

**Codes and Ordinances Committee**

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



**AGENDA**

**CODES AND ORDINANCES COMMITTEE**

Of the Rochester City Council

**Thursday February 4, 2016**

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**
  - **December 3, 2015 P-5**
- 4. Pawnbrokers/Second Hand Dealers Ordinance Amendments**
  - **Current P-19**
  - **Proposed P-23**
- 5. Rules of Order P-27**
- 6. Penalties - Chapter 40.12**
  - **Current P-47**
  - **Proposed P-49**
- 7. Licensing Board Established - Chapter 26.1**
  - **Current P-51**
  - **Proposed P-53**
- 8. Polling Locations - Discussion**
- 9. Permits - Chapter 40.16**
  - **Current P-55**
  - **Proposed P-59**

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**11. Adjournment**

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**CODES AND ORDINANCES COMMITTEE**

Of the Rochester City Council

**Thursday December 3, 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**

Kelly Walters, City Clerk

Terence O'Rourke, City Attorney

Councilor Gray

Councilor Keans

Chief Allen

Steve Beaudoin, Landlord

Carl W. Potvin, Attorney – Representing  
Lambert's Auto & Truck Recyclers, Inc.

Bruce Crawford, Executive Director of  
Auto and Truck Recyclers  
Association of NH

Charles Haas, Majestic Motors,  
Merrimack, NH

Tracey Frisbee, Quick Cash

Marilyn Tucker, Trinity Anglican  
Church Thrift Shop

Scott Douglas, American Used Auto  
Parts

Felicia LaBranche, Trinkets &  
Treasures

Brian LaBranche, Trinkets &  
Treasures

Mark Saxby, Collec-Tiques

Nancy Ricard, Four Corner Antiques

**MINUTES**

**1. Call to Order**

Councilor Lachapelle called the Codes and Ordinance Committee meeting to order at 7:00 PM. Kelly Walters, City Clerk, took a silent roll call. All Committee members were present.

## 2. Public Input

Steve Beaudoin, resident and landlord, addressed the Committee about adopting a more stringent ordinance as outlined in Title III, Towns, Cities, Villages, and Unincorporated Places, Chapter 31 Powers and Duties of Towns – Powers to Make Bylaws - Section 31:39-d. He distributed copies of Section 31:39-d and photographs of his neighbor's [landlord] property. He said the photographs of the trash surrounding the property show how an entire neighborhood can decrease in value because of the actions of one property owner. This landlord had been served with a citation for lack of upkeep to the property last year. The property was cleaned up for a few months; however, it has been a year since that citation and now the property looks the same, if not worse.

Mr. Beaudoin said new legislation, which will take effect on January 1, 2016, would allow a landlord to remove “junk” from a tenant's yard, which the tenant has not removed themselves, after seven days. It also allows the landlord to send a bill to the tenant for the cost of removing the junk. He encouraged the City to adopt Section 31:39-d. It would allow the Building, Zoning, and Licensing Services to create a fee schedule and issue citations through the mail. Councilor Lachapelle thanked Mr. Beaudoin for bringing the matter to their attention.

Councilor Gray said the photographs presented to the Committee by Mr. Beaudoin have been given to the Building, Zoning, and Licensing Service Department.

Councilor Lachapelle closed public input at 7:10 PM.

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

- **October 1, 2015**

Councilor Lauterborn **MOVED** to **APPROVE** the October 1, 2015, Codes and Ordinances Committee minutes. Councilor Bogan seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

## 4. Pawnbrokers/Second Hand Dealers Ordinance Amendments

Attorney O'Rourke briefed the Committee as to why this ordinance amendment is being presented again. He said currently there is no holding period requirement for secondhand dealers or pawnbrokers, which means no protection for the victims of crime theft. He distributed a list of twenty communities with holding periods. Currently, the City of Rochester's General Ordinances does not

require a holding period. Attorney O'Rourke and Chief Allen have met with some of the secondhand dealers and pawnbrokers in the City in an effort to reach a reasonable compromise. *The proposed Amendment can be found as an attachment to this set of minutes.* The following compromises have been proposed:

- The thirty-day holding period has been reduced to a seven-days
- The City would potentially absorb the cost of the software record keeping for at least the first year of implementation
- Provisions that would require tracking customers who purchased items has been removed
- The holding period would have some exceptions to certain items such as video games.

Councilor Lachapelle agreed that a holding period could potentially assist in recovering valuable items that otherwise would be lost forever. He said it seems unrealistic to require a junk dealer to follow the same type of holding period and record keeping as the secondhand dealers and pawnbrokers. Councilor Lachapelle said Londonderry, New Hampshire has this type of ordinance in place. He called a scrap metal dealer in Londonderry to find out if these types of requirements have a negative impact on the business. Unfortunately, the return call has not yet been received. Councilor Lauterborn said the list of twenty of New Hampshire's cities/towns with holding periods does not include any city or town located in Strafford County. Attorney O'Rourke said Rochester is unique in the fact that it has twenty-eight registered secondhand dealer/pawnbrokers and a high crime theft rate.

Carl W. Potvin, Attorney, representing Lambert's Auto & Truck Recyclers, Inc., addressed the Committee. He sent a letter to the Committee members a few days prior to this meeting. Lambert's Auto & Truck Recyclers have been operating and located in Rochester since about 1930. He said this ordinance is treating the junk dealers the same as the secondhand dealers and pawnbrokers. He said they are significantly different and he distributed a photograph of the junk dealer's yard. This ordinance would require photographs to be taken and serial numbers recorded for items that may be valuable. He said the ordinance has no clear definition of valuable. This type of record keeping would require more manpower, placing an unnecessary burden on the junk dealers and the Police Department.

Mr. Potvin questioned if Waste Management is required to obtain a Junk Dealer's License. He added this would be another location in which stolen items could be dropped off. It was later determined that Waste Management is not required to obtain a Junk Dealer's License.

Mr. Potvin said the State is working on legislation regarding the proposed ordinance. He said this type of ordinance has been problematic in other communities such as Manchester, where a case is pending in the Supreme Court. He encouraged the Committee not to recommend this amendment to the full City Council.

Attorney O'Rourke read part of the amended ordinance noting that a junk dealer could group multiple items together in the reporting. He said the same would be true for a pile of scrap metal. He added that in *Prolerized New England Company v. City of Manchester* Case # 166 NH 617, the Supreme Court of NH upheld the City of Manchester's General Ordinance requiring the type of record keeping being proposed in Rochester.

Councilor Lachapelle recalled that the Committee reviewed amending this ordinance about a year ago. At that time, the State legislators were working on formulating some type of requirements for secondhand dealers/pawnbrokers. It was determined that the Committee would wait for further information from the State prior to amending Chapter 34. Councilor Varney said the reason this ordinance is before the City Council at this time is because of the lack of movement on the issue at the State level.

Bruce Crawford, Executive Director of Auto and Truck Recyclers Association of NH, addressed the Committee. He said there are three members of their association who may be affected by this new ordinance as follows: American Used Auto Parts, Colony Used Auto Parts, and Lambert's Auto and Truck Recyclers.

Mr. Crawford read a letter he submitted to the Committee, which can be found as an attachment to this set of minutes. Mr. Crawford pointed out reasons why the junk dealers differ from secondhand dealers/pawnbrokers and gave suggestions of other free software regarding theft alerts. Mr. Crawford serves on the Commission to study the *Regulations of Pawnbrokers, Secondhand Dealers and Junk or Scrap Metal Dealers*, which was authorized by the passage of House Bill 510 during the 2015 legislative Session.

Charles Haas, Majestic Motors Used Auto Parts, Merrimack, NH, and the President of the Auto and Truck Recyclers Association of NH addressed the Committee. Mr. Haas has been a victim of crime theft himself. He supports the idea of having theft alerts, which assisted him in having stolen items returned. He said the salvage yards should not have the same requirements as the pawnbrokers.



Tracey Frisbee, Quick Cash, addressed the Committee. He distributed a list of people who oppose the Ordinance and most are in attendance this evening. He asked for evidence about the crime theft here in Rochester. He opposed the holding period and the proposed software.

Marilyn Tucker, Trinity Anglican Church Thrift Shop, addressed the Committee. She questioned if this non-profit agency would be exempt from this ordinance. It was determined that the thrift shop is a non-profit agency and does have a Secondhand Dealer's License, however, they are exempt from paying the fee to obtain the license. Attorney O'Rourke stated that language would have to be added to exempt a non-profit agency from the requirements of the ordinance.

Scott Douglas, American Used Auto Parts, addressed the Committee. He disagreed that a Non-Profit Agency should be exempt from the requirements of the ordinance.

Felicia LaBranche, Trinkets & Treasures, addressed the Committee. She said there is a problem with a "blanket" ordinance covering thrift stores, antique shops, secondhand dealers, pawnbrokers, and salvage/junk yards. They are all different. She recalled that the Committee agreed a year ago to wait for the State to enact legislation on the matter. She requested statistics that show there is a problem. She met with the Attorney and Police Chief regarding the proposed amendment. She said the Police Department does not have the resources to properly investigate all crimes. She felt this proposed ordinance would take away her ability to earn money to her maximum potential.

Michael Allen, Police Chief, addressed the Committee. He said the crime analyst researched the theft of items over the past three years. There has been over \$1,300,000 worth of property stolen in this area and only eleven percent has been recovered. Councilor Walker asked if this dollar amount included car theft. Chief Allen replied that there is not much car theft in Rochester, but it is included.

Chief Allen gave an account of how many incidents occurred in the past three years: in 2012 there were 1,137 incidents; 2013 had 1,297 incidents; 2014 had 1,194 incidents; and up until August, 2015 there were 485 incidents.

Todd Berios, Skeletone Records, addressed the Committee. He questioned how the statics provided could be linked to secondhand dealers/pawnbrokers. He urged the Committee to focus more on the real issue; theft and misuse of drugs.

Brian LaBranche, Trinkets & Treasures, addressed the Committee. He informed the Committee that some of the secondhand dealers/pawnbrokers met

with the City Attorney and Police Chief to discuss the proposed amendment; however, it seems the amendment is still too stringent. One of the major problems is that the entire ordinance is grouping all types of such businesses together, which are obviously different, such as thrift stores, antique shops, secondhand dealers, pawnbrokers, and salvage/junk yards. He added that he rarely sees the Police Department checking his store for stolen items.

The Committee discussed some of the compromises and reasons why they have not come to an agreement.

Scott Douglas, American Used Auto Parts, addressed the Committee for the second time. His business deals with vehicles and does not have the facilities to hold on to large items for seven days. Their space is limited now without a holding period.

Mark Saxby, Collec-Tiques, addressed the Committee. He is not totally against requiring a holding period for certain items; however, the proposed amendment as written is too vague. It also needs to separate the different types of “dealers” into more specific categories. He does not feel the amendment is ready to be adopted at this time.

Nancy Ricard, Four Corner Antiques, addressed the Committee. She said most of the dealers here this evening keep records of items purchased/sold. She suggested it might be easier to simply notify the thirty shops in the City of items which have been stolen rather than have this extensive record keeping software with thousands of items for the police to view each day. She urged the tri-city area to work together. She did not agree with the purchase of the software for several reasons. She added that it seems that if a customer gets their items returned everyone is happy; however, the shop owner is now a victim too. The criminal should be required to pay back the shop owner. She added that most shop owners work all day, seven days a week, and clean the shop at closing; and now they would be required to work longer hours for the software programming.

Councilor Gray stated that the Commission to study the Regulations of Pawnbrokers, Secondhand Dealers and Junk or Scrap Metal Dealers, created as a result of House Bill 510 has met three times since September, 2015. One notable change came out of last year’s legislation House Bill 358, which was to allow the shop owners the right to retain the photo identification of the person who sold items to the shop. He said House Bill 510 Report is not due until November of 2016. Councilor Keans said the mission of the Commission is clear: to study issues surrounding record keeping, reporting, and retention periods, including privacy and constitutional questions; to study the change in recovery rate in municipalities that

mandate record keeping, reporting, and retention periods, and assess the effectiveness of such ordinances.

Councilor Bogan suggested not holding the junk dealers to the same stringent requirements. She agreed with the seven-day holding period. Councilor Lachapelle agreed too; however, the holding period should also be dependent upon what type of item or dealer shop it is.

Councilor Gates expressed disappointment that a compromise between the “dealers” and the City had not yet been reached; however, he encouraged both sides to continue to compromise on the proposed amendment. He **MOVED** that the Codes and Ordinance Committee take no action on this matter at this time. Councilor Bogan seconded the motion. Councilor Gates restated his motion as follows: to retain the matter in Committee. Councilor Bogan seconded the motion. After more discussion, Councilor Gates **WITHDREW** his **MOTION**, and Councilor Bogan **WITHDREW** her second to the motion.

Councilor Lauterborn agreed that this amendment is not ready as written. She agreed with implementing a seven-day holding period for some items; however, she is not comfortable with supporting the software tracking program at this time.

Attorney O’Rourke disagreed with waiting for the State to enact legislation. He felt the victims of crime should be protected now. He agreed that the Junk Yard Dealers requirement could be revisited; however, the Secondhand Dealers/Pawnbrokers amendment should not be delayed much longer.

Councilor Keans said some of these shops have extensive record keeping. She encouraged other members of the Committee to visit these shops. She said the first step should be for the Rochester Police Department to inform these shops of stolen items like other communities are already doing. She said it is unlikely that the City would pay for the program after the first year.

Councilor Lachapelle expressed his objection to this Amendment as it is written. He informed the public that there would not be a Committee meeting for the Codes and Ordinances in January 2016, since there will be a new City Council and Committee assignments would not be made until mid-January, 2016. The matter is retained in Committee.

## **5. Outdoor Dining Ordinance Proposed 26.10**

Attorney O'Rourke reviewed the changes made to the Outdoor Dining Ordinance. The major change was made to 26.10 16 (c) regarding serving alcohol outside. He noted that each business plan is presented to the City Manager for approval and who would have some discretion within the general boundaries of the ordinance. The revised version is as follows:

## **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 Manager 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.**

Attorney O'Rourke said the Committee or City Council would need to establish some type of rental fee. The Committee debated how much to charge for a seasonal rental fee.

Councilor Varney **MOVED** to charge a minimum fee of \$25.00 for up to 100 square feet and \$1.00 per square foot thereafter. This would be an annual fee for the season. Councilor Bogan seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Councilor Keans questioned if the ordinance would require such rental spaces be cleaned up at the end of each evening. Attorney O'Rourke replied yes, under **Chapter 26.10 17 (a)**.

Councilor Lauterborn **MOVED** to recommend the City Council approve Chapter 26 of the Rochester General Ordinances to the full City Council, as amended, to the January, 2016, Regular City Council meeting. Councilor Bogan seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

## **7. Polling Locations - Ward 1 - Ward 3 - Ward 4**

Kelly Walters, City Clerk, had asked the National Guard Armory if the City of Rochester could use the facility for all City Elections. Helen Champa, Adjutant General's Department, State of New Hampshire, sent an email stating that the National Armory could not be used for such an event because it was too much like any other political events. Councilor Varney requested that the City Manager or Mayor Jean contact the Governor to get a final answer on holding elections at the National Guard.

City Clerk Walters reported that there does not seem to be any other locations in the three wards to use as a polling location. She encouraged any members of the Committee/Council to email with her any polling location suggestions. Councilor Varney requested that the East Rochester School be a potential polling location for Ward One. This will stay in Committee for now.

Councilor Varney stated that if Tara Estates is to be used for any more elections then the "trip" hazard at the entrance to the building must be addressed and lighting would need to be provided. He added that it would be difficult to change polling locations in the middle of three close elections.

## **8. Permits - Chapter 40.16 Amendments**

Attorney O'Rourke stated that the proposed language has been added to Chapter 40.16 (a) 4, in order to be more consistent with what is already happening at the Building, Zoning, and Licensing Service Department.



Councilor Varney **MOVED** to send the Amendment to Chapter 40.16 (a) 4 of the General Ordinance to the full City Council for approval. Councilor Bogan seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Attorney O'Rourke said the following recommendation had been suggested by the Finance Department: (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.

Council debated the matter. Councilor Varney **MOVED** to send Section (c) as stated above to the full City Council for approval. Councilor Bogan seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

The Amendment(s) are as follows:

**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.**

## **6. Signage Ordinance Chapter 42**

Councilor Walker supplied the Committee with a copy of the existing sign ordinance [political signs.] He believed the lack of political signage was directly attributed to the low voter turnout here in Rochester. He encouraged the Committee to amend the ordinance in order to allow the political signs to be posted in the City's right a way once again.

Councilor Keans attended the NHMA Conference and said one of the seminars she attended focused on posting signs on public property. It seems if you allow any signs on public property than all signs must be accepted. Attorney O'Rourke attended the same seminar and agreed. He said if you do allow any signs on public property than the sign must be accompanied with a name, address, and a permit. This would include a fee and tracking system to find out how long signs have been posted. This would open it up for any kind of signs to be posted. Councilor Gray stated that he has been involved with addressing the matter of posting political signs with the state legislation. The Committee briefly discussed the matter but took no action.

## **9. Other**

Councilor Varney recommended addressing the concerns brought to the Committee by Mr. Beaudoin. Council briefly debated the matter. Attorney O'Rourke agreed to gather more information for the Committee.

## **10. Adjournment**

Councilor Bogan **MOVED** to **ADJOURN** the Codes and Ordinances Committee at 8:58 PM. Councilor Gates seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Respectfully submitted,

Kelly Walters,

City Clerk

## 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.

## 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.

**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 1<sup>st</sup> 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

**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:

## Proposed

1. Type of article;
2. Brand name/make/manufacturer (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).

(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.

**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.

## Proposed

(3) 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.

(4) 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.**

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

**ARTICLE 1**  
**CITY COUNCIL MEETINGS**

**SECTION 1.1 REGULAR MEETINGS**

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

**SECTION 1.2 SPECIAL MEETINGS**

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

**SECTION 1.3 ABSENCE OR DISABILITY OF MAYOR, DEPUTY MAYOR**

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

[6/4/2013]

## **SECTION 1.4 ORDER OF BUSINESS**

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

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

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

## **SECTION 1.5 PUBLIC HEARINGS**

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

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

## **ARTICLE 2** **DUTIES AND POWERS OF PRESIDING OFFICER**

### **SECTION 2.1      PRESIDING OFFICER - DECORUM AND ORDER**

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

### **SECTION 2.2 PRESIDING OFFICER - DECLARING VOTES**

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

### **SECTION 2.3 PRESIDING OFFICER - ROLL CALL VOTES**

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

### **SECTION 2.4 PRESIDING OFFICER - ORDER OF QUESTIONS**

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

### **SECTION 2.5 DISPOSAL OF MOTIONS**

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

### **SECTION 2.6 MOTION FOR ADJOURNMENT**

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

### **SECTION 2.7 PRESIDING OFFICER - RECOGNIZING MEMBERS**

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

### **SECTION 2.8 COMMITTEE APPOINTMENTS**

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

### **SECTION 2.9 ROBERT'S RULES OF ORDER**

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

## **ARTICLE 3**

### **RIGHTS AND DUTIES OF MEMBERS**

#### **SECTION 3.1 COUNCIL MEMBER SPEAKING**

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

#### **SECTION 3.2 COUNCIL MEMBER IN DEBATE**

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

#### **SECTION 3.3 INTERRUPTION OF COUNCIL MEMBER**

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

#### **SECTION 3.4 COUNCIL MEMBER SPEAKING, LIMITATIONS**

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



### **SECTION 3.5 PRECEDENCE OF MOTIONS**

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

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

### **SECTION 3.6 MOTION REDUCED TO WRITING**

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

### **SECTION 3.7 VOTING ON MOTIONS, ABSTENTIONS**

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

### **SECTION 3.8 MAYORAL VETO - EXERCISE AND VOTE TO OVERRIDE**

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

### **SECTION 3.9 DIVISION OF A QUESTION**

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

### **SECTION 3.10 READING OF A PAPER, OBJECTIONS**

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

### **SECTION 3.11 SUSPENSION, AMENDMENT, AND REPEAL OF RULES**

No standing Rule of Order of the Council shall be suspended unless two-thirds (2/3) of the members present shall consent thereto. Nor shall any Rule of Order be repealed or amended without a motion therefore, made at a previous meeting, nor unless a majority of the whole City Council concur therein. The Rules of Order of the City Council shall be reaffirmed by the new Council following each municipal election. The Rules of the former Council shall not be binding.

### **SECTION 3.12 ATTENDANCE OF MEMBERS**

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

**ARTICLE 4**  
**AGENDAS, COMMUNICATIONS, COMMITTEES,**  
**REPORTS, RESOLUTIONS**

**SECTION 4.1 AGENDA PREPARATION**

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

**SECTION 4.2 MEMORIALS AND DOCUMENTS. PRESENTATION**

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

**SECTION 4.3 REPORTS AND PAPERS. LEGIBLY WRITTEN OR TYPED**

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

## **SECTION 4.4 STANDING COMMITTEES**

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

### **Finance:**

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

### **Public Works and Buildings:**

Shall consist of five (5) members.

### **Public Safety:**

Shall consist of five (5) members.

### **Codes and Ordinances:**

Shall consist of five (5) members.

### **Community Development:**

Shall consist of five (5) members.

### **Appointments Review Committee:**

Shall consist of five (5) members.

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

## **SECTION 4.5 SPECIAL COMMITTEES**

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

## **SECTION 4.6 REMOVAL OF A COMMITTEE MEMBER**

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

## **SECTION 4.7 PUBLIC INPUT AT WORKSHOP OR COMMITTEE MEETINGS**

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

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

i. Speakers shall be residents of the City of Rochester, property owners in the City of Rochester, and/or designated representatives of recognized civic organizations or businesses located and/or operating in the City of Rochester; [6/4/2013]

ii. Speakers shall address their comments to the presiding officer and the Council as a body and not to any individual member;

iii. Speakers shall first recite their name and address for the record, and, if applicable, the name and address of the civic organization and/or business they have been designated to represent;

iv. Each speaker shall be provided a single opportunity for comment, limited to five (5) minutes with the five (5) minutes beginning after the obligatory statement of name and address by the speaker;

v. Public Input shall not be a two-way dialogue between speaker(s), Council Member(s), and/or the City Manager, or administrative staff; and

vi. The presiding officer shall preserve strict order and decorum for and by all speakers appearing before the Council.

## **SECTION 4.8 SITTING OF COMMITTEE DURING COUNCIL MEETINGS**

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

## **SECTION 4.9 COMMITTEE REPORTS**

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

## **SECTION 4.10 COMMITTEE OF THE WHOLE, COUNCIL RULES**

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

## **SECTION 4.11 AUTHORIZATION OF EXPENDITURES, CITY DEBT**

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

## **SECTION 4.12 ORDINANCES AND RESOLUTIONS**

Every ordinance, and all resolutions imposing penalties or authorizing the expenditure of money when introduced, shall be written and shall pass through the following stages before they shall be considered as having received the final action of the Council, to wit: First reading for information, and if not rejected or otherwise disposed of, the City Attorney and City Clerk, shall carefully examine them to see that they are in technical form and that their provisions are not repugnant to the Laws and Constitution of the State of New Hampshire or to the Charter and Ordinances of the City of Rochester: They shall then be referred by the chair to the appropriate Council committee for review, public hearing (if required) and discussion. All committees shall make a report for final action to the Council. After such report, the question shall be, "Shall they be read a second time?" If not then rejected, the question shall be on the passage of the same to be enrolled. Upon an affirmative vote, the chair shall refer such ordinance or resolution to the Codes and Ordinances Committee for review as set forth in Section 4.13. and make a report of them to the Council, at which time they shall be deemed to be enrolled. No ordinance or resolution as above referred shall be amended except on its second reading. All other resolutions shall have one reading before they shall finally be passed by the Council.

### **SECTION 4.13 CODES AND ORDINANCES COMMITTEE,ORDINANCE ENROLLMENT**

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

### **SECTION 4.14 ELECTIONS BY BALLOT**

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

A. Boards and Commissions appointments shall be elected by ballot of the City Council with the exception of a single candidate. Single candidates upon nominations ceasing will be elected by City Council voice vote that the City Clerk cast one ballot for that candidate.

*(A) Amended and adopted by the City Council on 3/04/2014.*

### **SECTION 4.15 RECORD OF VOTES AND PROCEEDINGS**

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

### **SECTION 4.16 FUNCTIONS OF FINANCE COMMITTEE**

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

### **SECTION 4.17 FUNCTIONS OF CODES AND ORDINANCES COMMITTEE**

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

**SECTION 4.18 FUNCTIONS OF PUBLIC WORKS AND BUILDING COMMITTEE**

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

**SECTION 4.19 FUNCTIONS OF PUBLIC SAFETY COMMITTEE**

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

**SECTION 4.20 FUNCTIONS OF COMMUNITY DEVELOPMENT COMMITTEE**

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

**SECTION 4.21 FUNCTIONS OF THE APPOINTMENTS REVIEW COMMITTEE**

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

Incumbents of any Committee who have submitted Statements of Interest for reappointment and are running unopposed: the Appointments Committee reserves the right to waive the presence of the candidate.

*Second paragraph amended and adopted by the City Council on 3/04/2014.*



## **SECTION 4.22 INAUGURAL MEETING, ORDER EXERCISES**

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

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

## **SECTION 4.23 COUNCIL COMMUNICATIONS**

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

## **SECTION 4.24 MINUTES**

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

**APPENDIX**

REVISED AND ADOPTED BY CITY COUNCIL FEBRUARY 6, 1990 [ 1 ]
AMENDED AND REAFFIRMED BY CITY COUNCIL JANUARY 14, 1992 [ 2 ]
REAFFIRMED BY CITY COUNCIL JANUARY 11, 1994 [3]
AMENDED BY CITY COUNCIL MARCH 1, 1994 [4]
AMENDED AND REAFFIRMED BY CITY COUNCIL JANUARY 9, 1996 [ 5 ]
AMENDED AND ADOPTED BY CITY COUNCIL FEBRUARY 3, 1998 [ 6 ]
AMENDED AND ADOPTED BY CITY COUNCIL FEBRUARY 5, 2002 [ 7 ]
AMENDED AND ADOPTED BY CITY COUNCIL MARCH 5, 2002 [ 8 ]
AMENDED AND ADOPTED BY CITY COUNCIL FEBRUARY 3, 2004 [9]
AMENDED AND ADOPTED BY CITY COUNCIL JANUARY 10, 2006 [ 1 0 ]
AMENDED AND ADOPTED BY CITY COUNCIL JANUARY 15, 2008 [ 1 1 ]
AMENDED AND ADOPTED BY CITY COUNCIL February 2, 2010 [12]
AMENDED AND ADOPTED BY CITY COUNCIL February 7, 2012 (1.4) (3.1) (3.5) and (4.1) [13]
AMENDED AND ADOPTED BY CITY COUNCIL June 4, 2013 (1.3) (1.5) and (4.7) [14]
AMENDED AND ADOPTED BY CITY COUNCIL March 4, 2014 (4.21) and (4.14) [15]

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# *City of Rochester, New Hampshire*

## **City Council Rules of Order**

*As Amended and Adopted on  
March 4, 2014*



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authorization for such project, or upon the written notification by the City engineer that such project has been completed, whichever event shall first occur. Upon removal of such equipment and/or material upon the completion of a project, the land disturbed by such storage shall be returned to its original state.

#### **40.10 Right of Entry.**

The Director of Building, Zoning, and Licensing Services, the Fire Chief, or their authorized representatives in the discharge of their official duties, and upon proper identification shall have authority to enter any building, structures, or premises at any reasonable hour. [9]

#### **40.11 Definitions.**

Where the word "municipality" is used in any code adopted herein, it shall be deemed to mean the City of Rochester. Where the words "corporate council" or "legal representative" are used in any code adopted herein, they shall be deemed to refer to the Rochester City Solicitor.

#### **40.12 Penalties.**

(a) Any person who shall violate any provisions of any code adopted herein, or fails to comply therewith or with any requirements thereof, or who shall erect, construct, alter, or repair or has erected, constructed, altered, or repaired a building or structure or portion thereof in violation of a detailed statement or plan submitted and approved thereunder, or of a permit or certificate issued thereunder, shall be punishable by a civil fine of not more than One Hundred Dollars (\$100.00) for each day that such violation is found by a court to continue after the conviction date or after the date on which the violator receives written notice from the City that he/she is in violation thereof, whichever date is earlier. The owner of a building or structure or portion thereof or of the premises where anything in violation of this code shall be placed or shall exist, and an architect, building contractor, agent, person or corporation employed in connection therewith and who may have assisted in the commission of such violation shall be guilty of a separate offense and upon conviction thereof shall be punishable by a civil fine of not more than One Hundred Dollars (\$100.00) for each day that such violation is found by a court to continue after the conviction date or after the date on which the violator receives written notice from the City that he/she is in violation thereof, whichever date is earlier.

(b) The imposition of the penalties herein prescribed shall not preclude the City Solicitor from instituting an appropriate action or procedure to prevent any unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, or to restrain, correct or abate a violation or to prevent the occupancy of a building, structure, or premises, or portion thereof, or of the premises, or to prevent an illegal act, conduct, business or use in or about the premises.

#### **40.13 Fire Limits Established.**

The fire limits for the City of Rochester are hereby established as those areas classified as Business 1 zones, Business 2 zones, and 1-3 zones and adjacent to North and South Main Streets in Rochester proper and Main Streets in Gonic and East Rochester, so called, as

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Proposed

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

THE CITY OF ROCHESTER ORDAINS:

That subsections 40.12 of Chapter 40 of the General Ordinances of the City of Rochester regarding Penalties and currently before the Rochester City Council, be amended as follows:

**40.2 Penalties.**

(a) Any person who shall violate any provisions of any code adopted herein, or fails to comply therewith or with any requirements thereof, or who shall erect, construct, alter, or repair or has erected, constructed, altered, or repaired a building or structure or portion thereof in violation of a detailed statement or plan submitted and approved thereunder, or of a permit or certificate issued thereunder, shall be punished by a civil fine of not more than ***One Thousand Dollars (\$1,000.00)*** for each day that such violation is found by a court to continue after the conviction date or after the date on which the violator receives written notice from the City that he/she is in violation thereof, whichever date is earlier. The owner of a building or structure or portion thereof or of the premises where anything in violation of this code shall be placed or shall exist, and an architect, building contractor, agent, person or corporation employed in connection therewith and who may have assisted in the commission of such violation shall be guilty of a separate offense and upon conviction thereof shall be punishable by a civil fine of not more than ***One Thousand Dollars (\$1,000.00)*** for each day that such violation is found by the court to continue after the conviction date or after the date on which the violator receives written notice from the City that he/she is in violation thereof, whichever date is earlier.

***(b) The City shall issue local ordinance citations that allow for pleas by mail in accordance with RSA 31:39-d. Any violator issued a local ordinance citation may plead guilty or nolo contendere by mail within ten (10) days of receipt of the local ordinance citation consistent with the following violation fine schedule:***

<b><i>Category</i></b>	<b><i>1st Offense</i></b>	<b><i>2nd offense</i></b>
<b><i>Permits</i></b>	<b><i>\$50.00</i></b>	<b><i>\$100.00</i></b>
<b><i>Garbage, Rubbish, &amp; Debris</i></b>	<b><i>\$75.00</i></b>	<b><i>\$150.00</i></b>
<b><i>Infestation</i></b>	<b><i>\$100.00</i></b>	<b><i>\$200.00</i></b>
<b><i>Interior, Building Elements</i></b>	<b><i>\$125.00</i></b>	<b><i>\$250.00</i></b>
<b><i>Exterior, Building Elements</i></b>	<b><i>\$150.00</i></b>	<b><i>\$300.00</i></b>
<b><i>Exterior, Motor Vehicles</i></b>	<b><i>\$200.00</i></b>	<b><i>\$400.00</i></b>

Proposed

(c) The imposition of the penalties herein prescribed shall not preclude the City Solicitor from instituting an appropriate action or procedure to prevent any unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, or to restrain, correct or abate a violation or to prevent the occupancy of a building, structure, or premises, or portion thereof, or of the premises, or to prevent an illegal act, conduct, business use in or about the premises.

**The effective date of these amendments shall be upon passage.**

DRAFT

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.

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Proposed

**AMENDMENT TO CHAPTER 26 OF THE GENERAL ORDINANCES OF THE CITY  
OF ROCHESTER REGARDING THE LICENSING BOARD**

THE CITY OF ROCHESTER ORDAINS:

That subsections 26.1 of Chapter 26 of the General Ordinances of the City of Rochester regarding Permits and currently before the Rochester City Council, be amended as follows:

**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 *Chief of the Fire Department.*, ~~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.

**The effective date of these amendments shall be upon passage.**

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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.

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. CC  
FY 16 AB 84**

Councilor Lachapelle **MOVED** to suspend the rules and read the Amendment by title only for the second time. Councilor Bogan seconded the motion. The **MOTION CARRIED** by unanimous voice vote. Mayor McCarley read the amendment by title only for the second time.

Councilor Abbott asked whether the Council had statutory authority to withhold permits. He said that RSA 80 is clear on how the City can secure property taxes and it does not appear that this shortcut would be one of those methods.

Attorney O'Rourke said this would not get property taxes, but would withhold permits. It would not be a way to collect taxes. He said the permit fee cannot be changed in order to collect the "bill" that is owed.

Councilor Abbott said that this would be about the people who do not believe that permits are for general public safety but rather a revenue-generating method. He did not see this as anything that would accomplish something positive.

Councilor Abbott **MOVED** to strike paragraph (c) in its entirety and then he would fully support paragraph (4) regarding the Veterans' benefits. Councilor Gates seconded the motion.

Councilor Willis asked if there could be some language added in order to protect people who have a hardship issue. City Manager Fitzpatrick agreed and said perhaps the City Manager could be given the authority to waive the fee if there is a hardship issue. He said that would be an amendment to the amendment.

Councilor Keans **MOVED** to refer the amendment to the Codes and Ordinances Committee for review. Councilor Hamann seconded the motion.

Councilor Varney said he thought it would be possible to pass the first paragraph, which properly defines the Veteran credit and send the second paragraph, which is (c) to the Codes and Ordinance Committee.

City Attorney O'Rourke explained that what happening is that people who are asking to have the permit fees waived are veterans of WW I, WW II, the Korean War, and the Viet Nam War. The Building, Zoning, and Licensing Services department then checks to see if the person is getting a Veteran's tax exemption and then waive the permit fee. He said those people are not being asked to provide evidence of having served in the wars and the practice is continuing as it always has been.

Councilor Gray asked if the motion to refer to committee is divisible. City Manager Fitzpatrick said it is. Councilor Gray then **MOVED** to divide the amendment. Councilor Varney seconded the motion. The **MOTION CARRIED** by majority voice vote.

Mayor McCarley called for a vote on the divided question and the matter of referring paragraph (4) to the Codes and Ordinance Committee for further reviewed. The **MOTION FAILED** by majority voice vote.

Mayor McCarley called for the other part of the divided question which is to refer paragraph (c) to the Codes and Ordinances Committee. The **MOTION CARRIED** by majority voice vote.

Councilor Abbott withdrew his motion.

Mayor McCarley called for a vote on paragraph (4) of the amendment. The **MOTION CARRIED**, to approve paragraph (4) by unanimous voice vote. The Amendment that is approved is as follows:

**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. **The effective date of these amendments shall be upon passage. CC FY 16 AB 84**

**13.6 AB 85 Resolution Establishing Polling Places and Times for the February 9, 2016, Presidential Primary **First Reading and Adoption****

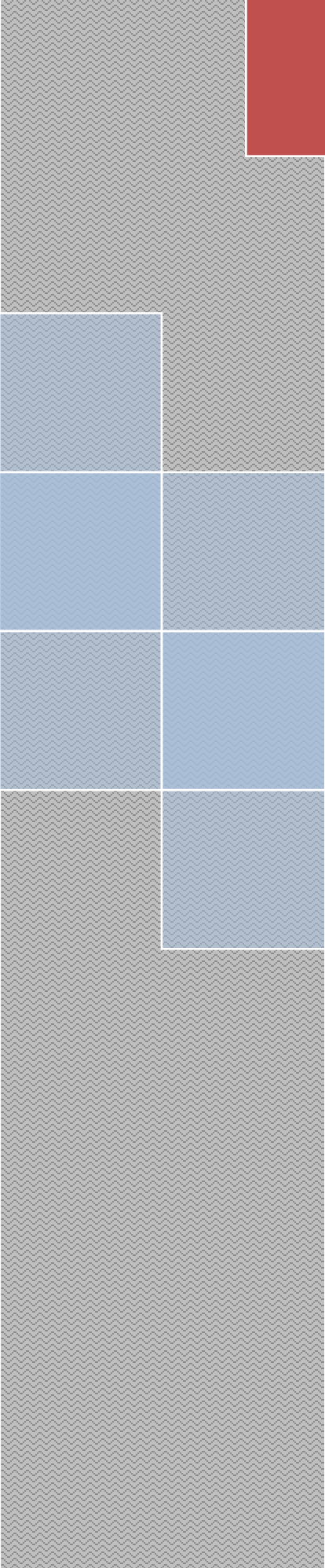
Councilor Lachapelle **MOVED** to read the resolution for the first time. Councilor Bogan seconded the motion. The motion carried by unanimous voice vote. Mayor McCarley read the resolution as follows:

**RESOLUTION ESTABLISHING POLLING PLACES AND TIMES  
FOR THE FEBRUARY 9, 2016, PRESIDENTIAL PRIMARY ELECTION**

**BE IT RESOLVED BY THE MAYOR AND THE CITY COUNCIL OF THE  
CITY OF ROCHESTER:**

That the following polling places are hereby established for the City of Rochester's Presidential Primary Election to be held on February 9, 2016.

**WARD 1: [Tara Estates/Club House](#)  
53 Eagle Drive, East Rochester**



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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.**

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*(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.*

*(d) The City Manager is authorized to waive the provisions of subsection (c) for natural persons seeking a building permit, certificate of occupancy, and or/other construction permit for improvement or changes to the person's homestead property, if the person qualifies for an elderly tax exemption pursuant to RSA 72:39-a, a disability tax exemption pursuant to RSA 72:37-a or a elderly or disability tax deferral pursuant to RSA 72:38-a.*

The effective date of these amendments shall be upon passage.