

Codes and Ordinances Committee

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



02/25/2016

AGENDA

CODES AND ORDINANCES COMMITTEE

Of the Rochester City Council

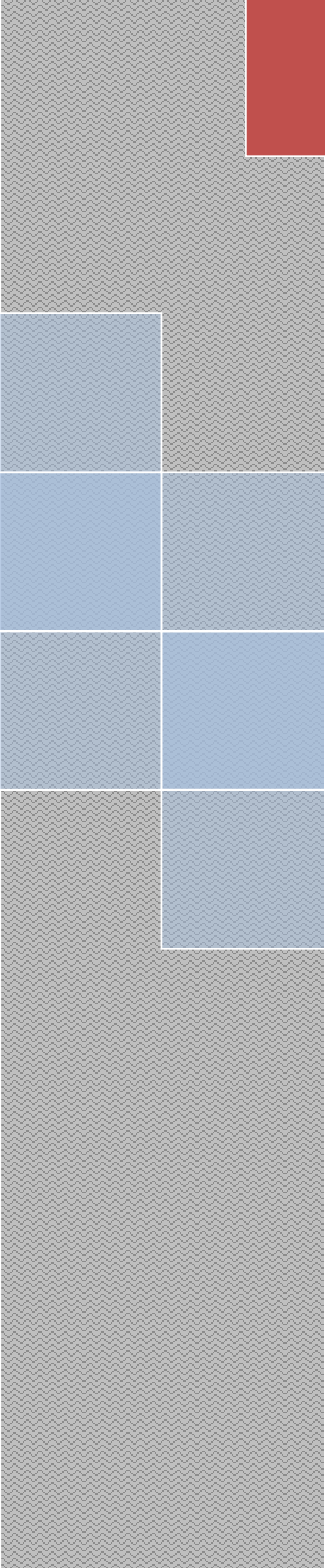
Thursday March 3, 2016

City Council Chambers

31 Wakefield Street, Rochester, NH

7:00 PM

1. Call to Order
2. Public Input
3. Approval of the Codes and Ordinances Committee Minutes
 - February 4, 2016 P-3
4. Pawnbrokers/Second Hand Dealers Ordinance Amendments
 - Current P-15
 - Previously Proposed Documentation P-19
5. Chapter 15.5 P-31
6. Penalties - Chapter 40.12 P-33
 - Documents Related at Packet End P-43
7. Chapter 11.20 - Rescission P-35
8. Chapter 44 - Creation P-41
 - Documents Related at Packet End P-43
9. Other
10. Adjournment



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CODES AND ORDINANCES COMMITTEE

Of the Rochester City Council

February 4, 2016

City Council Chambers

31 Wakefield Street, Rochester, NH

7:02 PM

Committee Members Present

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

Others Present

Kelly Walters, City Clerk
Terence O'Rourke, City Attorney
Police Chief Michael Allen
Councilor Ray Varney
Councilor James Gray
Marilyn Tucker, Trinity
Anglican Church Thrift Shop
Mark Saxby, Collec-Tiques
Pat Rainboth, Victims Inc.
Scott Douglas, American
Used Auto Parts
Tracey Frisbee, Quick Cash
Todd Berrios, Skele-Tone
Records
Marilyn Tucker, Trinity
Anglican Church Thrift Shop
David Hynes, Ward 4 Resident
MaryAnn Digilio, Trinity Anglican
Church Thrift Shop

MINUTES

1. Call to Order

Councilor Lachapelle called the Committee meeting to order at 7:02 PM. All members were present.

2. Public Input

Councilor Lachapelle invited the Public to come forward to speak about topics/issues, which were not listed on the agenda. No member of the public came forward. Councilor Lachapelle closed public input at 7:03 PM.

3. Approval of the Codes and Ordinances Committee Minutes

- **December 3, 2015**

Councilor Lauterborn **MOVED** to **ACCEPT** the Committee Meeting minutes of December 3, 2015 as written. Councilor Bogan seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

4. Pawnbrokers/Second Hand Dealers Ordinance Amendments

Attorney O'Rourke stated that the holding period was removed from the proposed Amendment to Chapter 34 of the General Ordinances, under Section 34.8 Junk Dealers.

Marilyn Tucker, Trinity Anglican Church Thrift Shop, questioned why there was no language exempting a nonprofit agency from the holding period and to the recording requirements. Attorney O'Rourke replied that "donated" items are excluded under Section 34.9 (3). He said Ms. Tucker's thrift shop is basically a consignment shop and cannot be exempt from obtaining a Secondhand Dealer's License **nor** from abiding to the City's General Ordinances.

The Committee discussed group shops such as the one located on Union Street. Jim Grant, Building, Zoning, and Licensing Services, said at this time, such consignment shops would be required to obtain only one secondhand dealer's license under the retailers name.

Councilor Abbott suggested giving the secondhand dealers and pawnbrokers more options to meet the proposed new regulations. He said the goal is to locate stolen items which have been pawned. He said items could be easily tracked by obtaining the identification of the customer. This could greatly reduce holding periods imposed on the business owner.

Scott Douglas, American Used Auto Parts, questioned if the junk dealers would be exempt from uploading photographs and entering specific data into the software provided. He stated that this would cause a financial burden on his business. Councilor Lachapelle confirmed that the junk dealers are exempt from the holding period; however, they would **not** be exempt from this requirement.

Pat Rainboth, Victims, Inc., questioned if Victims, Inc. would need to obtain a secondhand dealer's license. She explained that Victims, Inc. accepts donations for sales, and that three times a year they hold a holiday weekend. It was clarified that this activity would not require a secondhand dealer's license under the current and proposed Amendment. Mr. Grant explained that Victims, Inc. would need to submit a Project Narrative Form to the Planning Department in order to continue to hold these yard sales. He

added that, at some point, the Planning Department may stipulate that the yard sale, *and clean-up*, ends on the third day of the sale, in order to stay in compliance with the ordinance.

Tracey Frisbee, Co-Owner of Quick Cash Trading Center, informed the Committee that implementing this Ordinance as written would greatly affect his business. This Ordinance would require a photograph to be uploaded to the provided software and much time would be spent with typing the information into the computer for individual items. The paper copy would have to be held for a year. Lastly, there is no more room at his location to hold items for an additional 7 days. He added that this would impact the quality of service given to the customer as they wait for the transaction to be completed. Councilor Gates requested collaboration between the secondhand dealers and the local police department to draft an ordinance which is acceptable to both the Police Department and the secondhand dealer shops. Mr. Frisbee replied that he has been in compliance with the current General Ordinance for the last twenty years or more. He added that the Dover Police Department sends out letters and emails to the surrounding secondhand dealer shops in order to retrieve stolen items. This process has proven to work.

Councilor Gray questioned the need to keep written documentation along with the electronic documentation. Attorney O'Rourke clarified that the information would be entered into a computer and submitted to the local police department. Additionally, the documentation would be printed and signed by the owner and kept on file at the secondhand dealer's location for one year.

Councilor Varney requested a more specific list of items which are most often stolen. This would/could reduce or eliminate the holding period for some specific items. Chief Allen explained that he could provide such a list; however, the Police Department's goal is to protect all stolen property and return items to the rightful owner. He said it would be impossible to predict what items would be popular to steal/pawn this year as opposed to what might become most popular to pawn in the years to come.

Attorney O'Rourke opposed making a list of items to require a holding period. He said when a list is created the items which are **not** on that list will quickly become the next most popular items to steal. Chief Allen agreed and said another option would be to exempt certain items from the holding period such as clothing and furniture.

Councilor Abbott said the City must provide more options for these business owners to comply with the ordinance; otherwise, the City would see more citizens dumping items and less recycling of items.

Councilor Lauterborn pointed out that one pawnshop owner had a gift card scam/fraud here in the City of Rochester; however, the Rochester Police Department was able to shut that operation down under the existing ordinance. Chief Allen agreed that the situation had been resolved; however, it was not due to the current ordinance that is in place. He said this particular pawnbroker's license had expired and that the City did not allow this shop to renew the pawnbroker's license. He added that the current ordinance needs revision.

Chief Allen said the proposed Amendment would have a one-year trial basis, which would allow for an evaluation of the data after one year. Councilor Gates questioned if the City Council could pass an ordinance with an expiration date. Councilor Varney replied yes, it would be treated like the sunset clause.

Councilor Lauterborn questioned why the Rochester Police Department is not sending out a list of stolen items to pawnbrokers/secondhand dealers, as the Dover Police Department is currently doing. Chief Allen stated that the Dover Police Department is not sending out such information for each theft that occurs and it would not be practical to do so.

Councilor Abbott reiterated that the most common sense items to place a holding period on would be fine jewelry, firearms, and expensive electronics.

Todd Berrios, Skele-Tone Records, suggested implementing a simple system that would require customers to obtain notarized verification forms from the Police Department in order to pawn certain items.

MaryAnn Digilio, Trinity Anglican Church Thrift Shop, questioned why the thrift shop is not exempt from the new requirements as previously stated at the December 3, 2015, Codes and Ordinance Committee meeting. Attorney O'Rourke said not enough information had been provided at that time and reiterated that the Trinity Anglican Church Thrift Shop cannot be exempt because they are a consignment shop which must obtain a secondhand dealers license. Ms. Digilio strongly suggested that this Amendment not be passed until all of these questions have been answered and all the issues have been resolved. Councilor Gray clarified that under the proposed ordinance articles of clothing would **not** be required to have a

holding period: *"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."*

Mark Saxby, Collec-Tiques, volunteered to be part of the next discussion to resolve some of the issues brought to the Committee's attention this evening. He questioned why a nonprofit group such as Trinity Anglican Church Thrift Shop must abide by the same requirements as the other shops in the City. He further questioned why the facility operating on Union Street, which has over 150 individual booths set up, is only required to obtain one secondhand dealer's license.

Councilor Lauterborn stated that Section 34.2 is in need of a grammatical correction: **34.2** *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 if~~ such a sale ~~that~~ exceeds three days duration or is held more than three times a year shall be considered a second-hand dealer. **No motion is needed to make this correction.***

Councilor Lauterborn stated that the following sentence is included in the current ordinance [34.2]; however, it had been eliminated in the proposed ordinance:

"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."

Councilor Lauterborn wished for more information as to why this language was not carried over into the proposed ordinance. Attorney O'Rourke and the Director of Building, Zoning, and Licensing Services agreed to get back to the Committee with this information.

Several Committee members gave clarification as to what would be needed for the next proposal:

- Include a revision date of the proposed draft
- Exemption to "non-profit" agencies [*for at least some of the additional requirements*] or at least provide more information on the matter
- Modify the proposed Amendment to ensure that it is written more clearly

- Rid the 30-day holding period and exclude certain items from the 7-day holding period
- More options for compliance

Councilor Lauterborn encouraged the Rochester Police Department to start notifying the Secondhand Dealers and Pawnbrokers of stolen items.

Councilor Lachapelle stated that this item would stay in Committee and would be discussed again at the next meeting scheduled for March 3, 2016.

- **Polling locations**

Councilor Lachapelle stated that if there were no objections the Committee would discuss polling locations. He invited Dave Hynes, resident of Ward 4, to address the Committee.

Mr. Hynes stated he had no objection to holding the City's elections at Home Depot; however, he questioned if any consideration had been given to holding the City's elections at Lowe's Home Improvement Store, which is also located in Ward 4.

The Committee discussed the Ward 3 polling location and holding elections in schools. Councilor Lachapelle stated that the City Council recommended changing the Ward boundary lines for Ward 3 which would Middle School as provide for a better polling location for Ward 3. Councilor Lachapelle suggested finding out more about the Lowe's Home Improvement Store. At this point, it may make more sense to look into the possibility of changing the Ward 3 boundary lines to include the Lowes Home Improvement Store. Councilor Varney requested more information be provided at the next City Council Workshop meeting. Councilor Abbott **MOVED** to recommend to the full City Council that the Ward 3 boundary lines be changed to include Lowes Department Store, pending on Lowe's Department Store's willingness to accommodate the City's needs for elections. Councilor Gates seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

5. Rules of Order

Councilor Gray suggested a change to the Rules of Order under 3.8 to accurately mimic what is outlined in the City Charter [mayoral veto].

Councilor Lauterborn agreed and **MOVED** to recommend to the full City Council that Section 3.8 be amended as outlined below. Councilor Gates seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

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 (**mayor excluded**) 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.

Councilor Abbott took issue with the Rules of Order under Section 4.14 Election By Ballot:

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.

Councilor Abbott provided information from 91-A stating that secret ballots are not permitted in a public meeting and noted that the City Charter should be adjusted accordingly too. The Committee debated the matter. Attorney O'Rourke replied that State Law supersedes the City Charter. Attorney O'Rourke agreed to supply the Committee with a legal opinion on the matter. This Section of the Rules of Order will stay in Committee.

Councilor Varney stated that Section 1.4 should be amended to reflect what is currently the order of business at the Regular Meeting(s).

Councilor Abbott **MOVED** to recommend to the full City Council that Section 1.4 be amended as outlined below. Councilor Gates seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

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
6. Communications from the ~~Mayor~~ **City Manager**
7. Communications from the ~~City Manager~~ **Mayor**
8. Presentations of Petitions and Council Correspondence [and Disposal thereof by Reference or Otherwise]
9. Nominations, Appointments, and Resignations
10. Reports of Committee
11. Old Business [Items Remaining from Prior Meetings]
12. New Business
13. Other
14. Adjournment

Councilor Varney stated that all packet material should be provided to the City Council at least five days prior to the meeting; however, if an important item must be added to the Agenda after that point, then the Agenda should be sent out as revised.

Councilor Lachapelle **MOVED** to recommend to the full City Council that Section 4.1 be amended as outlined below. Councilor Gates seconded the motion. The **MOTION CARRIED** by a majority voice vote.

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, resolutions, and subject matter, to be presented to the Council, at least five (5) days

before **prior** to 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.~~

The Committee discussed the requirement of two readings and the current policy of Section 4.12 Ordinances and Resolutions; however, no action was taken.

Councilor Barnett pointed out that Section 4.7 is not clear when it comes to public input at Committee meetings.

Councilor Lauterborn **MOVED** to recommend to the full City Council that Section 4.7 be amended as outlined below. Councilor Gates seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

SECTION 4.7 PUBLIC INPUT AT WORKSHOP OR COMMITTEE

V. Public Input shall not be a two-way dialogue between speaker(s), Council Member(s), and/or the City Manager, or administrative staff; **with the exception of Committee meetings when allowed by the Chair**; and,

The Committee briefly discussed Section 4.22 Inaugural Meeting, Order exercise: To include all Election Officials to receive the Oath of Office, however, no action was taken.

Councilor Lauterborn **MOVED** to recommend the following amendments to the next Regular City Council meeting for adoption. Councilor Bogan seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

- **SECTION 1.4 ORDER OF BUSINESS**
- **SECTION 3.8 MAYORAL VETO - EXERCISE AND VOTE TO OVERRIDE**
- **SECTION 4.1 AGENDA PREPARATION**
- **SECTION 4.7 PUBLIC INPUT AT WORKSHOP OR COMMITTEE**

6. Penalties - Chapter 40.2

Councilor Bogan **MOVED** to recommend the Amendment to Chapter 40.2 to the full City Council. Councilor Abbott seconded the motion. The Committee discussed the proposed Amendment. Several Councilors recalled that Mr. Beaudion intended to focus on adopting new legislation that would

provide the Director of Building, Zoning, and Licensing Services the ability to seek action against a tenant; specifically to remove junk from a yard, which they [tenant] would not remove themselves. Councilor Lauterborn stated that this fine/fee schedule is much more complex than that.

Sheldon Perkins, Compliance Officer for the City of Rochester, supported the Amendment to Chapter 40.2. He said, currently, it takes too long for junk to be removed from a tenant's yard. He added that there is a false perception made by tenants, who believe the City should/could only give a citation to the landlord. The ability to write a summons to the tenant on the spot would resolve the matter.

Councilor Abbott gave a detailed explanation of why he believed that RSA 31:39-d cannot apply to the Building Code and therefore would be invalid. He supported enacting RSA 31:39-d, to a Property Maintenance Code, which could/would be treated as a Building Code for single-family homes [which can still be used for a land use citation] and then modify the Building Code for multifamily homes under a Housing Code in order to make it applicable to duplexes and above. The Committee had a lengthy debate on the matter and it was determined that more information would be needed.

Councilor Bogan **WITHDREW** her **MOTION** and Councilor Abbott **WITHDREW** his **SECOND** to the motion. This matter will be revisited at the next Codes and Ordinance Committee meeting in March.

7. Licensing Board Established - Chapter 26.1

Councilor Lachapelle **MOVED** to recommend that the full City Council approve the Amendment as outlined below. Councilor Gates seconded the motion. Councilor Gray suggested that language be included to allow the City Manager, Police Chief, or Fire Chief's designee to be appointed. The motion was restated to include this language as outlined below. Councilor Lachapelle requested a vote on the motion as amended. The **MOTION CARRIED** by a unanimous voice vote.

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, or their designees.** ~~, 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.~~

8. Polling Locations - Discussion

This discussion took place earlier in the meeting.

9. Permits - Chapter 40.16

Councilor Gray suggested adding language to the last sentence of Chapter 40.16 (c) by authorizing the City Manager to approve exemptions. Attorney O'Rourke stated that the City Manager cannot be given the authority to waive fees arbitrarily.

Councilor Abbott stated that the Building, Zoning, and Licensing Services Department cannot deny the issuance of a building permit due to non-payment of taxes; furthermore, the State RSA that outlines the collection of taxes has given specific requirements for collecting taxes and withholding building permits is not listed. He **MOVED** to strike paragraph (c) completely. Councilor Gates seconded the motion. The **MOTION FAILED** by a 2 to 3 show-of-hands vote.

The Committee discussed the matter further. Councilor Lachapelle **MOVED** to recommend that the full City Council accept the Amendment to Chapter 40.2 at the next Regular City Council meeting. Councilor Bogan seconded the motion. The **MOTION CARRIED** by a 3 to 2 show-of-hands vote.

AMENDMENT TO CHAPTER 40.2 OF THE GENERAL ORDINANCES OF THE CITY OF ROCHESTER REGARDING PERMITS

40.2 (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.

10. Other

No discussion.

11. Adjournment

Councilor Gates **MOVED** to **ADJOURN** the Codes and Ordinance Committee meeting at 9:50 PM. Councilor Gates seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Respectfully submitted,

Kelly Walters
City Clerk

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. ***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.***

34.7 Second-Hand Dealers' Records and Inspection.

(A) Every pawnbroker or secondhand dealer, upon acquisition, ***at their established place(s) of business***, 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:

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) Acquisition of the following types of items shall be exempt from the reporting requirements of Section 34.7 (A): used clothing, used furniture, books, magazines, and used dishes and plates.

(C) 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 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.

(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 three (3) months after date of passage.

Proposed

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.

Proposed

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) pursuant to the following photographing requirements:

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

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

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

Proposed

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

34.9 Exclusions.

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

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

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

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

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

34.12 Fees.

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

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

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.

34.7 Second-Hand Dealers' Records and Inspection.

(A) Every pawnshop 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:

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

b. A digital photograph(s) shall be taken of each individually identifiable article, sufficiently detailed to allow reasonable identification of the article. The digital photograph(s)

Proposed

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 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 30 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. Every pawnshop, or secondhand dealer, auctioneer, or auction house, upon final sale of a secondhand article enumerated in Section 34.2, shall prepare and maintain at his local place of business, a record of the sale detailing the proven identity of the buyer including his name, date of birth, address, and type of identification. The record shall also contain a description of the article sold including brand name and serial number, if any, and the price paid therefor. 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.

(C) Every pawnshop 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 annual fee of \$300.00 and a fee of \$1.00 per transaction due in full the second Tuesday of every month, for the preceding month.

34.8 Junk Dealers' Records and Inspection.

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

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

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

(B) All electronic records submitted by junk dealers and/or scrap yards shall also include a complete and accurate description of any vehicle used by the seller, to include year, make, model, color, registration number and state, to be included with the electronic filing of the transaction. The record shall also include the day, month, and year when the transaction occurred. The record shall be available at the local place of business for inspection by any authorized police officer for one year from the date of transaction.

(C) Every junk dealer and/or scrap yard that purchases an item in which a transaction record must be prepared pursuant to Section 34.8 of the Ordinance shall pay to the City of Rochester a annual fee of \$300.00 and a fee of \$0.50 per transaction due in full the second Tuesday of every month, for the preceding month.

Proposed

34.9 Exclusions.

(1) Any person, firm, partnership or corporation whose 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 may be resold to individuals or wholesalers without record, provided that the sale/purchase occurs after the 30-day hold period and the photographing requirements of Sections 34.7 and 34.8 have been met.

(3) Purchases from private residences by citizens not engaged in secondhand dealer type business are exempt from the provisions of Chapter 34.

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

(5) Antique dealers are exempt from the provisions of Chapter 34.

**AMENDMENT TO CHAPTER 15 OF THE GENERAL ORDINANCES OF THE CITY
OF ROCHESTER REGARDING HIGHWAYS, SIDEWALKS, BRIDGES AND STREET
LIGHTING**

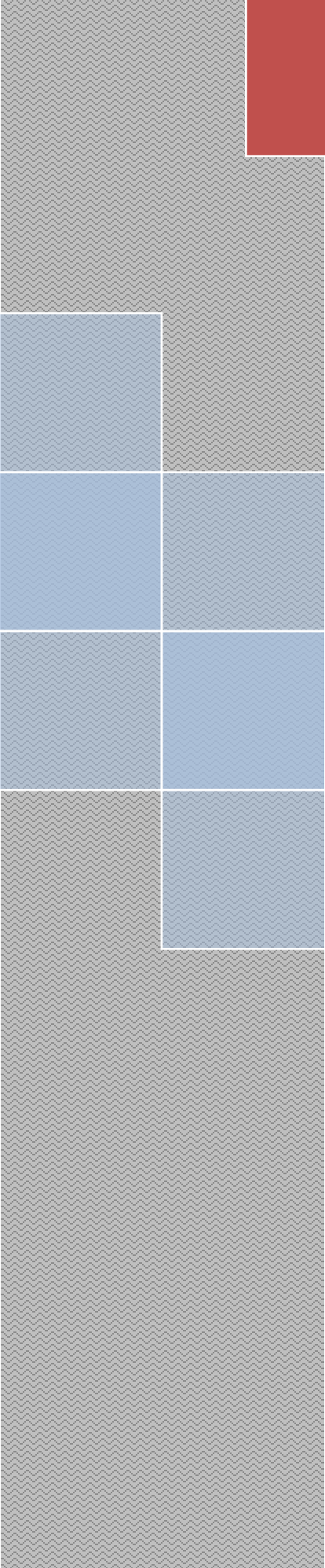
THE CITY OF ROCHESTER ORDAINS:

That subsection 15.5 (b) of Chapter 15 of the General Ordinances of the City of Rochester regarding Permits for Excavation Upon Highway or Sidewalk and currently before the Rochester City Council, be amended as follows:

15.5 Permit for Excavation Upon Highway or Sidewalk.

(b) For a period of ~~five (5)~~^{three (3)} years, beginning with the date of completion of the final paving of a public street or way relating to the construction or reconstruction of said street or way, no person, firm or corporation or any agent servant thereof shall excavate, construct or in any way encumber the paved or traveled portion of the street or way in the City of Rochester at any time, except for emergencies as may be deemed necessary by the Commissioner of Public Works and then only upon the posting by such entity of sufficient security, as determined by the Commissioner of Public Works and the agreement of such entity, to pay the cost of restoring such street or way to its original condition or with the approval by majority vote of the City Council.

The effective date of these amendments shall be upon passage.



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

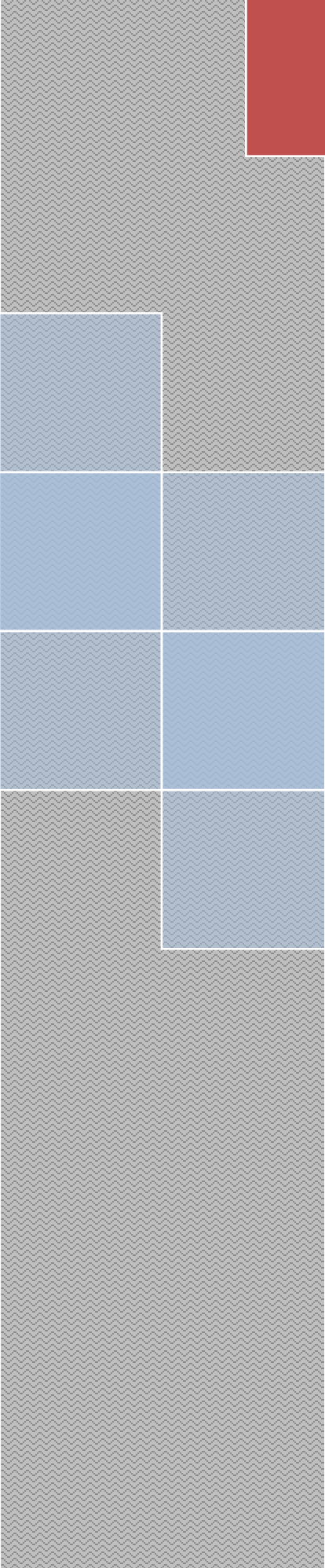
THE CITY OF ROCHESTER ORDAINS:

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:

40.12 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 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.

The effective date of these amendments shall be upon passage.



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02/25/2016

City of Rochester Formal Council Meeting

AGENDA BILL

NOTE: Agenda Bills are due by 10 AM on the Monday the week before the City Council Meeting.

AGENDA SUBJECT Economic Development Fund Budgeting

COUNCIL ACTION ITEM ☐
INFORMATION ONLY ☒

FUNDING REQUIRED? YES ☐ NO ☒
* IF YES ATTACH A FUNDING RESOLUTION FORM

RESOLUTION REQUIRED? YES ☐ NO ☒

FUNDING RESOLUTION FORM? YES ☐ NO ☒

AGENDA DATE	February 16, 2016		
DEPT. HEAD SIGNATURE	NA		
DATE SUBMITTED	February 10, 2016		
ATTACHMENTS YES <input type="checkbox"/> NO <input type="checkbox"/>	* IF YES, ENTER THE TOTAL NUMBER OF PAGES ATTACHED		

COMMITTEE SIGN-OFF

COMMITTEE	NA
CHAIR PERSON	NA

DEPARTMENT APPROVALS

DEPUTY CITY MANAGER	
CITY MANAGER	

FINANCE & BUDGET INFORMATION

DIRECTOR OF FINANCE APPROVAL	NA
SOURCE OF FUNDS	NA
ACCOUNT NUMBER	NA
AMOUNT	NA
APPROPRIATION REQUIRED YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	

LEGAL AUTHORITY

General Ordinances Chapter 11.20

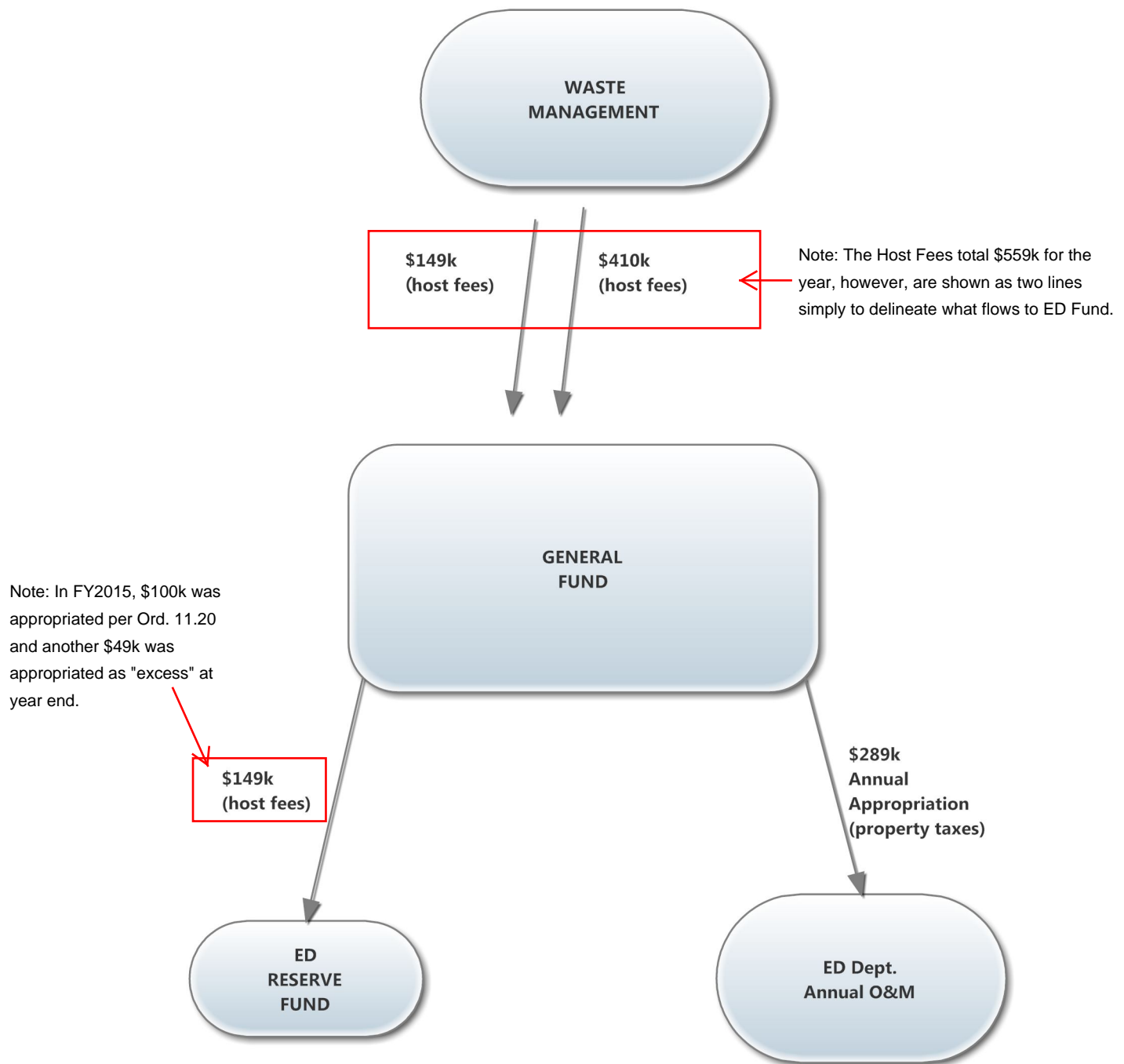
SUMMARY STATEMENT

During the fiscal year 2016 budget development process the Council discussed a change in the manner of funding for the Economic Development Reserve Fund and the and the Economic Development Department Operating Budget. The Council agreed to consider these changes for the fiscal year 2017 budget process. The attached diagrams detail on the first the existing process and on the second an optional process. The City Manager seeks direction from the Council as he prepares his fiscal year 2017 Proposed Budget for the Council's discussion and consideration.

RECOMMENDED ACTION

None.

Economic Development Appropriations Current Model (FY2015 Data)



* These funds are appropriated annually, however, unspent funds remain in the fund.

* Appropriations include:

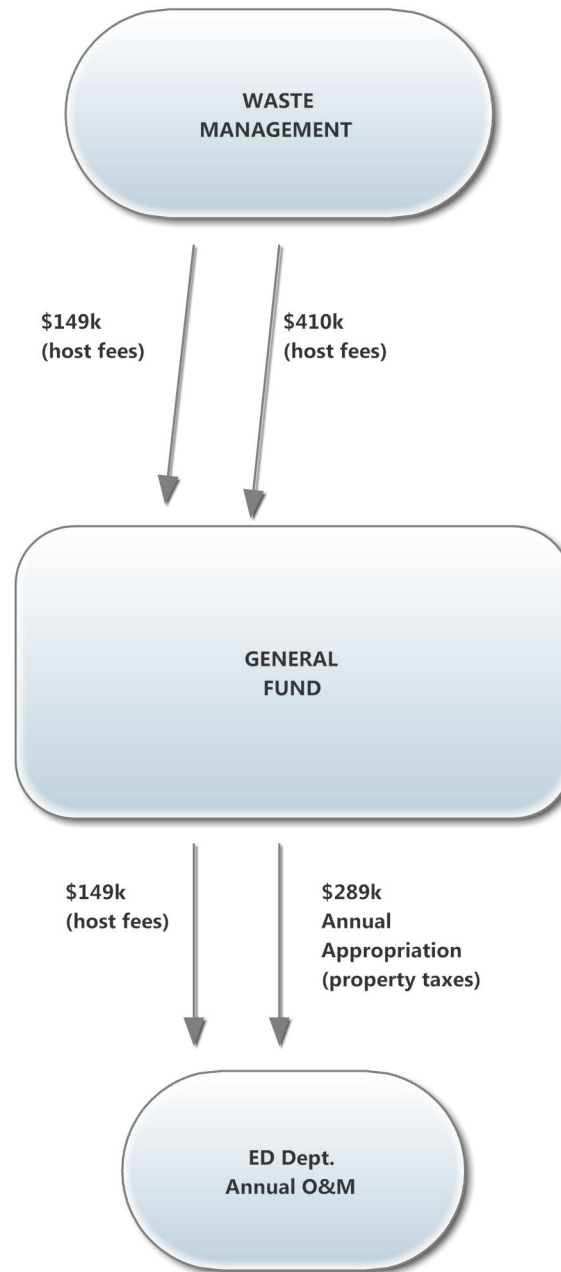
- Consulting (Buxton, Artstream)
- Marketing (travel, conferences)
- Community Services (Main Street)
- CIP Projects

* These funds are appropriated annually, however, unspent funds lapse back to GF fund balance

* Appropriations include:

- Salaries & Benefits
- Staff Development
- Travel
- Publications
- Dues & Fees

Economic Development Appropriations Proposed Model (FY2015 Data)



* These funds would be appropriated annually, however, unspent funds lapse back to GF fund balance.

* Appropriations include:

- Salaries & Benefits
- Staff Development
- Travel
- Publications
- Dues & Fees
- Consulting
- Marketing
- Community Services
- CIP Projects

* The existing General Ordinance 11.20 would be eliminated.

GENERAL ORDINANCES

CHAPTER 11 FINANCE

11.20 City of Rochester Economic Development Special Reserve Fund.

(a) City of Rochester Economic Development Special Reserve Fund – Statement of Purpose. The City of Rochester currently serves as the “Host Community” for the Turnkey Recycling and Environmental Enterprises Waste Disposal Facility (“TREE”) currently operated by Waste Management of New Hampshire, Inc., and located on the Rochester Neck Road. By virtue of its status as Host Community for TREE, the City of Rochester, in addition to incurring significant expenses in connection with such facility, receives significant financial benefits in the form of real property taxes, users fees (in the form of so-called “Host Community Fees”) and various other benefits relative to the cost to the City and its inhabitants of the disposal and/or recycling of various solid waste, including reduced and/or eliminated fees for the disposal and/or recycling of solid waste generated within the City of Rochester. It is currently estimated that the permitted capacity of the TREE Waste Disposal Facility (TLR-III) will be reached in approximately the year 2023. When such facility is filled to its permitted capacity, it is anticipated that the City will experience a loss in revenues, and the City and its inhabitants will experience increased costs associated with the disposal and/or recycling of solid waste, particularly in the form of reduced and/or lost users fees and reduced property tax revenues, as well as increased costs associated with the disposal and/or recycling of solid waste. Therefore, in an effort to offset the expected loss of revenues and increased costs occurring to the City as a result of the anticipated filling of the TREE Waste Disposal Facility to its permitted capacity and to promote the general fiscal strength and well-being of the City, it is necessary that economic development in the City of Rochester be promoted and/or maintained to insure the existence and/or expansion of a vibrant economic base for the City and its inhabitants. Therefore, **the City Council of the City of Rochester**, pursuant to the authority granted by RSA 47:1-b and RSA 47:1-c, **hereby establishes a special revenue reserve fund from the specific source identified in subsection (b) of this Section 11.20 for the specific purpose of paying expenditures associated with the promotion of new, and maintenance of current sources and levels of economic development within the City of Rochester.** The special reserve fund established in subsection (b) of this Section 11.20 shall be known as the “City of Rochester Economic Development Special Reserve Fund.” No expenditure from the said City of Rochester Economic Development Special Reserve Fund shall be made without an appropriation of such funds having been adopted by the Rochester City Council, which appropriation shall provide that such appropriation is for economic development purposes and shall contain a statement and/or finding by the City Council indicating the manner in which it is anticipated that such appropriation is related to the economic development of the City of Rochester. [2]

(b) City of Rochester Economic Development Special Reserve Fund.

There is **hereby created a non-lapsing budgetary account** within the City of Rochester, pursuant to the authority granted to the City by the provisions of RSA 47:1-b, such special reserve fund to be **known as the ‘City of Rochester Economic Development Special Reserve Fund’.** Such fund **shall be funded on an annual basis by the appropriation by the City Council to such special reserve fund of an amount not less than \$100,000 from the funds annually payable to the City of Rochester by Waste Management of New Hampshire, Inc. from the so-called “Host Community Fees” payable to the City pursuant to the provisions of the “Host Agreement” between the City and Waste Management of New Hampshire, Inc., or of**

any successor to such Agreement. In addition to such minimum funding level, the City Manager may, during any fiscal year of the City, upon written notification to, and appropriation by, the City Council, transfer to said 'City of Rochester Economic Development Special Reserve Fund' unappropriated 'Host Community Fees' in an amount not to exceed the difference between the total amount of Host Community Fees received from Waste Management of New Hampshire, Inc. during such fiscal year and the amount of such 'Host Community Fees' previously appropriated by the Rochester City Council during such fiscal year (having in mind the minimum funding/appropriation requirement provided for herein and any other appropriation of such fiscal year's 'Host Community Fees' by the City Council during such fiscal year). The 'City of Rochester Economic Development Special Reserve Fund' shall, upon appropriation by the City Council to such fund, include funds currently in Account #1501-324400, in the amount of \$1,537,613.54, as of the date of adoption of this ordinance, and such funds shall be expended only for the specific purpose set forth in subsection (a) of this Section 11.20 and shall be expended only in accordance with the provisions of subsection (a) of such Section.

**AMENDMENT TO CHAPTER 44 OF THE GENERAL ORDINANCES OF THE CITY
OF ROCHESTER REGARDING LOCAL ORDINANCE CITATIONS; PLEAS BY MAIL**

THE CITY OF ROCHESTER ORDAINS:

That Chapter 44 of the General Ordinances of the City of Rochester and currently before the Rochester City Council, be amended as follows:

CHAPTER 44

LOCAL ORDINANCE CITATIONS; PLEAS BY MAIL

SECTION ANALYSIS

44.1 Purpose and Objectives

44.2 Authority

44.3 Fine Schedule

44.1 Purpose and Objectives.

In addition to any other enforcement procedure authorized by law, any City official with authority to prosecute an offense under any municipal code, ordinance, bylaw, or regulation, if such offense is classified as a violation under applicable law, may issue and serve upon the a defendant, in addition to a summons to appear in the Circuit Court, a local ordinance citation as set forth in this section. A defendant receiving such a citation may plead guilty or *nolo contendere* by mail by entering that plea as provided herein. If such a plea is accepted by the Circuit Court and the prescribed fine is paid with the plea by mail, the defendant shall not be required to appear personally or by counsel; otherwise the defendant shall appear as directed by the court.

44.2 Authority.

This Ordinance is adopted pursuant to the authority vested in the City by RSA 31:39-d.

44.3 Fine Schedule.

Any defendant 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:

Category	1st Offense	2nd offense
Permits	\$50.00	\$100.00
Garbage, Rubbish, & Debris	\$75.00	\$150.00

Infestation	\$100.00	\$200.00
Interior, Building Elements	\$125.00	\$250.00
Exterior, Building Elements	\$150.00	\$300.00
Exterior, Motor Vehicles	\$200.00	\$400.00

The effective date of these amendments shall be upon passage.

DRAFT

RSA 31:39-d

Statutes current through Chapter 276 of the 2015 Regular Session

LEXIS™ New Hampshire Revised Statutes Annotated > Title III Towns, Cities, Village Districts, and Unincorporated Places > Chapter 31 Powers and Duties of Towns > Power to Make Bylaws

31:39-d. Local Ordinance Citations; Pleas by Mail.

In addition to any other enforcement procedure authorized by law, and regardless of whether a town has adopted an administrative enforcement procedure under RSA 31:39-c, a local official with authority to prosecute an offense under any municipal code, ordinance, bylaw, or regulation, if such offense is classified as a violation under applicable law, may issue and serve upon the defendant, in addition to a summons to appear in the district court, a local ordinance citation as set forth in this section. The defendant receiving such a citation may plead guilty or nolo contendere by mail by entering that plea as provided herein. If such a plea is accepted by the district court and the prescribed fine is paid with the plea by mail, the defendant shall not be required to appear personally or by counsel; otherwise the defendant shall appear as directed by the court. The following procedure shall be used:

- I. Notwithstanding any other provision of law, a complaint and summons may be served upon the defendant by postpaid certified mail, return receipt requested. Return receipt showing that the defendant has received the complaint and summons shall constitute an essential part of the service. If service cannot be effected by certified mail, then the court may direct that service on the defendant be completed as in other violation complaints.
- II. The local ordinance citation shall contain:
 - (a) The caption: "Local Ordinance Citation, Town (City) of _____"
 - (b) The name of the offender, and address if known to the prosecuting official.
 - (c) The code, ordinance, bylaw, or regulation the offender is charged with violating.
 - (d) The act or circumstances constituting the violation.
 - (e) The place of the violation.
 - (f) The date, if any, upon which the offender received written notice of the violation by the municipality.
 - (g) The time and date, if any, upon which any further violation or continuing violation was witnessed subsequent to such written notice.
 - (h) The amount of the penalty that is payable by the offender. If the offense is a continuing one for which a penalty is assessed for each day the offense continues, the amount of the penalty shall be based on the number of days the violation has continued since the time notice was given to the offender, up to a maximum of 10 days' violation charged in one citation.
 - (i) Instructions informing the defendant that the defendant may answer the citation by mail or may personally appear in court upon the date on the summons, and instructing the defendant how to enter a plea by mail, together with either the amount of the penalty specified in the citation, or a request for a trial.
 - (j) The address of the clerk of the district court where the plea by mail may be entered.
 - (k) A warning to the defendant that failure to respond to the citation on or before the date on the summons may result in the defendant's arrest as provided in paragraph V.
 - (l) The signature of the prosecuting official.

Terence O'Rourke

RSA 31:39-d

- III. Defendants who are issued a summons and local ordinance citation and who wish to plead guilty or nolo contendere shall enter their plea on the summons and return it with payment of the civil penalty, as set forth in the citation, to the clerk of the court prior to the arraignment date, or shall appear in court on the date of arraignment.
- IV. Civil penalties collected by the district court under this section shall be remitted to the municipality issuing the citation. Whenever a defendant (a) does not enter a plea by mail prior to the arraignment day and does not appear personally or by counsel on or before that date or move for a continuance; or (b) otherwise fails to appear for a scheduled court appearance in connection with a summons for any offense, the defendant shall be defaulted and the court shall determine what the civil penalty would be upon a plea of guilty or nolo contendere and shall impose an administrative processing fee in addition to the civil penalty. Such fee shall be the same as the administrative processing fee under RSA 502-A:19-b, and shall be retained by the court for the benefit of the state.
- V. The court may, in its discretion, issue a bench warrant for the arrest of any defendant who:
 - (a) Is defaulted in accordance with the provisions of paragraph IV of this section;
 - (b) Fails to pay a fine or other penalty imposed in connection with a conviction for a violation of a local code, ordinance, bylaw, or regulation which a court has determined the defendant is able to pay, or issues a bad check in payment of a fine or other penalty; or
 - (c) Fails to comply with a similar order on any matter within the court's discretion.
- VI. For cause, the court in its discretion may refuse to accept a plea by mail and may impose a fine or penalty other than that stated in the local ordinance citation. The court may order the defendant to appear personally in court for the disposition of the defendant's case.
- VII. The prosecuting official may serve additional local ordinance citations, without giving additional written notice or appeal opportunity under paragraph I, if the facts or circumstances constituting the violation continue beyond the date or dates of any prior citation. A plea of guilty or nolo contendere to the prior citation shall not affect the rights of the defendant with respect to a subsequent citation.
- VIII. Forms and rules for the local ordinance citation and summons shall be developed and adopted by the New Hampshire supreme court.
- IX. This section is not intended in any way to abrogate other enforcement actions or remedies in the district or superior court, nor to require written notice as a prerequisite to other types of actions or remedies for violations of local codes, ordinances, bylaws, or regulations.
- IX-a. For any offense that is subject to enforcement under RSA 676:17, a person who fails to respond to a citation under this section within the time stated in the citation shall be subject to the subsequent offense penalties of RSA 676:17.
- X. This section shall not apply to violations of the New Hampshire building code as defined in RSA 155-A:1, IV, or to motor vehicle offenses under title XXI or any local law enacted thereunder.

History

2009, 270:1, eff. January 1, 2010. 2014, 77:1, 2, eff. January 1, 2015.

Services for the City of Rochester, and all duties as defined therein, including those imposed upon the "building official", shall be assumed by said Director of Building, Zoning, & Licensing Services Department, along with the right to enforce same. [4] [9]

40.5 Adoption of Other Codes.

[4] [5]

Pursuant to the provisions of RSA 47:22, RSA 674:51 and RSA 674:51-a, these are hereby adopted by the City of Rochester for the purpose of establishing rules and regulations, including the issuance of permits for the construction, alteration, removal, demolition, equipment, location, maintenance, use and occupancy of buildings and structures, 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 and for the prevention of fires the following Codes, to wit:

- (a) 2006 International Property Maintenance Code (2006 Edition), published by the International Code Council, Inc., Copyright 2006;

Three copies of each of the aforesaid Codes has been and is now on file in the Office of the City Clerk of the City of Rochester and three copies of such Codes are filed with the Department of Building, Zoning, & Licensing Services for the City of Rochester. Such Codes are hereby adopted and incorporated as fully as if set out at length herein and from the date on which the ordinance shall take effect, the provisions thereof shall be controlling on the construction of all buildings and other structures within the corporate limits of the City of Rochester. There is annexed to such of the aforesaid Codes, as filed in the Office of the City Clerk and the Department of Building, Zoning, & Licensing Services, as set forth below, the following exhibits setting forth the insertions in, deletions from, exceptions to and/or changes in such Codes, which insertions, deletions, exceptions and/or changes are adopted as part of the aforementioned Codes, to wit: [9]

- (a) 2006 International Property Maintenance Code (2006 Edition), published by the International Code Council, Inc., Copyright 2006;

Three copies of the aforesaid Codes has been and is now on file in the Office of the City Clerk of the City of Rochester and three copies of such Codes are filed with the Department of Building, Zoning, & Licensing Services, for the City of Rochester. Such Codes are hereby adopted and incorporated as fully as if set out at length herein and from the date on which the ordinance shall take effect, the provisions thereof shall be controlling on the construction of all buildings and other structures within the corporate limits of the City of Rochester. There is annexed to such of the aforesaid Codes, as filed in the Office of the City Clerk and the Department of Building, Zoning, & Licensing Services, as set forth below, the following exhibits setting forth the insertions in, deletions from, exceptions to and/or changes in such Codes, which insertions, deletions, exceptions and/or changes are adopted as part of the aforementioned Codes, to wit: [9]

- (a-1) 2009 International Existing Building Code (2009 Edition), published by the International Code Council, Inc., Copyright 2009. [7]

Three copies of each of the aforesaid Codes have been and is now on file in the Office of the city Clerk of the City of Rochester and three copies of such Codes are filed with the Department of Building, Zoning, & Licensing Services, for the City of Rochester. Such Codes are hereby adopted and incorporated as fully as if set out at length herein and from the date on which the ordinance shall take effect, the provisions thereof shall be controlling on the construction of all buildings and other structures within the corporate limits of the City of Rochester. There is annexed to such of the aforesaid Codes, as filed in the Office of the City Clerk and the Department of Building, Zoning, & Licensing Services, as set forth below, the following exhibits setting forth the insertions in, deletions from, exceptions to and/or changes in such Codes, which insertions, deletions, exceptions and/or changes are adopted as part of the aforementioned Codes, to wit: [9]

(b) Exhibit A, "Statement Dated September 4, 2007, of insertions in, deletions from, exceptions to and changes in 2006 International Property Maintenance Code (2006 Edition), by the City of Rochester, New Hampshire"

(b-1) Exhibit A, "Statement Dated January 4, 2011, of insertions in, deletions from, exceptions to and changes in 2009 International Existing Building Code (2009) Edition, by the City of Rochester, New Hampshire." [7]

40.6 Fire Code and Life Safety Code.

The duties defined in and the enforcement of the Life Safety Code, NFPA 101 (2003 Edition), or any applicable successor code, shall be assumed by the Fire Chief of the City of Rochester or his authorized representative. [4]

40.7 Electrical Code and Property Maintenance Code.

The duties defined in and the enforcement of the NEC 2005, National Electrical Code (2005 Edition) and the 2006 International Property Maintenance Code (2006 Edition), or any applicable successor codes, shall be assumed by the Director of Building, Zoning, and Licensing Services or his authorized representative. [4] [5]

40.8 Plumbing Code.

The duties defined in and the enforcement of the 2006 International Plumbing Code (2006 Edition), or any applicable successor code, shall be assumed by the Director of Building, Zoning, and Licensing Services, or his authorized representative, except as otherwise provided in Chapter 16 of the Ordinances of the City of Rochester where the same are defined as the duties of the Commissioner of Public Works, with inspections to be done by the Director of Building, Zoning, & Licensing Services or an authorized member of the Water or Sewer Department. [4] [5]

40.9 Regulation of Construction Storage Yards.

Any individual or entity engaged in excavation, development, construction, building, and/or similar project within the City and involving the outside storage of construction and/or related equipment and/or materials, shall forthwith cease to store such equipment and/or materials upon the premises involving such excavation, development, construction, building and/or similar project upon the expiration of the building permit or other similar

RSA 47:22

Statutes current through Chapter 4 of the 2016 Regular Session

LEXIS™ New Hampshire Revised Statutes Annotated > Title III Towns, Cities, Village Districts, and Unincorporated Places > Chapter 47 Powers of City Councils > Building Codes

47:22. Grant of Power.

The board of mayor and aldermen, or the corresponding governmental body of any city, is hereby empowered and authorized in the passing and adopting of ordinances, establishing codes, rules and regulations for the construction of buildings, relating to the installation of plumbing, the use of concrete, masonry, metal, iron and wood, and other building material, the installation of electric wiring, and fire protection incident thereto or for the prevention of fires to adopt any additional regulations provided that the regulations are not less stringent than the requirements of the state building code under RSA 155-A or the state fire code under RSA 153; provided, that upon adoption of such ordinance wherein such code, rules and regulations or portions thereof have been incorporated by reference, there shall be filed 3 copies of such codes, rules and regulations in the main office of the municipal department or agency administering the same and 3 copies in the office of the city clerk. All copies of any code, rules and regulations filed as provided herein, shall be for use and examination by the public.

History

1945, 105:1, par. 18. RSA 47:22. 1963, 232:1. 1965, 255:1, eff. Aug. 31, 1965. 2002, 8:2, eff. Sept. 14, 2002.

Annotations

Notes

Amendments

—2002.

Substituted “additional regulations provided that the regulations are not less stringent than the requirements of the state building code under RSA 155-A or the state fire code under RSA 153” for “nationally recognized code, rules and regulations to develop good engineering practice or safety that have been printed as a code in book form or such portions thereof by reference thereto in such ordinance” in the first sentence.

—1965.

Substituted “in the main office of the municipal department or agency administering the same and three copies in the office of the city clerk” for “in the office of the city clerk, and in the case of a fire prevention code or portions thereof, three copies in the main office of the fire department” at the end of the first sentence.

—1963.

Substituted “city clerk, and, in the case of a fire prevention code or portion thereof, three copies in the main office of the fire department” for “building inspector and three copies in the office of the city clerk” at the end of the first sentence.

Terence O'Rourke

RSA 47:17

Statutes current through Chapter 4 of the 2016 Regular Session

LEXIS™ New Hampshire Revised Statutes Annotated > Title III Towns, Cities, Village Districts, and Unincorporated Places > Chapter 47 Powers of City Councils > Bylaws and Ordinances

47:17. Bylaws and Ordinances.

The city councils shall have power to make all such salutary and needful bylaws as towns and the police officers of towns and engineers or firewards by law have power to make and to annex penalties, not exceeding \$1,000, for the breach thereof; and may make, establish, publish, alter, modify, amend and repeal ordinances, rules, regulations, and bylaws for the purposes stated in this section. Provisions in this section granting authority to establish and collect fines for certain violations shall not be interpreted to limit the authority hereunder to establish and collect fines for any other violations:

- I. IN GENERAL.** To carry into effect all the powers by law vested in the city.
- II. ORDER AND POLICE DUTY.** To regulate the police of the city; to prevent any riot, noise, disturbance, or disorderly assemblages; to regulate the ringing of bells, blowing of horns or bugles, and crying goods and other things; and to prescribe the powers and duties of police officers and watchmen.
- III. DISORDERLY HOUSES AND GAMING.** To suppress and restrain disorderly houses and houses of ill-fame, gambling houses and places, billiard tables, nine or ten pin alleys or tables and ball alleys, and all playing of cards, dice or other games of chance; to restrain and prohibit all descriptions of gaming and fraudulent devices; and to authorize the destruction and demolition of all instruments and devices used for the purpose of gaming.
- IV. SALE OF LIQUOR.** To establish regulations for groceries, stores, restaurants, and places of public amusement; to authorize the entry of proper officers into all such places to inspect the same, and the seizure and forfeiture of all liquors and the instruments used or designed to be used in the manufacture or sale of the same, in violation of law.
- V. SHOWS.** To regulate or prohibit the exhibitions of natural or artificial curiosities, caravans, circuses, theatrical performances, or other shows.
- VI. PORTERS, VEHICLES, ETC.** To license and regulate porters, cartmen and cartage, runners for boats, stages, cars, and public houses, hackney coaches, cabs, and carriages, and their drivers; the care and conduct of all animals, carriages, and teams, standing or moving in the streets; to prevent horse-racing and immoderate riding or driving in streets and on bridges; and to prevent cruelty to animals.
- VII. USE OF PUBLIC WAYS.** To regulate all streets and public ways, wharves, docks, and squares, and the use thereof, and the placing or leaving therein any carriages, sleds, boxes, lumber, wood, or any articles or materials, and the deposit of any waste or other thing whatever; the removal of any manure or other material therefrom; the erection of posts, signs, steps, public telephones, telephone booths, and other appurtenances thereto, or awnings; the digging up the ground by traffic thereon or in any other manner, or any other act by which the public travel may be incommoded or the city subjected to expense thereby; the securing by railings or otherwise any well, cellar, or other dangerous place in or near the line of any street; to prohibit the rolling of hoops, playing at ball or flying of kites, or any other amusement or practice having a tendency to annoy persons passing in the streets and sidewalks, or to frighten teams of horses within the same; and to compel persons to keep the snow, ice, and dirt from the sidewalks in front of the premises owned or occupied by them.
- VIII. TRAFFIC DEVICES AND SIGNALS.**
 - (a) To make special regulations as to the use of vehicles upon particular highways, except as to speed, and to exclude such vehicles altogether from certain ways; to regulate the use of class IV highways

Terence O'Rourke

RSA 47:17

within the compact limits and class V highways by establishing stop intersections, by erecting stop signs, yield right of way signs, traffic signals and all other traffic control devices on those highways over which the city council has jurisdiction. The erection, removal and maintenance of all such devices shall conform to applicable state statutes and the latest edition of the Manual on Uniform Traffic Control Devices.

- (b) The commissioner of transportation shall only approve the installation and modification of traffic signals as to type, size, installation, and method of operation.

- IX. COMBUSTIBLES.** To regulate the keeping, conveying and places of deposit of gunpowder and other combustible and dangerous materials; the use of candles, lights, and matches in barns, stables, and other buildings containing combustible and dangerous materials; to regulate the erection or use of buildings within the most compact part of the city, for any purpose which in the opinion of the city councils shall more immediately expose said city to destruction by fire, and to define the limits of such compact part.
- X. STOCK AT LARGE.** To regulate, restrain, or prohibit the keeping or running at large of horses, cattle, sheep, swine, geese, goats and other poultry and animals, or any of them, to create the limits of districts within which the same may be kept and the conditions and restrictions under which they may be kept.
- XI. DOGS.** To regulate the keeping of dogs and their running at large, require them to be licensed, and authorize the destruction of those kept or running at large contrary to the ordinance.
- XII. MARKETS, SALES.** To establish markets and market-places; regulate the place and manner of selling and weighing hay, selling pickled and other fish, and salted and fresh provisions; selling and measuring wood, lime, coal, and other heavy articles; and to appoint suitable persons to superintend and conduct the same; to prevent and punish forestalling and regrating; and to restrain every kind of fraudulent device and practice.
- XIII. VAGRANTS, OBSCENE CONDUCT.** To restrain and punish vagrants, mendicants, street beggars, strolling musicians, and common prostitutes, and all kinds of immoral and obscene conduct, and to regulate the times and places of bathing and swimming in the canals, rivers and other waters of the city, and the clothing to be worn by bathers and swimmers.
- XIV. NUISANCES.** To abate and remove nuisances; to regulate the location and construction of slaughterhouses, tallow chandlers' shops, soap factories, tanneries, stables, barns, privies, sewers, and other unwholesome or nauseous buildings or places, and the abatement, removal or purification of the same by the owner or occupant; to prohibit any person from bringing, depositing, or having within the city any dead carcass or other unwholesome substance; to provide for the removal or destruction, by any person who shall have the same upon or near such person's premises, of any such substance, or any putrid or unsound beef, pork, fish, hides, or skins, and, on such person's default, to authorize the removal or destruction thereof by some officer of the city; to authorize and provide for the collection, removal, and destruction of garbage and other waste material, to make necessary regulations relative thereto, and to provide for payment therefor by assessment, or appropriation, or both. A municipality may create fines for violations related to garbage and other waste material regulations and a procedure for the administrative enforcement of such violations and collection of penalties as provided in RSA 48-A:8, VI, or in any other manner authorized by law.
- XIV-a. INTERFERING WITH VOTERS.** To regulate the distribution of campaign materials or electioneering or any activity which affects the safety, welfare and rights of voters at any election held for any purpose in such city. Such power shall not extend to the display of printed or written matter attached to any legally parked motor vehicle, nor shall such power extend to activities conducted wholly on private property so as not to interfere with people approaching or entering a polling place.
- XIV-b. LOCAL ELECTION REPORTING REQUIREMENTS.** Requiring the reporting of contributions to, and expenditures by, any candidate or political committee made for the purpose of influencing the election of any candidate for local elective office, or any person or committee for the purpose of influencing the vote on any local ballot or referendum question.

Terence O'Rourke

RSA 47:17

XV. MISCELLANEOUS. Relative to the grade of streets, and the grade and width of sidewalks; to the laying out and regulating public squares and walks, commons, and other public grounds, public lights, and lamps; to trees planted for shade, ornament, convenience, or use, and the fruit of the same; to trespasses committed on public buildings and other public property, and in private yards and gardens; in relation to cemeteries, public burial grounds, the burial of the dead, and the returning and keeping records thereof, and bills of mortality, and the duties of physicians, sextons and others in relation thereto; relative to public wells, cisterns, pumps, conduits, and reservoirs; the places of military parade and rendezvous, and the marching of military companies with music in the streets of the city; relative to precautions against fire; relative to oaths and bonds of city officers, and penalties upon those elected to such offices refusing to serve; and relative to licensing and regulating butchers, petty grocers, or hucksters, peddlers, hawkers, and common victualers; dealers in and keepers of shops for the purchase, sale or barter of junk, old metals or second-hand articles, and pawnbrokers; under such limitations and restrictions as to them shall appear necessary. They may make any other bylaws and regulations which may seem for the well-being of the city; but no bylaw or ordinance shall be repugnant to the constitution or laws of the state; and such bylaws and ordinances shall take effect and be in force from the time therein limited, without the sanction or confirmation of any other authority whatever.

XVI. WARNINGS AND CITATIONS. To establish a procedure for the issuance of warnings and citations for the violation of health, fire, planning board, building, licensing, zoning, and housing codes and ordinances.

XVII. DRUG FREE ZONES. Establish as a drug-free zone any area inclusive of public housing authority property and within 1,000 feet of such public housing authority property. If such drug-free zones are established, the municipality shall publish a map clearly indicating the boundaries of such drug-free zone, which shall be posted in a prominent place in the district or municipal court of jurisdiction, the local police department, and on the public housing authority property. The municipality shall also develop signs or markings for the drug-free zone which shall:

- (a) Be posted in one or more prominent places in or near the public housing authority property; and
- (b) Indicate that the posted area is a drug-free zone which extends to 1,000 feet surrounding such property; and
- (c) Warn that a person who violates RSA 318-B, the controlled drug act, within the drug-free zone, shall be subject to severe criminal penalties under RSA 318-B and a penalty of up to \$1,000 under this paragraph.

XVIII. AUTOMOBILE PARKING CONTROLS. The city councils shall have the authority to adopt such bylaws and ordinances as are necessary to control the parking, standing and stopping of automobiles within the city limits, including ordinances allowing for the towing or immobilization of automobiles for nonpayment of parking fines and creating parking fines recoverable by means of civil process.

XIX. BUSINESSES OBTAINING CITY PERMITS. To establish regulations relative to businesses obtaining city permits.

History

1846, 384:17. GS 44:11. GL 48:10. PS 50:10. 1905, 10:1. 1907, 35:1. 1915, 55:1. 98:1. 1923, 15:1. PL 54:12. 1935, 117:2. 1941, 35:1. RL 66:13. RSA 47:17. 1961, 26:1. 1971, 512:9. 1981, 298:2. 1983, 166:2. 1986, 102:1. 1991, 74:1. 364:7. 1993, 183:1, eff. Aug. 8, 1993. 1996, 268:1, 5, eff. Aug. 9, 1996. 2006, 202:1, eff. July 30, 2006. 2007, 43:2, eff. July 20, 2007. 2009, 270:2, 3, eff. January 1, 2010.

RSA 47:17-b

Statutes current through Chapter 4 of the 2016 Regular Session

LEXIS™ New Hampshire Revised Statutes Annotated > Title III Towns, Cities, Village Districts, and Unincorporated Places > Chapter 47 Powers of City Councils > Bylaws and Ordinances

47:17-b. Enforcement of Bylaws and Ordinances.

In addition to any other enforcement procedure authorized by law, any city code, ordinance, bylaw, or regulation may be enforced pursuant to the procedures established in RSA 31:39-c, RSA 31:39-d, or both, subject to the provisions and limitations thereof.

History

2009, 270:4, eff. January 1, 2010.

Annotations

Research References & Practice Aids

Hierarchy Notes:

RSA Tit. III

RSA Tit. III, Ch. 47

RSA Tit. III, Ch. 47, [Undesignated]

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RSA 674:51

Statutes current through Chapter 276 of the 2015 Regular Session

LEXIS™ New Hampshire Revised Statutes Annotated > **Title LXIV Planning and Zoning** > **Chapter 674 Local Land Use Planning and Regulatory Powers** > **Building Codes**

674:51. Power to Amend State Building Code and Establish Enforcement Procedures.

The state building code established in RSA 155-A shall be effective in all towns and cities in the state and shall be enforced as provided in RSA 155-A:7. In addition, towns and cities shall have the following authority:

- I. The local legislative body may enact as an ordinance or adopt, pursuant to the procedures of RSA 675:2–4, additional provisions of the state building code for the construction, remodeling, and maintenance of all buildings and structures in the municipality, provided that such additional regulations are not less stringent than the requirements of the state building code. The local legislative body may also enact a process for the enforcement of the state building code and any additional regulations thereto, and the provisions of a nationally recognized code that are not included in and are not inconsistent with the state building code. Any local enforcement process adopted prior to the effective date of this paragraph shall remain in effect unless it conflicts with the state building code or is amended or repealed by the municipality.
- II. Any such ordinance adopted under paragraph I by a local legislative body shall be submitted to the state building code review board for informational purposes.
- III. The local ordinance or amendment adopted according to the provisions of paragraph I shall include, at a minimum, the following provisions:
 - (a) The date of first enactment of any building code regulations in the municipality and of each subsequent amendment thereto.
 - (b) Provision for the establishment of a building code board of appeals as provided in RSA 673:1, V; 673:3, IV; and 673:5.
 - (c) Provision for the establishment of the position of building inspector as provided in RSA 673:1, V. The building inspector shall have the authority to issue building permits as provided in RSA 676:11–13 and any certificates of occupancy as enacted pursuant to paragraph III, and to perform inspections as may be necessary to assure compliance with the local building code.
 - (d) A schedule of fees, or a provision authorizing the governing body to establish fees, to be charged for building permits, inspections, and for any certificate of occupancy enacted pursuant to paragraph III.
- IV. The regulations adopted pursuant to paragraph I may include a requirement for a certificate of occupancy to be issued prior to the use or occupancy of any building or structure that is erected or remodeled, or undergoes a change or expansion of use, subsequent to the effective date of such requirement.
- V. No municipality or local land use board as defined in RSA 672:7 shall adopt any ordinance, regulation, code, or administrative practice requiring the installation of automatic fire suppression sprinklers in any new or existing detached one- or 2-family dwelling unit in a structure used only for residential purposes. Notwithstanding any provision of law to the contrary, no municipality or local land use board shall enforce any existing ordinance, regulation, code, or administrative practice requiring the installation or use of automatic fire suppression sprinklers in any manufactured housing unit as defined in RSA 674:31 situated in a manufactured housing park as defined in RSA 205-A:1, II. Nothing in this paragraph shall affect the ability of an applicant for a local land use permit to include the installation of

Terence O'Rourke

RSA 674:51

fire suppression sprinklers pursuant to RSA 674:36, IV, or affect the validity or enforceability of such inclusion.

History

1983, 447:1. 1989, 70:1. 1990, 71:3, eff. June 5, 1990. 2002, 8:10, eff. April 17, 2002. 2003, 245:7, eff. July 14, 2003. 2008, 38:1, eff. July 11, 2008. 2011, 269:1, eff. July 1, 2011. 2013, 207:2, eff. September 8, 2013.

Annotations

Notes

Amendments

—2013.

The 2013 amendment added the last sentence of V.

—2011.

The 2011 amendment added par. V.

—2008.

The 2008 amendment added the introductory language.

—2003.

Paragraph I: Added the third sentence.

—2002.

Rewritten to the extent that a detailed comparison would be impracticable.

—1990.

Subparagraph II(b): Substituted “673:3, IV” for “673:3, II”.

—1989.

Rewritten to the extent that a detailed comparison would be impracticable.

Effect of 1989 amendment on existing local building codes.

1989, 70:3, eff. June 18, 1989, provided that any local building code enacted or amended by a municipality in accordance with existing law prior to June 18, 1989, shall remain in effect until it is amended or repealed; and, provided further, that any local building code enacted or amended by a municipality after June 18, 1989, shall be in conformance with the provisions of this section, as amended by 1989, 70:1.

Research References & Practice Aids

New Hampshire Practice.

13 N.H.P. Local Government Law §§ 13, 14, 307.

14 N.H.P. Local Government Law §§ 900, 950.

Terence O'Rourke

RSA 674:51

Hierarchy Notes:

RSA Tit. LXIV

RSA Tit. LXIV, Ch. 674

RSA Tit. LXIV, Ch. 674, [Undesignated]

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RSA 155-A:1

Statutes current through Chapter 276 of the 2015 Regular Session

LEXIS™ New Hampshire Revised Statutes Annotated > Title XII Public Safety and Welfare > Chapter 155-A New Hampshire Building Code

155-A:1. Definitions.

In this chapter:

- I. "Building" means building as defined and interpreted by the International Code Council's International Building Code 2009, as amended by the state building code review board and ratified by the legislature in accordance with RSA 155-A:10.
- II. "County" means the local legislative body of a county in which there are unincorporated towns or unorganized places.
- III. "Local enforcement agency" means for a municipality that has adopted enforcement provisions or additional regulations under RSA 674:51 or RSA 47:22, the building inspector, code official, or other local government official qualified and authorized to make inspections and to enforce the laws, ordinances, and rules enacted by the state and by local government that establish standards and requirements applicable to the construction, alteration, or repair of buildings. For the purpose of enforcement of the state fire code for buildings and structures not owned by the state, the local enforcement agency means the municipal fire chief or his or her representative, pursuant to RSA 154:2, II.
- IV. "New Hampshire building code" or "state building code" means the adoption by reference of the International Building Code 2009, the International Existing Building Code 2009, the International Plumbing Code 2009, the International Mechanical Code 2009, the International Energy Conservation Code 2009, and the International Residential Code 2009, as published by the International Code Council, and the National Electrical Code 2014, as amended by the state building code review board and ratified by the legislature in accordance with RSA 155-A:10. The provisions of any other national code or model code referred to within a code listed in this definition shall not be included in the state building code unless specifically included in the codes listed in this definition.
- IV-a. "New Hampshire fire code" or "state fire code" means the state fire code as defined in RSA 153:1 and as amended by rules adopted pursuant to RSA 153:5.
- V. "Person" means any individual or organized group of any kind, including partnerships, corporations, limited liability partnerships, limited liability companies, and other forms of association, as well as federal, state or local instrumentalities, political subdivisions, or officers.
- VI. "Structure" means structure as defined and interpreted by the International Code Council's International Building Code 2009, as amended by the state building code review board and ratified by the legislature in accordance with RSA 155-A:10.

History

2002, 8:3, eff. Sept. 14, 2002. 2003, 245:1, eff. July 14, 2003. 2006, 112:1, eff. July 8, 2006. 2007, 187:1-3, eff. August 17, 2007. 2009, 41:2, eff. July 14, 2009. 2012, 242:7-10, eff. June 18, 2012. 2014, 314:4, eff. January 1, 2015.

Terence O'Rourke

Annotations**Notes**

Amendments**—2014.**

The 2014 amendment substituted “National Electrical Code 2014” for “National Electric Code 2011” in the first sentence of IV.

—2012.

The 2012 amendment substituted “International Code Council’s International Building Code 2009, as amended by the state building code review board and ratified by the legislature in accordance with RSA 155-A:10” for “International Code Council’s International Building Code 2006” in I and VI; in III, in the first sentence, added “or RSA 47:22,” added “code official,” and substituted “qualified and authorized” for “with authority” and added the second sentence; in the first sentence of IV, substituted “International Building Code 2009, the International Existing Building Code 2009” for “International Building Code 2006,” “International Plumbing Code 2009” for “International Plumbing Code 2006,” “International Mechanical Code 2009” for “International Mechanical Code 2006,” “International Energy Conservation Code 2009” for “International Energy Conservation Code 2006,” “International Residential Code 2009” for “International Residential Code 2006,” and “National Electric Code 2011, as amended by the state building code review board and ratified by the legislature in accordance with RSA 155-A:10” for “National Electric Code 2008”; added IV-a; and made a stylistic change.

—2009.

The 2009 amendment substituted “the National Electric Code 2008” for “the National Electric Code 2005” in the first sentence of IV.

—2007.

Paragraphs I and VI: Substituted “2006” for “2000” following “International Building Code”.

Paragraph IV: Substituted “2006” for “2000” following “Code” throughout the paragraph and “2005” for “2002” following “National Electric Code”.

—2006.

Paragraph IV: Inserted “and the International Residential Code 2000” following “Conservation Code 2000” in the first sentence.

—2003.

Paragraph IV: Substituted “National Electric Code 2002” for “National Electric Code 1999” in the first sentence.

Research References & Practice Aids

New Hampshire Practice.

14-24 N.H.P. Local Government Law § 900.

Terence O'Rourke

RSA 155-A:7

Statutes current through Chapter 276 of the 2015 Regular Session

LEXIS™ New Hampshire Revised Statutes Annotated > Title XII Public Safety and Welfare > Chapter 155-A New Hampshire Building Code

155-A:7. Enforcement Authority.

- I. The local enforcement agency appointed pursuant to RSA 674:51 or RSA 47:22 shall have the authority to enforce the provisions of the state building code and the local fire chief shall have the authority to enforce the provisions of the state fire code, provided that where there is no local enforcement agency or contract with a qualified third party pursuant to RSA 155-A:2, VI, the state fire marshal or the state fire marshal's designee may enforce the provisions of the state building code and the state fire code, subject to the review provisions in RSA 155-A:10, upon written request of the municipality.
- II. Upon the request of a local enforcement agency, state agencies, boards, and commissions may provide advisory services and technical assistance concerning any building or any construction project in the local enforcement agent's jurisdiction.
- III. The local enforcement agency appointed to enforce the state building code shall have the authority to inspect all buildings, structures, construction sites, and other places in the jurisdiction. If consent for such inspection is denied or not reasonably obtainable, the local enforcement agency may obtain an administrative inspection warrant under RSA 595-B.
- IV. All local enforcement agencies and selectmen and the state fire marshal in those communities without a local enforcement agency shall provide information on the local and state appeals process when issuing a building permit or notice of violation.

History

2002, 8:3, eff. Sept. 14, 2002. 2012, 225:1, eff. August 14, 2012. 242:14, eff. June 18, 2012.

Annotations**Notes**

Amendments

—2012.

The 2012 amendment by Chapter 225 added IV.

The 2012 amendment by Chapter 242 rewrote I to the extent that a detailed comparison would be impracticable.

Research References & Practice Aids

New Hampshire Practice.

14-24 N.H.P. Local Government Law § 900.

Hierarchy Notes:

RSA Tit. XII

RSA Tit. XII, Ch. 155-A

Terence O'Rourke