidewalk, as well as detail sheets for the proposed enclosure system, tables, chairs, lighting, trash receptacles, and the like. These plans will be reviewed by the TRG and suggestions forwarded to the City Manager.
3. The terms and conditions of any such requests that are approved by the City Manager in any given year shall be described in an annual Area Service Agreement, which includes a clear depiction of the area approved for outdoor dining use and the time period of approved use ("Season"), with said Area Service Agreement to be signed by the City Manager and the party or parties making the request. The Season shall run from May 1st through the day after Columbus Day.
4. Area Service Agreements shall not be assignable to other parties.
5. Use of the Area subject to the Area Service Agreement (the "Area") may be precluded, modified or made subject to any such terms and conditions as may be determined by the City Manager in order to accommodate special municipal events.
6. A \$_____ per square foot fee will be charged for the Area subject to the Area Service Agreement and the fee shall be for the Season with no proration of the fee. The minimum fee for the season shall be \$_____ even if the size of the Area subject to the Agreement is less than 100 square feet. The fee shall be due and payable to the City of Rochester prior to authorization to use the Area.
7. The Area specified for outdoor dining use in the Area Service Agreement shall be restored upon termination of the Area Service Agreement at season's end. Specifically, at season's end, the enclosure system, tables, chairs and all other materials in their entirety shall be removed from the City-owned area with the area left in an unobstructed, undamaged, clean and sanitary condition at no cost to the City.

8. Outdoor dining establishments on City property shall indemnify and hold harmless the City of Rochester and shall maintain and provide insurance of the types and amounts specified by the City's Legal Department and shall list the City as additional insured.
9. Outdoor dining establishments shall not damage sidewalks, curbing, bike racks, street trees, light poles, trash containers, utilities or any other City amenities or infrastructure, or make same inaccessible for public use (other than within the approved Area) or maintenance purposes.
10. Outdoor dining establishments may utilize the Area for Outdoor Dining during their normal business hours, except that all tables within the Area shall be cleared of all food and alcoholic beverages by 11:00 p.m. Monday through Saturday and by 10:00 p.m. on Sunday with no alcohol served within the Area subsequent to one-half hour before the foregoing closure times.
11. Outdoor dining establishments shall agree at all times to comply with all laws, rules and regulations of the NH State Liquor Commission and all other local, state and federal laws. Approval of the Area Service Agreement by the State Liquor Commission is required. Alcoholic beverage violations shall be self-reported to the State Liquor Commission and the City Manager. See RSA 178:24 and RSA 179:27.
12. Outdoor dining establishments shall only serve alcoholic beverages to patrons who are seated at a table and who are ordering food with service at tables conducted by wait staff only.
13. Outdoor dining establishments will agree that they shall be solely responsible for compliance with the Americans with Disabilities Act.
14. The Area Service Agreement may be suspended at the sole discretion of the City on an administrative basis.
15. The Area Service Agreement may be revoked in its entirety, excepting for indemnity provisions, by the City Manager at any time.
16. Outdoor dining establishments with alcohol service should meet the following site design standards:
 - 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) 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) 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.

- d) The internal dimensions and table/chair layout of the outdoor dining Area must allow for the passage of customers and wait staff and shall, in any event, meet ADA requirements.
 - e) Outdoor dining establishments must provide a 5-foot radius clearance from the center of restaurant doorways (exterior) and doorways shall be kept clear at all times and a 5-foot minimum clear pedestrian path in front of restaurant doorways (exterior) shall be maintained at all times.
 - f) The enclosure system, tables and chairs shall be movable/non-permanent.
 - g) In all areas where outdoor dining establishments are allowed the width for the pedestrian way adjacent to the Area shall, at a minimum, be 3-feet and, in any event, meet ADA requirements, but will depend on site conditions. The pedestrian way in both instances shall allow for and provide clear unimpeded passage and access along the Area. The pedestrian way shall be located entirely on the public sidewalk and shall meet criteria that ensure pedestrian safety, usability and ADA compliance. In no event shall the Area interfere with accessibility or public safety, including safe lines of sight for drivers.
 - h) Canopies over the outdoor dining areas shall not be allowed unless they are completely supported by hardware on the building structure, that is, there shall be no vertical supports in or around the outdoor dining. Table umbrellas are allowed, but must not extend beyond the Area.
 - i) No object strictly related to advertising shall be allowed in the Area.
 - j) No improvements or personal property located within the Area shall extend on or over any City property located outside the Area.
17. Outdoor dining establishments shall agree at all times to comply with all local laws, rules regulations and orders including, but not limited to the following:
- a) Health Department to approve outdoor food service operations and cleaning operations, with the Area to be left in a clean and sanitary condition at all times and no outdoor garbage containers will be permitted. The Area shall be left in clean condition at close of business with all garbage removed in its entirety from the Area, and any ground debris swept up, at close of daily business. No food prep, grilling, service windows, service counters, wait stations, or bus buckets shall be allowed in the Area and no condiments, paper products or the like shall be stored on the tables in the Area. Health Department shall review/approve that kitchen facilities are sufficient to support additional seating.
 - b) The Director of Buildings, Zoning and Licensing shall review/approve that bathroom facilities are sufficient to support outdoor dining seating.
 - c) Only decorative lighting shall be permitted.
 - d) A Place of Assembly inspection and updated Place of Assembly permit shall be required from the Fire Department and the Fire Department shall review/approve means of egress as part of the TRG process.

18. No Area Service Agreement should be approved by the City Manager except in conformance with the foregoing.
19. The above are policy guidelines that will serve as the basis for Area Service Agreements, which may include other terms and conditions deemed by the City Manager to be in the public interest.
20. The number and location of Outdoor dining establishments on City property shall be at the sole unfettered discretion of the City Manger acting in the public interest and no entitlement is created by this policy for any party to have a outdoor dining at any location.

This Ordinance shall take effect upon the passage by the City Council.

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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.

40.14 Access to Basements. – Repealed in its entirety 9/6/2011 [8]

40.15 Like Provisions.

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

40.16 Permits.

(a) Permits shall be obtained from the Director of Building, Zoning, and Licensing Services, for the construction, alteration, removal, demolition, or repair of any foundation, footing, building or structure or for the installation of plumbing, use of concrete, masonry, metal, iron and wood, and other building material, the installation of electric wiring, and fire protection incident thereto for the prevention of fires, including but not limited to swimming pools, signs, and fences, except that no permit shall be required for painting, papering, laying floors, or upkeep in maintenance of any structure. Separate permits shall be required for building, electrical, plumbing, mechanic, fire protection, and demolition. Prior to the issuance of a foundation or building permit by the Director of Building, Zoning, and Licensing Services, the applicant for such permits shall file with the Department of the Building, Zoning, and Licensing Services a Foundation Certification Plan bearing the stamp of a New Hampshire Licensed Land Surveyor and containing a statement from such surveyor to the effect that the proposed building or structure complies with all applicable building or structure setback requirements and that no portion of the new building or structure is located within any of the setback areas required by law. The requirement for a Foundation Certification Plan may be waived, in writing, by the Director of the Building, Zoning, and Licensing Services if, in the discretion of the Director of Building, Zoning, and Licensing Services there are reasonable grounds to conclude that the preparation and submission of a Foundation Certification Plan is unnecessary to insure that the new building or structure does not violate any required setback. [3] [9]

The following fees shall be charged for said permits, based upon the estimated cost of construction as presented to the Director of Building, Zoning, and Licensing Services upon application forms provided by him:

(1) On proposed work, the fee of Nine Dollars (\$9.00) per thousand dollars of estimated cost of work, or any portion thereof, with a minimum fee of Ten Dollars (\$10.00), in addition to an application fee of \$10 for each permit. [2]

(2) Each building permit shall expire twelve (12) months from the date of issuance unless renewed by the Director of Building, Zoning, and Licensing Services prior to the expiration date. Any renewal shall require reapplication and payment of required fees based on the remaining work to be done.

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The Director of Building, Zoning, and Licensing Services may issue no building permit until such other permits or approvals as may be required by any code, other ordinances, or State Statutes have been acquired. [9]

(3) A separate permit shall be required for staging, scaffolding, platforms, or other similar equipment, to be erected on private property that is to be erected for a period exceeding thirty (30) days. Said permit shall expire twelve (12) months from the date of issue and all equipment shall be removed upon said expiration or upon completion of the work, whichever comes first. The fee for said permit shall be Five Dollars (\$5.00). The City reserves the right to revoke, deny, or not reissue said permit if work required is not being actively pursued in a timely or otherwise reasonable manner.

(4) Fees for building permits shall be waived for a veteran of World War I, World War II, or the Korean and Vietnam Conflicts, who plans to construct or have constructed for himself a home or appurtenance to a home already owned by him for exclusive occupancy by himself and his immediate family.

(5) Permits issued to or for the City of Rochester are exempt from the above fees.

“(b) The estimated cost of construction for purposes of subparagraph (a) of this Section 40.16 shall be calculated on the following basis: [6]

(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), fire protection systems and any other work which would render the building complete and ready for occupancy.

(2) For non-contract work, not covered under paragraph (b)(1), such as when a homeowner furnishes his own, or has furnished free labor, but purchases the materials, the fee shall be based on the actual cost of all materials with a multiplier of two (2) applied. For example: Total materials of \$5,000; ($\$5,000 \times 2 = \$10,000$). The permit fee would therefore be \$90.00 (or $10.0 \times \$9.00$). If, in the opinion of the building official, the cost of construction is underestimated on the application, the permit shall be denied, unless the applicant can show detailed documentation to meet the approval of the building official. Final building permit cost of construction shall be approved by the building official.

(3) Any person who is found to have demolished, constructed, altered, removed, or changed the use of a building or structure without the benefit of a building, electrical, plumbing, mechanical, fire protection or demolition permit shall, upon application for said permit (s) be assessed a permit fee of twice (2x) the normal rate outlined in subparagraph (a) of this Section 40.16, or Twenty-Five Dollars (\$25.00), whichever is

greater. Example: Cost of materials = \$15,392; Labor = Self; Permit Fee = 16.0 x \$9.00 x 2 (self labor) x 2 (added fee) = \$576.00.

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 shall first be collected. The permit processing fee shall be 10 (10%) percent of the building permit application fee with a minimum fee of Ten Dollars (\$10.00).” [5]

40.17 Prospective Application.

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

40.18 Severability.

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

40.19 Cleanup of Construction Sites.

Within 30 days of the issuance of a Certificate of Occupancy, or in the case of a project which is terminated or delayed indefinitely, within 30 days of appropriate notification by the Director of Building, Zoning, and Licensing Services, the land at any construction site must be reclaimed. Such reclamation includes removal of all vehicles, equipment, materials, and temporary structures related to the construction project and restoration of any disturbed land to a grassed, planted, or otherwise erosion-free condition. [1] [9]

[1] Amended 2/4/97

[2] Amended 6/15/2004

[3] Amended 6/15/1999

[4] Amended 4/19/2005

[5] Amended 9/4/2007

[7] Amended 5/18/2010 *sub-section replaced entirely*

[6] Amended 1/4/2011

[8] Amended 9/6/2011 *Repealed 40.14 Access to Basements entirely*

[9] Amended 10/15/2013 – Renaming of Code Enforcement – (BZLS)

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**AMENDMENT TO CHAPTER 40 OF THE GENERAL ORDINANCES OF THE CITY
OF ROCHESTER REGARDING PERMITS**

THE CITY OF ROCHESTER ORDAINS:

That subsections 40.16 of Chapter 40 of the General Ordinances of the City of Rochester regarding Permits and currently before the Rochester City Council, be amended as follows:

40.16 Permits.

(a)

(4) Fees for building permits shall be waived for a *honorably discharged veteran or an active duty, National Guard or reserve member of the United States Armed Forces*, who plans to construct or have constructed for himself a home or appurtenance to a home already owned by him for exclusive occupancy by himself and his immediate family.

(c) *The Director of Building, Zoning, and Licensing Services shall issue no building permit, certificate of occupancy, and or/other construction permit for improvement or changes in real property for any real property for which there are delinquent municipal taxes, sewer user charges, assessments, penalties and/or fines.*

The effective date of these amendments shall be upon passage.