

Codes and Ordinances Committee

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

**AGENDA****CODES AND ORDINANCES COMMITTEE**

Of the Rochester City Council

Thursday May 7, 2015

City Council Chambers

31 Wakefield Street, Rochester, NH

7:00 PM

- 1. Call to Order**
- 2. Public Input**
- 3. Approval of the Codes and Ordinances Committee Minutes**
 - **March 5, 2015 P - 3**
- 4. Discussion - Polling Locations**
- 5. Discussion - Chapter 42 Sign Ordinance**
 - a. Current Sign Ordinance P. 17**
 - b. Proposed Sign Ordinance -Draft P. 21**
- 6. Discussion - Aquifer Protection Draft Ordinance**
 - a. Proposed Ordinance – Draft – P.37**
 - b. Aquifer Protection Compliance Biennial Report – Draft P.47**
 - c. Aquifer Protection Overlay District Map P. 51**
- 7. Trustee of the Trust Fund P. 53**
- 8. Second Hand Dealers Chapter 34 Amendments**
 - a. Current Ordinance – P. 55**
 - b. Chapter 34 – Proposed – Draft P. 59**
- 9. Other**
- 10. Adjournment**



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CODES AND ORDINANCES COMMITTEE

Of the Rochester City Council

Thursday March 5, 2015

City Council Chambers

31 Wakefield Street, Rochester, NH

7:00 PM

Committee Members Present

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

Others Present

Jim Grant, Director of BZLS
Councilor Gray
Councilor Hamann
Terence O'Rourke, City Attorney
Seth Creighton, City Planner
Patrick Smith, General Code
Kyle Pimental, Strafford County
Regional Planning Commission

Committee Members Excused

Councilor Peter Lachapelle, Chair

MINUTES

1. Call to Order

Councilor Lauterborn called the Codes and Ordinances Committee meeting to order at 7:00 PM. All committee members were present, with the exception of Councilor Lachapelle, who was excused.

2. Public Input

No member of the public addressed the Codes and Ordinances at that time. Councilor Lauterborn closed public input at 7:01 PM.

3. Approval of the Codes and Ordinances Committee Minutes

• **February 5, 2015**

Councilor Bogan **MOVED** to **ACCEPT** the Committee minutes of December 4, 2014. Councilor Gates seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

4. Codification Presentation - Patrick Smith, General Code

Patrick Smith of General Code gave a detailed PowerPoint presentation to the Codes and Ordinances Committee on codification. He explained the

various reasons that make codification a very useful tool for the public as well as the municipality. Mr. Smith also handed out a brochure with supplemental information. He reviewed the reasons why the City should codify. This is a way to build and plan for the future; the code book is a living breathing document. Mr. Smith explained the search process for residents to find a topic within the online version.

Terence O'Rourke, City Attorney, asked Mr. Smith about their editorial and legal analysis to find conflicts within the code and New Hampshire state statutes. Mr. Smith stated that they track the legislative changes around the nation when it comes to our City ordinances because a problem in another part of the country could eventually pose a problem to our City. He explained that they do provide guidance and he gave an example of such an issue. They are tracking trends from other communities. He explained that this is their expertise and informing the City is the best practice.

Mr. Smith said that they provide an e-kit, which would have information that could be provided to the newspaper and posters that could be hung up around the community to let the citizens know about this new program. He also said that in some communities residents who are aware of this type of program will request it from the governing body.

Mr. O'Rourke discussed the tracking process with Mr. Smith. He said that General Code will provide data if they find a conflict within the ordinances. He explained this further as it applies to the supplementations to the codes. If they find that one ordinance states an elected official's term is three years and another ordinance lists the term at two years they will work to clean it up. Mr. Smith gave the committee a few examples of the importance of making sure the fees and fines schedules are in order.

Councilor Varney said that the City does not get notification when a state law is passed, and asked how his company will get notification. He felt that the City would have to notify them. Mr. Smith agreed with Councilor Varney; however, they will notify the City if they see a lot of activity on a topic.

Councilor Varney asked if there is a standard guideline that the City will need to use when it comes to assigning numbers to the ordinances. Mr. Smith stated that there is a standard structure and that the structure is helpful for future growth. He gave examples of how this would work. Councilor Varney asked if they are proposing a total change to the City's ordinances. Mr. Smith said yes because they have found that this system works, but they could work on it if the City is set on leaving the current system alone. Councilor Varney asked if they would be able to trace to the

original number. Mr. Smith said no, but there would be a deviation table that could be found under the disposition list, which is on the website. Councilor Varney asked if the City would get documentation of all the changes made. Mr. Smith stated that the City would get a workbook of all the changes, as well as the code adoption, everything that General Code will be changing. He explained that the City Council would use this when it comes to voting on their adoption. One would be to adopt the general ordinances and the other would be to adopt the zoning ordinance.

Councilor Varney questioned how much work will the City staff be taking on if we have to make all these changes. Mr. Smith said that he would send Kelly Walters, City Clerk, more information on the process. He mentioned that the process moves quickly providing the code adoption and they will be looking for consistency. He reiterated that they can leave the numbering alone if it is a huge concern.

The Codes and Ordinances Committee discussed the costs associated with having General Code handling the City's codification. The initial cost would be \$16,000 and a yearly eCode360 maintenance fee of \$1,195, and the first year is included in the \$16,000. Councilor Varney asked if there would be other costs over and above the \$1,195. Mr. Smith explained that there would be variable fees for supplementation, which would include the editor and time and material fees, which is at a cost of \$21 per effected page of the code. He went on to explain this process and also explained that there is no limitation on the amount of changes that can be done in a year.

Councilor Lauterborn asked how often would the City be sending them information. Mr. Smith said that every time an ordinance passes would be the best practice. Mr. Smith explained every time there is a change to the law it would show up under the new law tab right away, even though it has not been put into the code; this is included in the \$1195 yearly fee. He also mentioned it could be done monthly or quarterly. Councilor Lauterborn asked if General Code will be the only ones to make changes or will the clerks be allowed. Mr. Smith said only General Code can make the changes.

Councilor Lauterborn questioned the \$16,000. Mr. Smith explained this covers the website, approximately ten code books, the editorial analysis, and the draft.

Councilor Gates asked how often would the paper book be updated. Mr. Smith stated that they would send out paper inserts right after the online version is updated and this would be done on the schedule that the City has set up. He went on to explain that they are trying to steer people to the electronic version. He also stated that they will provide an archive CD.

This is helpful in case the City incurs a lawsuit. He explained that with the CD the City will be able to access what the ordinance looked like and what was in effect at the time of a violation.

Councilor Hamann asked Mr. Smith how often the system gets backed up. Mr. Smith said quite frequently, plus they have off site servers, which are secure and rarely go down. If they have a server go down they have others with backup. The Codes and Ordinances Committee discussed this further with Mr. Smith.

Mr. Smith explained to the committee that the initial process was going to take approximately twelve to fourteen months to get up and running.

Councilor Gray asked if Mr. Smith knew how much the City of Nashua spends annually on codification since they started with General Code. Mr. Smith will research the data and send it to the City Clerk's office. He also encouraged the City to talk to Nashua since they are a frequent user and have been a long time customer.

Councilor Lauterborn wanted to confirm with Mr. Smith that when a new ordinance is adopted and sent to his company will the City be notified if there is a conflict. Mr. Smith stated that the City would be notified. He explained that they should leave the numbering off so that General Code could put it in the right section. Councilor Varney said that they could not pass an ordinance without a number. Mr. Smith explained that the City can still give it a number, but leave the placement alone. He gave the committee further explanation and discussion.

Mr. O'Rourke asked how his company would work with a city. Would they inform them of the number that they should be using. Mr. Smith stated that they would and explained that they assign an editor to one account. They get to know the community and they are there to give guidance when needed. The editor assigned will ask questions if things do not seem to be in order or conflicts arise.

Mr. Smith informed the committee that under the disposition list they can also access NCM [non code material] as it may pertain to changes.

Councilor Varney asked if this was in the budget for the upcoming fiscal year. It was the impression of the committee that it was.

5. Discussion: Sign Ordinance, Chapter 42

Jim Grant, Director of the BZLS, addressed the Codes and Ordinances Committee with the changes Michelle Mears and the Planning Department made to Chapter 42.29.

Mr. Grant said that they made the correction on the "snipe sign," as now being "prohibited."

Mr. Grant explained that 42.29 (j) number 8, Political Signs, should be removed. Under number 9, Holiday Signs without Advertisement, they have removed "or special event signs." Councilor Hamann questioned church holiday signs. Mr. Grant said that they cannot advertise on these signs; however they could apply for a temporary sign.

Mr. Grant reviewed 42.29 (k) number 50, Snipe Signs. They have changed the definition verbiage and there were a few other minor changes. He reviewed (m) number 13, Off-Premise Signs, where they are making changes to item (a) to "only one free standing sign per establishment" and (b) "one real estate sign per premises." He explained that they need to be careful with these changes. Also under (m) number 14, Political Signs, the committee reviewed item (g) regarding the Adopt-A-Spots and the Rochester Common, adding "a twenty-five foot buffer from the garden bed edge." Councilor Varney asked where the issues were. The committee discussed Columbus Avenue briefly. Mr. Grant would like a map of the Adopt-A-Spots. Councilor Lauterborn mentioned that political signs still fall under state law. Mr. Grant added that according to the Attorney General, political signs cannot be on City property.

Councilor Gray informed the Codes and Ordinances Committee on this RSA (664.17) and they are looking to make changes at the State level. He was not sure what the Senate Bill number was. He said that this RSA also affects the polling locations and explained further.

Councilor Lauterborn asked if the City is trying to regulate something that is already regulated. The committee discussed this issue further with Mr. Grant and Councilor Gray. Mr. O'Rourke mentioned that there was wiggle room within the ordinance, which could be interpreted differently. Councilor Gray discussed state roads with the committee. For the time being the committee felt that they could leave the political signs in. The Codes and Ordinances Committee discussed that there is no penalty from the State for allowing them or banning them.

Mr. Grant addressed 42.29 (m) number 15 (a). This has been changed to "no more than one portable sign per property." He said that this affects multi-tenant buildings and he explained why this change was made.

Mr. Grant also mentioned that under this same section a change was made to (d), "appropriately placed to minimize appearance of clutter," which the Code Enforcement Officer will have to determine. Councilor Hamann felt that term should be added to the ordinance.

Mr. Grant explained that there was a grammar error under 42.29 (n) number 2 (d), wall signs, which will be fixed. He also mentioned that this section will also state that "no wall sign shall exceed 10% of the building frontage," which he felt was tasteful. He gave the committee his opinion as to why they are giving the 10%.

Councilor Lauterborn asked if these revisions had passed the Planning Board. Seth Creighton, Chief Planner, said that the Planning Board has not seen this version of changes.

Councilor Lauterborn discussed the proper way of sending this sign ordinance forward. This should go the Chair of the Planning Board, Nel Sylvain for him to confirm the revisions and to decide if it needs to go back before the Planning Board. Councilor Gray did not feel there was enough significant change to have it go back to the Planning Board.

Councilor Varney discussed Granite Ridge as it pertains to zoning. He felt that there are two sentences regarding signage that should be removed. He felt that this issue belongs in the sign ordinance, not zoning. Mr. Grant agreed. Councilor Varney stated that they would need to change the zoning ordinance. He discussed this further with the committee and stated that he will work on this with the appropriate parties.

Councilor Lauterborn said that it will have to go to the City Council as a special meeting for the first reading and a public hearing would need to be scheduled for the second reading.

Councilor Gates **MOVED** to present amendments to Chapter 42.29, Signs to the full City Council at the earliest possible time, with completed revisions. This will require a Special Meeting for a first reading. Councilor Varney seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

The Codes and Ordinances Committee was hoping to have the Special Meeting prior to the upcoming Workshop Meeting on March 17, 2015.

6. Discussion: Aquifer Protection Draft Ordinance

Seth Creighton, Chief Planner, and Kyle Pimental, Senior Planner from

Strafford County Regional Planning Commission, reviewed the draft ordinance for the Aquifer Protection with the Codes and Ordinances Committee.

Mr. Creighton explained that they brought this issue to the committee's December meeting for discussion and now they have been given the go-ahead to start the process from the Planning Board.

Mr. Creighton said that the Aquifer Protection Ordinance is to protect the drinking water pertaining to wells within the City. He explained that he and various departments within the City, as well as the Strafford County Regional Planning Commission, have been meeting on a weekly basis to put this together. He said that they have taken the state model and geared it to our City's standards.

Councilor Lauterborn asked if the committee was comfortable enough with the draft ordinance to discuss. Mr. Pimental asked that they break the discussion up so that they can address the map and then discuss the changes to the actual ordinance. He passed out a larger version of the map so that it would be easier to read.

Mr. Pimental stated that they did make changes to the map and they worked with Emery and Garrett on the proposed new zones. The committee discussed if these wells are all active. Mr. Pimental stated only one well is active. He mentioned that one of the new zones on the map does fall partially in Farmington, NH, and they are looking to work with them on this. The committee briefly discussed the map.

Mr. Pimental went on to discuss the ordinance. He explained that the proposed changes are substantially different from the current ordinance because standards have changed. Mr. Pimental read draft 42.10 in its entirety, which can be found in the packet. He said that there were still some changes that need to be made.

The Codes and Ordinances Committee briefly discussed the maintenance and inspection process along with compliance inspection fees. The committee commented on a few recommendations. Mr. Grant suggested that they could have a separate fee schedule in the ordinance. The committee wanted to know who would they classify as a qualified professional. Mr. Pimental said that this is the formal definition from the NHDES, but it can be removed.

Councilor Varney would also like to know what properties are going to be effected because it could be substantial. Mr. Creighton stated that he will look into this.

Councilor Lauterborn asked if the Planning Board has seen this document yet. Mr. Creighton explained that they were given a copy at their March 2, 2015, meeting. He said that it was not discussed at that time. He stated that it would probably be discussed at either the March 16, 2015, or April 6, 2015, meeting. Mr. Pimental said that they have brought the draft ordinance back to this committee for their feedback and they expect to be back before them after the Planning Board looks at it for their endorsement to send it to the City Council for a first reading and a Public Hearing.

Councilor Lauterborn said that it looks like this process will still be a few month away. This issue will be staying in committee at this time.

7. Memo From Michael Hopkins, School Superintendant

Councilor Lauterborn expressed that she understood School Superintendant Michael Hopkins, concerns about holding elections in the schools. His concerns are based on parking and other issues not security. She does not feel that they need to pursue the schools for elections.

Councilor Gray cited that security is still an issue. Councilor Varney agreed that parking could be an issue for some of the schools when school is in session. Councilor Lauterborn did not want to see the schools shut down to hold the elections.

Councilor Varney would like Kelly Walters, City Clerk, to check with the owners of the VFW to see if they would be willing to hold the election there if it were vacant at the time of the elections.

The Codes and Ordinances Committee commented that the City Clerk's office will continue to work on polling locations.

8. Other

The Codes and Ordinances Committee discussed looking into other companies for codification proposals. The committee also discussed that this would have to be in the City Clerk's budget under "Issues and Options."

Councilor Varney wanted to see other quotes on codification. Councilor Grey mentioned that having the information from Nashua would be helpful because they are a community that deals with the same issues as

Rochester. He explained this further. The committee discussed that there would be fluctuation in any given year that would determine the cost of the updates.

Councilor Lauterborn asked if codification needs to come back to the committee. Councilor Varney mentioned that it should come back so that the committee can make recommendation before it goes up for the budget presentation. Both Councilor Varney and Councilor Lauterborn like the idea of codification if the money is available.

Councilor Gates asked if there were a lot of upcoming changes to our ordinances that would change the yearly cost that the City would incur. Councilor Varney mentioned that storm water could be an issue. Councilor Lauterborn said that with the timing of the process it could be after the committee passes a storm water ordinance.

Councilor Gates asked if we implement all these software upgrades within the City are the residents going to look for a reduction in personnel. Councilor Lauterborn did not feel that this will be an issue. The committee had a brief discussion on the implementation of software.

The Codes and Ordinances Committee discussed the staff workload as it pertains to getting codification up and running and if they would need to implement a committee to work on this project with General Code.

9. Adjournment

Councilor Gray **MOVED** to **ADJOURN** the Committee meeting at 9:20 PM. Councilor Gates seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Respectfully submitted,

Nancy Carignan
Assistant City Clerk

Why the City of Rochester, NH should do a codification of the city ordinances with General Code:

- **All of the legislation is one place.** Instead of having legislation scattered around in multiple books, filing cabinets and boxes—all of the laws are in one place.
- **All of the legislation is formatted and numbered properly.** The Code will be set up in an easy to use format and style developed in accordance with a manual developed over 50 years. The format is clear, concise and easy to read—designed with the laymen in mind. Access to information will be easier and amending legislation in the future will be a simpler and more efficient process because of the consistency imposed by following the style manual.
- **All of the legislation is up to date.** During the process of codifying your laws – an editor can review the legislation to ensure that the laws are completely up to date—free of conflicts, inconsistencies and duplications.
- **All of the legislation is cross referenced and indexed.** The Code will be cross referenced and indexed so that information can be easily located within the Code chapters
- **All of the legislation is available electronically.** Technology has greatly improved the way local governments store, maintain and access documents. Today your Code is much more than a book – it's actually a fully searchable electronic version of your Code so that everyone has instant access to the most current information. You can easily make your Code available to citizens 24 hours a day by putting it on the Internet.
- **Respond quickly and accurately to questions.** A Code is an easily accessed resource for appointed officials and community personnel, enabling them to find the information they need to answer questions from both citizens and other municipal officials in a professional and efficient manner. All officials have the same information –which is a good reflection on the local government.
- **Enforce laws with confidence and consistency.** A Code is a practical and efficient tool that your courts, police and other enforcement officials can rely on for accurate and timely information. By codifying your laws --- it is easier to cite chapters and sections of the Code.
- **Update your laws and plan for future growth and development.** A Code provides a clear view of existing situations and makes it easier to determine the impact of proposed changes and amendments. The Code is an accurate depiction of how your local government operates.
- **Fulfill a community obligation to make the laws available to everyone.** It is the duty of every municipality to maintain its laws in a comprehensive, up-to-date and understandable form in a location that the average citizen can find and use. Freedom of Information requests for your laws can be handled more efficiently.

- **Minimize the risk of legal action.** Having the laws of the community codified minimizes the risk of legal action against the community. Because the laws are documented and substantiated during the process – the risk of having out of date and obsolete provisions in the Code is reduced.
- **Transition from one administration to another.** A code enables new officials and employees to have immediate access to the same information their predecessors had—which eases the process of transitioning from one government to another.

Editorial Analysis & Legal Review (why this is important):

After a brief review of the City of Rochester's existing Code, a General Code editor has identified the following recommendations. Please keep in mind these are just a few suggestions for improving the City's Code. As pointed out in the attached proposal, General Code is recommending a complete editorial analysis of the City's Code.

Obsolete provisions that could be revised or repealed

Chapter 5 of the City Code sets forth the salaries of elected officials. Many municipalities choose to omit this information from the code since it may be subject to frequent revision.

Inconsistent provisions within and between chapters

The Code should be reviewed to ensure that the titles of departments, boards and/or officials are used consistently throughout. For example, § 3.10 addresses the "Recreation, Parks and Youth Services Commission," while § 3.1(a)(9) refers to the "Recreation and Park Commission."

Missing Material or Additional Revisions

1. Chapter 3 was amended in 2011 to add a new § 3.15, Arts and Culture Commission. The City may wish to also revise § 3.1 of this same chapter to add this commission to the list in Subsection (a).
2. Chapter 3 sets forth the various boards, commissions and committees in the City. In some instances the provisions include details regarding membership, duties and responsibilities; in other instances, the Code simply states that the details of the board or commission "shall be as provided by ordinance." For the sake of consistency, the City could consider whether substantive provisions regarding all boards and commissions should appear in the Code.
3. Chapter 19, Solid Waste, § 19.6, states that residential solid waste shall be placed in suitable receptacles "as defined under 19.1(v)." The reference definition is one of "residential recycling bin," so either the internal reference needs to be changed to refer to 19.1(y), a definition of "rubbish and waste receptacles," or another change to the text is required.

State legislation that may be missing from the municipality's Code

Existing Code provisions would be compared against relevant state law provisions, including recent amendments to state law.

1. For example RSA 76:11 was amended in 2012 to permit municipalities to send tax bills by electronic means "with the approval of the governing body." Are there provisions in Rochester's Code that could be revised to account for this state law amendment?
2. Are there provisions in the City Code that are affected by state law revisions to fuel service sign requirements in RSA 339:30-a adopted in 2012?

Fees and Penalties

1. **Fees.** Where penalties appear in the Code, the City could review the amounts to ensure that they are current and accurately reflect the City's costs in administering the relevant provisions. Some municipalities choose to remove specific fee amounts from the code and instead indicate that the fees are as set by the governing body from time to time.
2. **Penalties.** State law currently permits the City to impose penalties not exceeding \$1,000 for violations of ordinances. The City could review its current penalty provisions to determine whether revisions are necessary to increase (or decrease) existing penalty amounts. (See RSA 47:17.)

References



The following (4) references are current General Code clients who have completed similar projects. Please feel free to contact anyone on the list.

Town of Bedford, NH

Ms. Lori Radke - Clerk

(603) 472-3550

lradke@bedfordnh.org

City of Nashua, NH

Ms. Tricia Piecuch - Deputy Clerk

(603) 589-3004

BergeronP@nashuanh.gov

Town of Merrimack, NH

Ms. Diane P. Trippett - Clerk

(603) 424-3651

dpollock@ci.merrimack.nh.us

Town of Wolfeboro, NH

Ms. Patricia M. Waterman – Clerk

(603) 569-5328

patmw1@metrocast.net

From: [Pat Smith](#)
To: [Nancy Carignan](#)
Subject: General Code
Date: Monday, March 09, 2015 3:53:31 PM
Attachments: [image002.png](#)
[image003.png](#)
[image006.png](#)
[image007.png](#)
[image008.png](#)

Hi Nancy:

1. Attached is a copy of the sample Editorial & Legal Analysis Document that I provided to the committee last week that you requested.
2. Over the last 3 years, the City of Nashua, NH has **spent on average \$4241.00** per year (1195.00 for eCode360 Maintenance and \$3046 for Supplementation of new ordinances) with General Code.

Please let me know if you have any questions.

Best regards, let me know if you got this?

Pat

Patrick Smith

Account Manager

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From: Nancy Carignan [<mailto:nancy.carignan@rochesternh.net>]



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- (a) General. All signs shall comply with the regulations for the erection and construction of signs contained in the Building Code of the City of Rochester and other applicable city regulations, except as shall be under the jurisdiction of New Hampshire RSA 236:69-89. Signs shall be permitted in accordance with the following regulations:
- (b) Signs Permitted in R-1, R-2 Districts.
- (1) One professional nameplate. Maximum surface area: two (2) square feet.
 - (2) One identification sign for each dwelling unit. Maximum surface area (*all sides*): two (2) square feet.
 - (3) One identification sign for each membership club, funeral establishment, hospital, church, other place of public assembly, community facility, or public utility use. Maximum surface area: twenty-four (24) square feet. Minimum front setback: one-half required front setback.
 - (4) One unlighted temporary sign offering premises for sale or lease for each parcel in one ownership.
 - (5) One unlighted temporary sign of an architect, engineer, or contractor erected during the period such person is performing work on the premises on which such sign is erected. Maximum surface area: thirty-two (32) square feet. Minimum set back: ten (10) feet from any street lot line.
- (c) Signs Permitted in DC, OC, HC, and NMU Districts.
- (1) Signs permitted in **Section 42.29(b)** subject to those same regulations for residential use in these districts.
 - (2) Signs limited to those which aid identification, advertise goods, services, or products manufactured or offered for sale on the premises. However, portable signs may be placed in the public right of way, as provided for in **subsection (g)**, below. General advertising signs in the form of billboards shall be prohibited.
 - (3) One wall sign for lot street frontage of each establishment. Maximum surface area (*all sides*): five (5) square feet for each foot of building frontage. Maximum horizontal projection: eighteen (18) inches.
 - (4) One projecting sign for each lot street frontage of each establishment. It shall be attached to the main wall of a building and not project horizontally beyond two (2) feet inside the curb line. Maximum surface area: forty (40) square feet. Minimum ground clearance: nine (9) feet. Maximum height: thirty (30) feet.
 - (5) One pole sign for each lot street frontage of a drive-in establishment. Maximum surface area: 150 square feet. Minimum set back: ten (10) feet from the street lot line. Maximum height: thirty (30) feet.
 - (6) Portable signs specifically as provided for in **subsection (g)**, below.
- (d) Signs Permitted in GI and RI Districts.
- (1) Wall signs permitted in **Section 42.29(c)** subject to the same regulations.
 - (2) One ground sign for each establishment. Maximum surface area: 150 square feet. Minimum set back: fifteen (15) feet from any street lot line. Maximum height: thirty (30) feet.
 - (3) Signs shall be limited in use to identification signs and those signs which advertise goods, services, or products manufactured or offered for sale on the premises. However, portable signs may be placed in the public right of way, as provided for in **subsection (g)**, below.
 - (4) Portable signs specifically as provided for in **subsection (g)**, below.
- (e) Signs Permitted in AG District.

- (1) Signs permitted in the AG district shall be subject to the provisions as stated in the previous sections, dependent upon the type of use with which they are connected.

(f) Additional Sign Regulations.

- (1) Any sign, if lighted, shall be illuminated internally by a luminous tube or by an indirect shielded white light.
- (2) The high point of roof signs shall not exceed ten (10) feet above the roof line.
- (3) Any traffic or directional sign owned or installed by a governmental agency shall be permitted.
- (4) Specifically excluded from these regulations are temporary interior window displays or temporary banners for drive-in establishments or automotive establishments, except as provided in (5) below.
- (5) Flashing or animated signs (including temporary interior window displays or banners) of red, amber, or green colored lights shall not be permitted.
- (6) No more than two (2) signs shall be allowed for any one business or industrial establishment in the DC, OC, HC, NMU and AG districts. However, this limitation as to the number of permitted signs does not apply to portable signs. A modular type sign is considered to be a single sign.
- (7) No more than one (1) sign shall be allowed for each dwelling unit in the "R-1" and "R-2" districts.
- (8) The limitations as to the number of signs permitted does not apply to traffic or directional signs which are necessary for the safety and direction of residents, employees, customers, and visitors, whether in a vehicle or on foot, for any business, industry, or residence.
- (9) Political Advertising. The following provisions are in addition to the political advertising controls established under RSA 664:14, 664:17, and 664:2, as amended:
 - a) Political advertising shall be defined in RSA 664:2, as amended.
 - b) Political signs may not exceed 32 Square feet per side in area nor 8 feet in height.
 - c) Placement of advertising – No political advertising shall be placed on or affixed to any public property including City rights-of-way or private property without the owner's consent. All political advertising shall be removed by the candidate no later than the second Friday following the election unless the election is a primary and the advertising concerns a candidate who is a winner in the primary. Signs shall not be placed on or affixed to utility poles or highway signs. Political advertising may be placed within City-owned rights-of-way as long as the advertising does not obstruct the safe flow of traffic and the advertising is placed with the consent of the owner of land over which the right-of-way passes.
 - d) Signature, Identification, Lack of Authorization shall be in accordance with RSA 664:14, as amended.
 - e) Political signs shall not erected in the City Adopt-A-Spots or the Rochester Common.
 - f) Removal of signs shall be in accordance with RSA 664:17, as amended.
 - g) City of Rochester Adopt-A-Spots are situated in the following locations:

- Granite State Business Park
- Christmas Tree Island Granite State Business Park
- Strafford Square
- Corner of Portland Street/Olsen Way
- The Common
- Duval Park
- Merrill Park @ City Hall & Front of City Hall
- Tax Revenue Office
- Library (Front Entrance)
- Public Works Department
- Stairs & Front – RPD/Museum Way & City Hall Island
- Rochester Fire Department Flagpoles
- Rochester Community Center/Flagpole
- Columbus Avenue Right-of-Way between Hancock Street and South Main Street
- Gonic Center Square
- General Wolfe Tavern Barrels
- Welcome to Rochester/Route 125
- Union/Wakefield Street
- Ten Rod Road Industrial Park
- Airport Welcome Sign
- Route 125/Flagg Road
- East Rochester Square
- Elks Lodge
- Woodman Square Park/Charles Street
- Torr Park @ Spaulding & Urn @ Wading Pool

- (10) The area and location of signs used in conjunction with uses allowed by the Board of Adjustment as special exceptions shall also be approved by the Board of Adjustment and shall conform to the sign regulations for the district in which they are located. The area and location of such signs shall be in harmony with the character of the neighborhood in which they are located.
- (11) No sign, except for political signs, shall be erected until a permit for same has been obtained from the Director of Building, Zoning, & Licensing Services.

(g) Portable Signs. The following provisions apply to all portable signs:

- (1) Portable signs are allowed only within the portions of the DC District that is situated within either the Rochester Historic District or the Special Downtown District.
- (2) An application for each portable sign shall be submitted to the Department of Building, Zoning, and Licensing Services along with a fee of \$10.00. No subsequent application nor fee shall be required for the same portable sign provided it is serving the same business operating in the same location. No formal review is required for portable signs other than an administrative review by the Director of Building, Zoning, & Licensing Services to ensure compliance with this ordinance.
- (3) The maximum permitted area for a portable sign is eight (8) square feet (or a total of 16 square feet for two sign faces) and the maximum permitted height is four (4) feet above grade.
- (4) Portable signs shall be placed as follows:
 - (A) No portable sign may be placed upon the sidewalk unless there is no practical space on the private property.

(B) Any portable sign that is placed on the sidewalk (in accordance with A, above):

- (i) shall be situated directly in front of the business(es) which is (are) being advertized;
- (ii) shall not block passage along the sidewalk, including passage for handicapped persons; and
- (iii) shall not present any safety hazard.

(C) Portable signs may be displayed during business hours only.

(D) An individual business may not display more than one portable sign at anyone time.

(5) Existing portables signs which are not in compliance with this article are not considered to be "grandfathered" under this ordinance. If any notification of noncompliance is given from the Director of Building, Zoning, & Licensing Services these signs or conditions must be brought into compliance within 30 days from that notification.

(h) Removal of Portable and Other Movable and Temporary Signs. The Zoning Administrator, or other city personnel designated by the City Manager, shall cause to be removed any sign placed on or over any public right-of-way or public property that is without a valid permit or is not in compliance with the terms of a valid permit, or where such a sign is exempt from permit requirements, the sign is not in compliance with the standards and provisions of this ordinance.

(1) Signs Related to An Adjacent Principal Use. Where a sign that is placed on or over any public right-of-way or public property in violation of this ordinance is related to a principal use of adjacent private property, the Zoning Administrator, or other city personnel designated by the City Manager, shall notify the owner of the principal use or the property that a violation exists and shall specify a time limit for removal of the sign. If the owner fails to comply with the order for removal, the Zoning Administrator, or other city personnel designated by the City Manager, shall remove the sign and the owner shall be liable for the cost of said removal and subsequent storage. If the owner does not redeem the sign within thirty (30) calendar days from the date that the sign is removed, the sign shall be deemed to be abandoned and may be disposed of by the City as abandoned property; and

(2) Other Signs. Where a sign that is placed on or over any public right-of-way or public property in violation of this ordinance is not erected in connection with elections or political campaigns, and is unrelated to a principal use of adjacent private property, the Zoning Administrator, or other city personnel designated by the City Manager, shall remove the sign and it shall be deemed to be abandoned and may be disposed of by the City as abandoned property."

Proposed Ordinance
City of Rochester

Draft dated PB 7.9.14 Comments received for PB for 8.4.14

42.29 Signage

- a. **General.** All signs shall comply with the regulations for the erection and construction of signs contained in the Building Code of the City of Rochester and other applicable city regulations, except as shall be under the jurisdiction of New Hampshire RSA 236:69-89. Signs shall be permitted in accordance with the following regulations.
- b. **Purpose and Intent.** The purpose of this ordinance is to create a legal framework to regulate the type, number, location, size, and illumination of signs on private property in order to maintain and enhance the character of the city's commercial district and residential neighborhood and to protect the public from hazardous and distracting displays.
- c. **Nonconforming signs.** A sign which was lawfully established prior to the adoption of this article but which does not meet the requirements of this article is considered a nonconforming sign. Non conforming signs and sign structures may remain or must be removed as follows:
1. Applicable provisions of the nonconforming section of this Zoning Ordinance shall apply unless superseded herein.
 2. No changes in the sign or sign structure are permitted except for basic maintenance and repairs necessary to keep the sign in good working order or other changes which bring the sign into compliance. ~~Other than that,~~ No nonconforming sign shall be reconstructed, modified, or relocated except for changes to the sign face itself within the same size and shape to accommodate a change copy. *A nonconforming sign which is damaged beyond repair due to a cause beyond the control of the owner may be replaced within one year of when damage occurs.*
 3. ~~No Nonconforming sign may not be altered in any way, which makes the sign even more out of compliance with this ordinance, including but not limited to lighting an unlit sign.~~
 4. Existing temporary signs which are not in compliance with this article are not considered to be "grandfathered" under this ordinance. If any notification of noncompliance is given from Director Building Zoning Licensing Services or designee, these signs or conditions must be brought into compliance within 60 days from that notification.
- d. **Permits Required.** All signs, regardless of size, shall require the issuance of a zoning permit before public display unless otherwise specifically exempt by this Ordinance.
- e. **Application Process.** Application for a sign permit shall be to the Building, Zoning, and Licensing Services Department. The application should contain the following:
1. Name, signature, address and telephone number of the applicant.
 2. Owner's authorization for the application if not the applicant.
 3. Location of the building, structure or lot to which the sign will be located.
 4. The district the sign will be located.
 5. Historic District. Signs in the Historic District, except for portable easel, placard, and sandwich board signs, are subject to review by the Historic District Commission (see Article XIV – Historic Overlay District).
- f. **Construction Documents.** Before any permit is granted for the erection of a sign or sign structure requiring such permit, construction documents shall be filed with the Building, Zoning, and Licensing Services Department official showing the dimensions, materials and required details of construction, including loads, stresses, anchorage and any other pertinent data. The permit application shall be accompanied by the written consent of the owner or lessee of the premises upon which the sign is to be erected and by engineering calculations signed and sealed by a registered design professional where

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required by the *International Building Code*.

- g. **Changes to signs.** No sign shall be structurally altered, enlarged or relocated except in conformity to the provisions herein, ~~nor~~ until a proper permit, if required, has been secured. The changing or maintenance of movable parts or components of an approved sign that is designed for such changes, or the changing of copy, business names, lettering, sign faces, colors, display and/or graphic matter, or the content of any sign shall not be deemed a structural alteration.

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- h. **Permit Fees.** Permit fees to erect, alter or relocate a sign shall be in accordance with the fee schedule adopted within this jurisdiction.

- i. **Prohibited Signs.** The following devices and locations shall be specifically prohibited:

1. Signs located in such a manner as to obstruct or otherwise interfere with an official traffic sign, signal or device, or obstruct or interfere with a driver's view of approaching, merging or intersecting traffic.
2. Except as provided for elsewhere in this code, signs encroaching upon or overhanging public rights-of-way. No sign shall be attached to any utility pole, light standard, street tree or any other public facility located within the public right-of-way.
3. Signs which blink, flash or are animated by lighting in any fashion that would cause such signs to have the appearance of traffic safety signs and lights, or to have the appearance of municipal vehicle warnings from a distance.
4. Any sign attached to, or placed on, a vehicle or trailer parked on public or private property, except for signs meeting the following conditions:
 - a. The primary purpose of such a vehicle or trailer is not the display of signs.
 - b. The signs are magnetic, decals or painted upon an integral part of the vehicle or equipment as originally designed by the manufacturer, and do not break the silhouette of the vehicle.
 - c. The vehicle or trailer is in operating condition, currently registered and licensed to operate on public streets when applicable, and actively used or available for use in the daily function of the business to which such signs relate.
5. Vehicles and trailers used primarily as static displays, advertising a product or service, nor utilized as storage, shelter or distribution points for commercial products or services for the general public.
6. Snipe Signs

- j. **Exempt Signs.** The following signs shall be exempt from the provisions of this chapter:

1. Official notices authorized by a court, public body or public safety official.
2. Directional, warning or information signs authorized by federal, state or municipal governments.
3. Memorial plaques, building identification signs and building cornerstones when cut or carved into a masonry surface or when made of noncombustible material and made an integral part of the building or structure.
4. The flag of a government or noncommercial institution, such as a school.
5. ~~Religious symbols and seasonal decorations within the appropriate public holiday season.~~
6. Works of fine art displayed in conjunction with a commercial enterprise where the enterprise does not receive direct commercial gain.
7. Street address signs and combination nameplate and street address signs that contain no advertising copy and which do not exceed 6 square feet (0.56 m²) in area.
8. ~~Political Signs.~~
9. ~~Holiday without advertisement.~~
10. Signs required, or deemed necessary for the public welfare and safety, by a municipal, state, or federal agency such as traffic control and directional signs.
11. Interior signs

k. **Definitions.** For the purpose set forth in this ordinance the following definitions apply:

1. **Abandoned Sign:** A sign structure that has ceased to be used and the owner intend no longer to have used.
2. **Animated Sign:** A sign employing actual motion or the illusion of motion. Animated signs, which are differentiated from changeable signs as defined and regulated by this code, include the following types:
 - a. **Electrically activated:** Animated signs producing the illusion of movement by means of electronic, electrical or electro-mechanical input and/or illumination capable of simulating movement through employment of the characteristics of one or both of the classifications noted below:
 - b. **Flashing:** Animated signs or animated portions of signs whose illumination is characterized by a repetitive cycle in which the period of illumination is either the same as or less than the period of non illumination. For the purposes of this ordinance, flashing will not be defined as occurring if the cyclical period between on-off phases of illumination exceeds 8 seconds.
 - c. **Mechanically activated:** Animated signs characterized by repetitive motion and/or rotation activated by a mechanical system powered by electric motors or other mechanically induced means.
3. **Architectural Projection:** Any projection that is not intended for occupancy and that extends beyond the face of an exterior wall of a building, but that does not include signs as defined herein. See also "Awning;" "Backlit awning;" and "Canopy, Attached and Free-standing."
4. **Awning:** An architectural projection or shelter projecting from and supported by the exterior wall of a building and composed of a covering of rigid or non rigid materials and/or fabric on a supporting framework that may be either permanent or retractable, including such structures that are internally illuminated by fluorescent or other light sources.
5. **Awning Sign:** A sign displayed on or attached flat against the surface or surfaces of an awning. See also "Wall or fascia sign."
6. **Backlit Awning** An awning with a translucent covering material and a source of illumination contained within its framework.
7. **Banner:** A flexible substrate on which copy or graphics may be displayed.
8. **Banner Sign:** A sign utilizing a banner as its display surface.
9. **Billboard:** See "Off-premise sign" and "Outdoor advertising sign."
10. **Building:** A structure which has a roof supported by walls for shelter, support, or enclosure of persons, animals, or chattel.
11. **Canopy:** A multisided overhead structure or architectural projection supported by attachments to a building on one or more sides and either cantilevered from such building or also supported by columns at additional points. The surface(s) and/or soffit of an attached *canopy* may be illuminated by means of internal or external sources of light. See also "Marquee."

12. **Canopy (Free-Standing):** A multisided overhead structure supported by columns, but not enclosed by walls. The surface(s) and or soffit of a free-standing *canopy* may be illuminated by means of internal or external sources of light.
13. **Canopy Sign:** A sign affixed to the visible surface(s) of an attached or free-standing *canopy*.
14. **Changeable Sign:** A sign with the capability of content change by means of manual or remote input, including signs which are:
 - a. **Electrically activated.** Changeable sign whose message copy or content can be changed by means of remote electrically energized on-off switching combinations of alphabetic or pictographic components arranged on a display surface. Illumination may be integral to the components, such as characterized by lamps or other light-emitting devices; or it may be from an external light source designed to reflect off the changeable component display. See also "Electronic message sign or center."
 - b. **Manually activated.** Changeable sign whose message copy or content can be changed manually.
15. **Combination Sign:** A sign that is supported partly by a pole and partly by a building structure.
16. **Copy:** Those letters, numerals, figures, symbols, logos and graphic elements comprising the content or message of a sign, excluding numerals identifying a street address only.
17. **Development of Complex Sign:** A free-standing sign identifying a multiple-occupancy development, such as a shopping center or planned *industrial* park, which is controlled by a single owner or landlord, approved in accordance with [Section 1009.2](#) of this chapter.
18. **Directional Sign:** Any sign that is designed and erected for the purpose of providing direction and/or orientation for pedestrian or vehicular traffic.
19. **Double-Faced Sign:** A sign with two faces, back to back.
20. **Electric Sign:** Any sign activated or illuminated by means of electrical energy.
21. **Electronic Message Sign or Center:** An electrically activated changeable sign whose variable message capability can be electronically programmed.
22. **Exterior Sign:** Any sign placed outside a building.
23. **Flag:** A sign, constructed of cloth and attached to a staff or pole.
24. **Flashing Sign:** See "Animated sign, electrically activated."
25. **Free-Standing Sign:** A sign principally supported by a structure affixed to the ground, and not supported by a building, including signs supported by one or more columns, poles or braces placed in or upon the ground.
26. **Frontage (Building):** The length of an exterior building wall or structure of a single premise orientated to the public way or other properties that it faces.
27. **Frontage (Property):** The length of the property line(s) of any single premise along either a public way or other properties on which it borders.
28. **Illuminated Sign:** A sign characterized by the use of artificial light, either projecting through its surface(s) (internally illuminated); or reflecting off its surface(s) (externally illuminated).

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- 29. Interior Sign:** Any sign placed within a building, but not including "window signs" as defined by this ordinance. Interior signs, with the exception of window signs as defined, are not regulated by this chapter.
- 30. Marquee Sign:** A permanent roof-like structure, including the structural support system, projecting beyond a building wall at the entrance to a building or extending along and projecting beyond building wall.
- 31. Menu Board:** A free-standing sign orientated to the drive-through lane for a restaurant that advertises the menu items available from the drive-through window, and which has no more than 20 percent of the total area for such a sign utilized for business identification.
- 32. Multiple-Faced Sign:** A sign containing three or more faces.
- 33. Nonconforming Sign:** Any sign that existed lawfully prior to the adoption of the Sign Ordinance (DATE OF ADOPTION) which now does not conform with the provisions of this ordinance.
- 34. Off-Premise Sign Directional:** A sign on private property whose only purpose is to direct vehicular traffic for deliveries and visitation and is not intended to be used as a form of advertisement.
- 35. Off-Premise Sign:** A sign, which pertains to a business, industry, or other activity which is not located on the premise upon which the sign is located.
- 36. On-Premise Sign:** A sign erected, maintained or used in the outdoor environment for the purpose of the display of messages appurtenant to the use of, products sold on, or the sale or lease of, the property on which it is displayed.
- 37. Outdoor Advertising Sign:** A permanent sign erected, maintained or used in the outdoor environment for the purpose of the display of commercial or noncommercial messages not appurtenant to the use of, products sold on, or the sale or lease of, the property on which it is displayed.
- 38. Permanent Sign:** A sign that is displayed for more than a total of ninety days in any one year.
- 39. Pole Sign:** See "Free-standing sign."
- 40. Political Sign:** A temporary sign intended to advance a political statement, cause or candidate for office. A legally permitted outdoor advertising sign shall not be considered to be a political sign.
- 41. Portable Sign:** Any *sign* not permanently attached to the ground or to a building or building surface.
- 42. Projecting Sign:** A *sign* other than a wall sign that is attached to or projects more than 18 inches (457 mm) from a building face or wall or from a structure whose primary purpose is other than the support of a sign. For visual reference, see [Section 1003](#).
- 43. Premises Sign:** A lot or number of lots situated a building or group of buildings designed as a unit or on which a building or group of buildings are to be constructed housing multiple businesses.
- 44. Real Estate Sign:** A temporary *sign* advertising the sale, lease or rental of the property or premises upon which it is located.
- 45. Sandwich Board Sign:** A portable sign shaped like an A-frame with a sign pane on one or both sides.

46. Sign: Any device visible from a public place that displays either commercial or noncommercial messages by means of graphic presentation of alphabetic or pictorial symbols or representations. Noncommercial flags or any flags displayed from flagpoles or staffs will not be considered to be signs.

47. Sign Area: The area of the smallest geometric figure, or the sum of the combination of regular geometric figures, which comprise the sign face. The area of any double-sided or "V" shaped *sign* shall be the area of the largest single face only. The area of a sphere shall be computed as the area of a circle. The area of all other multiple-sided signs shall be computed as 50 percent of the sum of the area of all faces of the *sign*.

48. Sign Face: The surface upon, against or through which the *sign* copy is displayed or illustrated, not including structural supports, architectural features of a building or sign structure, nonstructural or decorative trim, or any areas that are separated from the background surface upon which the sign copy is displayed by a distinct delineation, such as a reveal or border..

49. Sign Structure: Any structure supporting a sign.

50. Snipe Sign: ~~A temporary sign or poster affixed to a tree, fences, etc. Snipe sign.~~ Any sign of any size, made of any material, including paper, cardboard, wood and metal, when such sign is tacked, nailed, posted, pasted, glued, or otherwise attached to trees, poles, fences or other objects, and the advertising matter appearing thereon is not applicable to the premises upon which said sign is located

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51. Special Event: A temporary sign that is either on-site or off-site that provides identification or information pertaining to a special event or occurrence sponsored by a non-profit or civic organization.

~~50.~~**52. Temporary Sign:** A sign not constructed for or intended for permanent use. Temporary signs may not be displayed for more than a total of **thirty (30) days** in any one year.

~~51.~~**53. Wall Sign:** A *sign* that is attached to a vertical wall of building that projects not more than 18 inches from the building or structure wall.

~~52.~~**54. Window Sign:** A *sign* within one foot of a window message intended to be visible to and readable from the public way or from adjacent property.

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I. General Provisions.

1. Conformance to codes. Any sign hereafter erected shall conform to the provisions of this ordinance ~~and the provisions of the International Building Code and of any other ordinance~~ or regulation within this jurisdictions.
2. Signs in rights-of-way. No sign other than an official traffic sign or similar sign shall be erected within 2 feet of the lines of any street, or within any public way, unless specifically authorized by other ordinances or regulations of this jurisdiction or by specific authorization of the ~~City Council~~ code official.
3. Projections over public ways. Signs projecting over public walkways shall be permitted to do so only subject to the projection and clearance limits either defined herein or, if not so defined, at a minimum height of 8 feet from *grade* level to the bottom of the sign. Signs, architectural projections or *sign* structures projecting over vehicular access areas must conform to the minimum height clearance limitations imposed by the jurisdiction for such structures.
4. Traffic visibility. No sign or sign structure shall be erected at the intersection of any street in such a manner as to obstruct free and clear vision, nor at any location where by its position, shape or color it may interfere with or obstruct the view of or be confused with any authorized traffic sign, signal or device.
5. Computation of frontage. If a premises contains walls facing more than one property line or encompasses property frontage bounded by more than one street or other property usages, the sign area(s) for each building wall or property frontage will be computed separately for each building wall or property line facing a different frontage. The sign area(s) thus calculated shall be permitted to then be applied to permitted signs placed on each separate wall or property line frontage.
6. Maintenance, repair and removal. Every sign permitted by this ordinance shall be kept in good condition and repair. When any sign becomes insecure, in danger of falling or is otherwise deemed unsafe by the code official, or if any sign shall be unlawfully installed, erected or maintained in violation of any of the provisions of this ordinance, the owner thereof or the person or firm using same shall, upon written notice by the Building, Zoning, Licensing, Services official forthwith in the case of immediate danger, and in any case within not more than 10 days, make such sign conform to the provisions of this ordinance, or shall remove it. If within 10 days the order is not complied with, the code official shall be permitted to remove or cause such sign to be removed at the expense of the owner and/or the user of the sign.
7. Master sign plan required. All landlord or single-owner controlled multiple-occupancy development complexes, such as shopping centers or planned *industrial* parks, shall submit to the Building Zoning and Licensing Services a master sign plan prior to issuance of new sign permits. The master sign plan shall establish standards and criteria for all signs in the complex that require permits, and shall address, at a minimum, the following:
 - a. Proposed sign locations.
 - b. Materials.
 - c. Type of illumination.
 - d. Design of free-standing sign structures.
 - e. Size.
 - f. Quantity.
 - g. Uniform standards for non business signage, including directional and informational signs.
8. Illumination.
 - a. No internally illuminated sign shall be used within 100 feet of any residential zone.
 - b. On externally illuminated signs, the light source shall be steady, stationary, shielded,

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downcast, and directed solely at the sign. The sign surface shall be non reflective.

- c. Illuminated signs shall send no glare onto the road or onto any neighboring residential properties.

9. Removal of Portable and Other Movable and Temporary Signs.

- a. The Zoning Administrator, or other city personnel designated by the City Manager, shall cause to be removed any sign placed on or over any public right-of-way or public property that is without a valid permit or is not in compliance with the terms of a valid permit, or where such a sign is exempt from permit requirements, the sign is not in compliance with the standards and provisions of this ordinance.
- b. Signs Related to An Adjacent Principal Use. Where a sign that is placed on or over any public right-of-way or public property in violation of this ordinance is related to a principal use of adjacent private property, the Zoning Administrator, or other city personnel designated by the City Manager, shall notify the owner of the principal use or the property that a violation exists and shall specify a time limit for removal of the sign. If the owner fails to comply with the order for removal, the Zoning Administrator, or other city personnel designated by the City Manager, shall remove the sign and the owner shall be liable for the cost of said removal and subsequent storage. If the owner does not redeem the sign within thirty (30) calendar days from the date that the sign is removed, the sign shall be deemed to be abandoned and may be disposed of by the City as abandoned property; and
- c. Other Signs. Where a sign that is placed on or over any public right-of-way or public property in violation of this ordinance is not erected in connection with elections or political campaigns, and is unrelated to a principal use of adjacent private property, the Zoning Administrator, or other city personnel designated by the City Manager, shall remove the sign and it shall be deemed to be abandoned and may be disposed of by the City as abandoned property.”

m. Specific Sign Requirements.

- 1. Animated Sign. Animated signs, except as prohibited in [Section 13](#), are permitted in Granite Ridge Development, commercial and *industrial* zones only. Changeable signs, manually activated, are permitted for nonresidential uses in all zones. Changeable signs, electrically activated, are permitted in all nonresidential zones.

2. Awning Sign.

- a. The copy area of awning signs shall not exceed an area equal to 25 percent of the background area of the awning or awning surface to which such a sign is affixed or applied, or the permitted area for wall or fascia signs, whichever is less.
- b. Neither the background color of an awning, nor any graphic treatment or embellishment thereto such as striping, patterns or valances, shall be included in the computation of sign copy area.

3. Canopy Signs.

- a. The permanently-affixed copy area of *canopy* or marquee signs shall not exceed an area equal to 25 percent of the face area of the *canopy*, marquee or architectural projection upon which such sign is affixed or applied.
- b. Graphic striping, patterns or color bands on the face of a building, *canopy*, marquee or architectural projection shall not be included in the computation of sign copy area.

- 4. Directory Signs. For businesses located on Secondary Streets within the Downtown Commercial District.

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- a. Not to exceed four (4) square feet in area.
- b. Permission must be obtained in writing from the property owner on whose premise the sign is to be placed.
- c. These signs shall not obscure any portion of road, intersection, or sidewalk.
- d. Not more than 25 percent of the area of any directional sign shall be permitted to be devoted to business identification or logo, which area shall not be assessed as identification sign area.

5. Directional Signs.

No more than two directional signs shall be permitted per street entrance to any lot. There shall be none in residential zones. For all other zones, the maximum area for any directional sign visible from adjacent property or rights-of-way shall be 10 square feet. Not more than 25 percent of the area of any directional sign shall be permitted to be devoted to business identification or logo, which area shall not be assessed as identification sign area.

6. Development and Construction Signs. Signs temporarily erected during construction to inform the public of the developer, contractors, architects, engineers, the nature of the project or anticipated completion dates, shall be permitted in all zoning districts, subject to the following limitations:

- a. Such signs on a single residential lot, residential subdivision or multiple residential lots, and nonresidential uses shall be limited to one sign, not greater than 10 feet in height and 32 square feet in area.
- b. Such signs for commercial or *industrial* projects shall be limited to one sign per street front.
- c. Development and construction signs may not be displayed until after the issuance of construction permits by the building official, and must be removed not later than 24 hours following issuance of an occupancy permit for any or all portions of the project.

7. Electronic Message Sign. All permitted EMCs shall be equipped with a sensor or other device that automatically determines the ambient illumination and be programmed to automatically dim according to ambient light conditions at all times of the day or night. Electronic changing signs may be freestanding or building mounted, one or two-sided, may be a component of a larger sign or billboard, and shall conform to the following minimum requirements along with all other requirements for signage within this ordinance:

- a. Electronic Message Center portion of the sign shall not make up more than 75% of the actual sign surface. In no case shall an electronic message center exceed 32 square feet.
- b. Animation on Static EMCs shall be limited to the actual changing of the message. No flashing, blinking, or pulsating of lights shall be allowed. Electronic Message Centers must be equipped to freeze in one position or discontinue the display in the event that a malfunction occurs.
- c. Minimum Display Time: All illumination elements on the face of Static electronic changing signs shall remain at a fixed level of illumination for a period of not less than 8 seconds.
- d. Software for operating the EMC must be able to show current and factory brightness levels upon request. The owner/installer of Electronic Message Displays shall certify as part of the application that signs will not exceed the brightness levels specified in this section.
- e. The brightness shall not exceed 0.3 footcandles at night.
- f. Flashing or animated signs (including temporary interior window displays or banners) of red, amber, or green colored lights shall not be permitted.

8. Flag. Each store front may be allowed one (1) Open or welcome flag that is position at a height so as not to impede the flow of pedestrians.

9. Home Occupation-1 Sign. No signs are permitted.
10. Home Occupation-2 Sign. There may be only one sign for the business visible from the street. The sign shall be non-illuminated and shall not exceed three (3) square feet.
11. Home Occupation-3 Sign. There may be only one sign for the business visible from the street. The sign shall be non-illuminated and shall not exceed four (4) square feet.
12. Marquee Sign. No marquee shall be erected unless designed by a registered structural engineer and approved by Director Building Zoning Licensing Services. It may extend over the sidewalk across the ROW to the curb line provided it has a minimum height above the sidewalk of ten feet above the curb level and does not exceed five feet in height.
13. Off-Premise Sign. Off premises signs are prohibited except for the following signs if permission is granted from the owner of the off premises location. A setback of at least 5 feet is required for these signs and they shall not be placed in the road right-of-way (i.e. they must be placed on private property).
- a. One freestanding sign per ~~business~~ directing people to the site. The sign may not exceed 2 square feet per side or 4 feet in height. No illumination is allowed. It may include only the name and/or logo, with simple directions. The sign must be durable and constructed of solid, finished materials.
 - b. A real estate sign one per premise shall not exceed 6 square feet per side.
 - c. Yard sale signs (See section M 24)
 - d. A sign for an office park or industrial park may be erected at the entrance to the park on an out parcel or, with the approval of the Planning Board, within the road right-of-way.
 - e. A promotional banner for special ~~public or nonprofit institutional~~ events may be placed anywhere in the City, including across a public road, if approved by the City Manager.
 - f. Two seasonal agricultural directional signs not to exceed 4 square feet each are permitted when intended to direct patrons to a farm for the purpose of purchasing or picking seasonal agricultural produce or products during the season within which the produce is available for sale or harvest.
 - g. One portable sign on the sidewalk in front of businesses in the Downtown Commercial, Special Downtown, and Neighborhood Mixed Use lying in density rings.
 - h. Road Signs.
14. Political Sign. Political Advertising. The following provisions are in addition to the political advertising controls established under RSA 664:14, 664:17, and 664:2, as amended:
- a. Political advertising shall be defined in RSA 664:2, as amended.
 - ~~b. Political signs may not exceed 32 Square feet per side in area nor 8 feet in height.~~
15. No political advertising shall be placed or affixed upon any public property, including City rights of way. No political advertising shall be placed or affixed upon private property without the owner's consent.
- ~~e. Placement of advertising — No political advertising shall be placed on or affixed to any public property including City rights of way or private property without the owner's consent. All political advertising shall be removed by the candidate no later than the second Friday-~~

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~~following the election unless the election is a primary and the advertising concerns a candidate who is a winner in the primary. Signs shall not be placed on or affixed to utility poles or highway signs. Political advertising may be placed within City-owned rights of way as long as the advertising does not obstruct the safe flow of traffic and the advertising is placed with the consent of the owner of land over which the right of way passes.~~

~~d-a.~~ Signature, Identification, Lack of Authorization shall be in accordance with RSA 664:14, as amended.

~~e-b.~~ Political signs shall not be erected in the City Adopt-A-Spots or the Rochester Common. There must be a 25 foot buffer from the garden bed edge.

~~f-c.~~ Removal of signs shall be in accordance with RSA 664:17, as amended.

~~g-d.~~ City of Rochester Adopt-A-Spots are situated in the following locations:

- Granite State Business Park
- Christmas Tree Island Granite State Business Park
- Strafford Square
- Corner of Portland Street/Olsen Way
- ~~“~~The Common
- Duval Park
- Merrill Park at City Hall & Front of City Hall
- Tax Revenue Office
- Library (Front Entrance)
- Public Works Department
- Stairs and Front – RPD/Museum Way & City Hall Island
- Rochester Fire Department Flagpoles
- Rochester Community Center/Flagpole
- Columbus Avenue Right-of-Way between Hancock Street and South Main Street
- Gonic Center Square
- General Wolfe Tavern Barrels
- Welcome to Rochester/Route 125
- Union/Wakefield Street
- Ten Rod Road Industrial Park
- Airport Welcome Sign
- Route 125/Flagg Road
- East Rochester Square
- Elks Lodge
- Woodman Square Park/Charles Street
- Torr Park at Spaulding and Urn at Wading Pool

~~h-e.~~ The area and location of signs used in conjunction with uses allowed by the Board of Adjustment as special exceptions shall also be approved by the Planning Board and shall conform to the sign regulations for the district in which they are located. The area and location of such signs shall be in harmony with the character of the neighborhood in which they are located.

~~i-f.~~ No sign, except for political signs, shall be erected until a permit for same has been obtained from the Director of Building, Zoning, & Licensing Services.

~~15.~~16. Portable Sign. Portable signs shall be permitted only in the Downtown Commercial, Special Downtown Overlay, Neighborhood Mixed Use lying in Density Rings, subject to the following limitations:

- a. No more than one such sign may be displayed on any property, and shall not exceed a height of 4 feet or an area of 8 square feet per side.
- b. Any portable sign that is placed on sidewalk
 - i. Shall be situated directly in front of the business(es) which is being advertised.
 - ii. Shall not block passage along sidewalk including passage for handicapped persons and shall not present a safety hazard.
- c. May be displayed during business hours only.
- d. Appropriately placed to minimize appearance of clutter as determined by the Director of Building, Zoning, and Licensing Services.
- e. Only one sign per individual business.

~~16.~~17. Projecting Sign. Signs are permitted in the following zones:

- a. Multiple projecting signs shall be permitted on buildings having multiple occupants providing only than one projecting sign per occupant will be permitted.
- b. Projecting signs shall:
 - 1. Not overhang any public property or public right of way.
 - 2. Be attached to the side of a building with a decorative support bracket engineered to and designed to withstand wind loads.
 - 3. Extend from the side of the building no more than eleven feet.
 - 4. Be part of the wall sign calculations which cumulative total include both projecting s and wall signs shall not exceed twenty percent of the wall area to which the sign is attached.
 - 5. Such signs shall maintain a clear vertical distance above any public sidewalk a minimum of 10 feet.

~~17.~~18. Roadside Farm Stand Signs. No more than 2 signs with a maximum combined total of 20 square feet is permitted.

~~18.~~19. Real Estate Sign shall be permitted in all zoning districts, subject to the following limitations:

- a. Real estate signs located on a single residential lot shall be limited to one sign, not greater than 8 square feet in area and 6 feet in height.
- b. Real estate signs may not be illuminated in residential districts.
- c. There may be no more than one sign per street frontage except on lots with more than 500 feet of street frontage a second sign may be placed.
- d. Real estate signs shall be removed not later than 10 days after execution of a lease agreement in the event of a lease, or the closing of the sale in the event of a purchase.

~~19.~~20. Sandwich Board Sign. See portable signs.

~~20.~~21. Street Banners. Temporary street banners used to inform the public about community events and activities may be placed within or above the road right of way or in other public locations if approved by the City Manager and signed off from all departments.

~~21.~~22. Special promotion, event and grand opening signs. Signs temporarily displayed to advertise

Signage

42-195

Zoning Ordinance

special promotions, events and grand openings shall be permitted for nonresidential uses and for all commercial and *industrial* districts subject to the following limitations:

- a. Such signs shall be limited to one sign per street front.
- b. Such signs may be displayed for not more than 30 consecutive days in any 12-month period, and not more than 30 days in any calendar year. The signs shall be erected no more than 5 days prior to the event or grand opening, and shall be removed not more than 1 day after the event or grand opening.
- c. The total area of all such signs shall not exceed 32 square feet.

~~22,23.~~ Special event signs in public ways.

Signs advertising a special community event shall be allowed in or over public rights-of-way, subject to approval by Building, Zoning, and Licensing, Services official as to the size, location and method of erection. The official may not approve any special event signage that would impair the safety and convenience of use of public rights-of-way, or obstruct traffic visibility.

~~23,24.~~ Window Sign. Window signs shall be permitted for any nonresidential use in, all Downtown Commercial and *industrial* districts, subject to the following limitations:

- a. The aggregate area of all such signs shall not exceed 25 % of the window area on which such signs are displayed within the Historic District.

~~24,25.~~ Yard sale signs.

- a. Yard sale signs may not be placed prior to 3 days before the sale and must be removed within 24 hours after the sale. The date and time of the yard sale must be on the sign.
- b. They may not exceed 6 square feet and may not be illuminated.
- c. The signs may be placed off premises for noncommercial sales related to a single residential dwelling unit (or informal joint sales among neighbors) provided they are not placed on utility poles, are not a distraction to traffic, and comply with Requirements by Zoning District.

n. Requirements by Zoning District. The following special requirements shall apply in each respective zoning district.

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0.75"

1. Residential Zoning Districts.

- a. For permitted nonresidential uses one freestanding sign with a maximum area of 6 square feet per side plus one attached sign not to exceed 12 square feet is permitted. Height: Signs shall have a maximum height of six (6) ft.
- b. Internally illuminated signs (including neon signs and signage placed in a window) are not permitted.
- c. No sign may be illuminated between the hours of 9:00 p.m. and 7:00 a.m. with the exception of signage: a) showing property addresses; b) for residential communities; and c) for businesses and organizations during any specific hours in that time period that the businesses are open.

2. Nonresidential Zoning Districts

- a. Baseline. The following advertising signage is permitted for one nonresidential use occupying a single building in commercial and industrial zoning districts (except as otherwise indicated in this article). Additional allowances beyond these limitations or other restrictions for various situations are shown in the subsequent subsections
- b. Freestanding signs. Only one free standing sign shall be permitted on a lot even if there is more than one building or use on that lot. No part of any free standing sign shall be located within 5 feet of any property line.

Dimensional standards are as follows:

Zoning District	Maximum Area (in square feet)	Maximum Height (in feet)
Highway Commercial General Industrial Hospital Granite Ridge Development	75'	30'
Airport Recycling Industrial	50'	20'
Downtown Commercial	25'	15'
Neighborhood Mixed Use Office Commercial	20'	8'

Note. All signs that are to be located in the historic district are also subject to the provisions of Article XIV – Historic Overlay District

- ~~d~~a. Wall Signs. No wall sign shall exceed ten percent (10 %) of the area of the building frontage as measure by the width of the wall containing the main public entrance by the height (measured from the floor level to the top of the first floor cornice area, or to one foot below secondary story window) to which it is attached. For buildings with multiple tenants having store fronts only, the façade rented by the tenant shall be considered as wall area for a sign.
 - i. A maximum of four (4) signs.

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- ~~e~~b. Temporary signs. One temporary sign is allowed at any one time, including portable and banner signs. For portable signs (where they are permitted; (see below) the maximum area is 8 square feet and the maximum height is 4 feet. Banner signs, not exceeding 60 square feet, are permitted for grand openings of new business only, and may be displayed for a maximum of 30 consecutive days. Permits are required for these signs with a fee of \$10.

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- ~~f~~c. Directory signs. For each additional independent enterprise on a site beyond one, an additional 10 square feet may be added to one freestanding directory sign not to exceed 100 square feet. Property owners of separate adjoining lots may also elect to have one joint directory sign.

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- ~~g~~d. Attached directory signs. One additional attached directory sign of the principal uses within a multi-tenant building is permitted on the exterior wall at each entrance to the building. It shall not exceed 3 square feet plus 1 square foot for each independent enterprise.

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- ~~h~~e. Upper floor units. Each upper floor occupant may use one attached sign placed at no higher than the second floor level – not to exceed six square feet per side for each occupant plus window signs. Window signage shall not exceed 25% of the total window area.

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i-f. On multiple occupant sites up to 3 portable signs for independent enterprises may be placed at the same time.

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j-g. Secondary Entrance. By Conditional Use Permit issued by the Planning Board any site with at least 300 feet of linear lot frontage and with a second driveway entrance located at least 200 feet from the primary entrance may have a second freestanding sign at the second entrance not to exceed 16 square feet and 8 feet in height.

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k-h. Corner or multiple frontage lots. By Conditional Use Permit issued by the Planning Board any corner lot or a rear frontage lot (or double frontage) may have one additional freestanding sign with a maximum area of 24 square feet is allowed on the second frontage provided the property across the street on that second frontage is not zoned residential.

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h. Specific Zoning Districts

Internally illuminated signs are permitted only in the Highway Commercial, Downtown Commercial, Granite Ridge Development, and Industrial Districts.

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Sign permitted in designated zoning districts

Sign	Residential Districts				Commercial Districts				Industrial District		Special	
	R1	R2	NMU	AG	DC	OC	HC	GRD	GI	RI	HS	AS
Canopy	N	N	P	N	P	P	P	P	P	P	P	P
Changeable Copy	N	N	P	N	P	P	P	P	P	P	P	P
Electronic Message	N	N	N	N	N	N	P	P	P	N	N	N
Freestanding Pole	P	P	P	P	P	P	P	P	P	P	P	P
Interior Window	P	P	P	P	P	P	P	P	P	P	P	P
Marquee	N	N	P	P	P	P	P	P	P	P	P	P
Portable	N	N	P	N	P	N	N	N	N	N	N	N
Projecting	P	P	P	P	P	P	P	P	P	P	P	P
Wall	P	P	P	P	P	P	P	P	P	P	P	P
Window	P	P	P	P	P	P	P	P	P	P	P	P

**Signs which are permitted in the designated zone are indicated with a “P”, and signs which are not permitted are indicated with an “N”.

42.10 Aquifer Protection Ordinance

I. AUTHORITY

The City of Rochester hereby adopts this ordinance pursuant to the authority granted under RSA 674:16, in particular RSA 674:16, II relative to innovative land use controls.

II. PURPOSE

The purpose of this ordinance is to preserve, maintain, and protect from contamination existing and potential groundwater supply areas that may be available for use as a future source of supply for Rochester's growing municipal water system. The ordinance serves as a public education tool to provide residents and small businesses awareness on typically unrecognized hazards.

III. DEFINITIONS

- A. Aquifer: for the purposes of this ordinance, a geologic formation composed of rock, sand, or gravel that contains significant amounts of potentially recoverable water. *[NHDES Model Groundwater Protection Ordinance, Chapter 2.5 Protection of Groundwater and Surface Water Resources, Innovative Land Use Planning Techniques]*
- B. Fuel storage: see Chapter 42.2 of the Zoning Ordinance of the City of Rochester, New Hampshire.
- C. Gasoline station: see Chapter 42.2 of the Zoning Ordinance of the City of Rochester, New Hampshire.
- D. Groundwater: subsurface water that occurs beneath the water table in soils and geologic formations. *[RSA 485-C (VIII), the Groundwater Protection Act]*
- E. Household hazardous waste collection project: any location that accumulates, collects, transfers, or otherwise manages household hazardous waste *[Env-Hw 103.66, NH Code of Administrative Rules]*

- F. Impervious surface: a surface through which regulated substances cannot pass when spilled. The term includes concrete and asphalt unless unsealed cracks or holes are present, but does not include earthen, wooden, or gravel surfaces or other surfaces that could react with or dissolve when in contact with the substances stored on them. [*Env-Wq 401.03(c), NH Code of Administrative Rules*]
- G. Junkyard: see Chapter 42.2 of the Zoning Ordinance of the City of Rochester, New Hampshire.

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H. Regulated substance: any of the following, with the exclusion of all chemicals required for municipal water treatment:

1. Petroleum products and their by-products of any kind, and in any form including, but not limited to, petroleum, fuel, sludge, crude, oil refuse or oil mixed with wastes and all other liquid hydrocarbons regardless of specific gravity and which are used as motor fuel, lubricating oil, or any oil used for heating or processing. Shall not include natural gas, liquefied petroleum gas or synthetic natural gas regardless of derivation or source. [RSA 146-A:2(III), *Oil Discharge or Spillage in Surface Water or Groundwater*]
2. Any substance that contains a regulated contaminant for which an ambient groundwater quality standard has been established pursuant to RSA 485-C:6.
3. Any hazardous substance as listed in the [40 CFR Part 302, Table 302.4](#)¹.

I. Reportable quantity (RQ): the reportable quantities of hazardous substances as listed in [40 CFR Part 302, Table 302.4](#)² under column heading final RQ pounds (Kg).

J. Rochester municipal water system: the public treatment and distribution system, which consists of water main pipes, storage tanks, booster stations, and service connections that convey potable water for domestic, fire protection, and other community uses.

K. Sanitary protective radius: the area around a public water supply well which must be maintained in its natural state as required by Env-Dw 301 or 302 (for community water system); Env-Dw 373.12 and Env-Dw 372.14 (for other public water systems).

L. Seasonal high water table: the depth from the mineral soil surface to the upper most soil horizon that contains 2% or more distinct or prominent redoximorphic features that increase in percentage with increasing depth as determined by a licensed Hydrogeologist, Soils Scientist, Wetlands Scientist, Engineer or other

¹ http://www.ecfr.gov/cgi-bin/text-idx?SID=faf57ef83c3514de4442d1c07acf144f&node=se40.28.302_14&rgn=div8

² Ibid

qualified professional approved by the Planning Board. [*Env-Wq 1502.49, NHDES Alteration of Terrain*]

- M. Snow dump: for the purposes of this ordinance, a location where snow is placed for disposal from any off-site location (i.e. cleared from roadways, and/or motor vehicle parking areas). [*NHDES Model Groundwater Protection Ordinance, Chapter 2.5 Protection of Groundwater and Surface Water Resources, Innovative Land Use Planning Techniques*]
- N. Stratified-drift aquifer: a geologic formation of predominately well-sorted deposited by or in bodies of glacial meltwater, including gravel, silt, or clay, which contains sufficient saturated permeable material to yield significant quantities of water to wells. [*RSA 485-C (XIV), the Groundwater Protection Act*]
- O. Wellhead protection areas – the surface and subsurface area surrounding a water well or wellfield supplying a community public water system, through which contaminants are reasonably likely to move toward and reach such water well or wellfield. [*RSA 485-C (XVIII), the Groundwater Protection Act*]

IV. AQUIFER PROTECTION DISTRICT

The Aquifer Protection District is an overlay district that is superimposed over the existing underlying zoning. The Aquifer Protection District shall impose additional requirements and restrictions to those of the underlying, base strict zoning. Boundaries of the Aquifer Protection District shall be referenced by the latest edition of the map entitled "City of Rochester Aquifer Protection Overlay District." The Aquifer Protection District shall include:

- 1) All of the delineated Wellhead Protection Areas around existing and potential community public water wells as defined under Article III (N).

V. APPLICABILITY

This Ordinance applies to all uses in the Aquifer Protection District, except for those uses exempt under Article XIII of this Ordinance.

VI. PERFORMANCE STANDARDS

The following Performance Standards apply to all uses in the Aquifer Protection District unless exempt under Article XIII of this Ordinance.

- A. For any use that will render impervious more than 20 percent³ of any lot or 5,000 square feet of land disturbance of any lot, whichever is greater, a stormwater management and erosion control plan, approved by the Planning Board and prepared in accordance with [Chapter 50: Stormwater Management and Erosion Control](#) shall be provided.
- B. Animal manures, fertilizers, and compost must be stored in accordance with the [Manual of Best Management Practices \(BMPs\) for Agriculture in New Hampshire](#)⁴ – “New Hampshire Department of Agriculture, Markets, and Food,” revised June 2011, and any subsequent revisions.
- C. All regulated substances must be stored in accordance with Env-Wq 401, [Best Management Practices for Groundwater Protections](#)⁵.
- D. Rock blasting activities that will excavate more than 5,000 cubic yards of bedrock must adhere to NHDES WD-10-12, [Best Management Practices for Blasting](#)⁶ – “Rock Blasting and Water Quality Measures That Can be Taken to Protect Water Quality and Mitigate Impacts,” prepared 2010, and any subsequent revisions.

VII. REGULATED MATERIALS RESPONSE PLAN

Conditional uses as described under Article XI, part (A), using regulated substances in quantities exceeding 55 gallons per container⁷ shall submit a regulated materials response plan. The plan must address:

- A. Description of the physical layout and a facility diagram, including all surrounding surface waters and wellhead protection areas.
- B. Contact list and phone numbers for the facility response coordinator, cleanup contractors, and all appropriate federal, state, and local agencies who must be contacted in case of a release to the environment.
- C. List of all regulated substances in use and locations of use and storage.

³ Two times the percentage of impervious surface area at which stream quality decreases ([USGS, 2005](#)).

⁴ <http://www.agriculture.nh.gov/publications-forms/documents/bmp-manual.pdf>

⁵ <http://des.nh.gov/organization/commissioner/legal/rules/documents/env-wq401.pdf>

⁶ <http://des.nh.gov/organization/commissioner/pip/publications/wd/documents/wd-10-12.pdf>

⁷ According to the Pipeline and Hazardous Materials Safety Administration’s [Emergency Response Guidebook](#), large spills are defined as containers of 55 gallons or more with regard to initial isolation and protection action distances. This is a standard that is used by the bulk of the voluntary first responder organizations.

- D. Description of containment and/or diversionary structures or equipment to prevent regulated substances from infiltrating into the ground.
- E. List of positions within the facility that require training to respond to spills of regulated substances.
- F. Prevention protocols that are to be followed after an event that causes large releases of any regulated substance.

VIII. GROUNDWATER MONITORING PLAN

Conditional uses as described under Article XI, part (C), rock blasting activities that will excavate more than 5,000 cubic yards of bedrock or are within a radial distance of 1,000 feet from a production well, shall submit and implement a groundwater monitoring plan. The plan must address:

- A. Identification of potential sensitive receptors and evaluation hydrogeological background information.
- B. Identification of monitoring well locations and install monitoring wells, where appropriate.
- C. Collection of background water quality samples to identify, or rule out, pre-existing groundwater contamination issues and to establish background chemistry levels and performance criteria for groundwater quality.
- D. Collection of periodic groundwater samples from the groundwater monitoring points during blasting, as well as collect water level data, when pertinent.
- E. Collection of post-blast groundwater samples (conducting multiple rounds of sampling may be prudent, and/or sampling could be ongoing for extended periods if contamination is detected as a result of the blasting).

IX. PERMITTED USES

All uses permitted by right or allowed by special exception in the underlying district are permitted unless they are Prohibited Uses or Conditional Uses in the Aquifer Protection District. All uses must comply with the Performance Standards unless specifically exempt under Article XIII.

X. PROHIBITED USES

The following uses are prohibited in the Aquifer Protection District:

- A. Development or operation of a hazardous waste disposal facility as defined by RSA 147-A.
- B. Development or operation of a solid waste facility.
- C. Outdoor storage of road salt or other deicing chemicals in bulk.
- D. Development or operation of a junkyard.
- E. Development or operation of a snow dump.
- F. Development or operation of a wastewater or septage lagoon.
- G. Development or operation of a petroleum bulk plant or terminal.
- H. Development or operation of gasoline stations.
- I. Use of powdered ammonium nitrate fuel oil and explosives that contain perchlorate during blasting activities

XI. CONDITIONAL USES

The Planning Board may vary the provisions herein by granting a conditional use permit in accordance with RSA 674:21 (II) to allow for a use which is otherwise permitted in the underlying district. The following conditions shall apply to all uses in the Aquifer Protection District:

- A. Storage, handling, and use of regulated substances in quantities exceeding 55 gallons per container or 440 pounds dry weight per container at any one time provided that an adequate regulated materials response plan, in accordance with Article VII, has been submitted.
- B. For any use that will render impervious more than 20 percent⁸ of any lot or 5,000 square feet of land disturbance, whichever is greater.
- C. Rock blasting activities that will excavate more than 5,000 cubic yards of bedrock or are within a radial distance of 1,000 feet from a production well provided that an adequate groundwater monitoring plan, in accordance with Article VIII, has been submitted.

The Planning Board may, at its discretion, require a performance guarantee or bond in an amount conditions satisfactory to the Board, to be posted to ensure completion of construction of any facilities required for compliance with the Performance Standards.

⁸ Two times the percentage of impervious surface area at which stream quality decreases ([USGS, 2005](#)).

XII. EXISTING NONCONFORMING USES

Existing nonconforming structures and uses are exempt from this zoning ordinance under RSA 674:19. Any existing and new uses must be in compliance with all applicable state and federal requirements, including Env-Wq 401, Best Management Practice Rules.

XIII. EXEMPTIONS

The following uses are exempt from the specified provisions of this ordinance as long as they are in compliance with all applicable local, state, and federal requirements:

- A. Any private residence is exempt from all Performance Measures.
- B. Any business or facility where regulated substances are stored in containers with a capacity of less than the reportable quantity (RQ) is exempt from Article VI, Performance Standards C.
- C. Storage of heating fuels for on-site use or fuels for emergency electric generation, provided that storage tanks are indoors on a concrete floor or have corrosion control, leak detection, and secondary containment in place, is exempt from Performance Standard C.
- D. Storage of motor fuel in tanks attached to vehicles and fitted with permanent fuel lines to enable the fuel to be used by that vehicle is exempt from Performance Standard C.
- E. Storage and use of office supplies is exempt from Performance Standard C.
- F. Temporary storage of construction materials on a site where they are to be used is exempt from Performance Standard C if incorporated within the site development project within six months of their deposit on the site.
- G. The sale, transportation, and use of pesticides as defined in RSA 430:29 XXVI are exempt from all provisions of this ordinance.
- H. Any non-reoccurring household hazardous waste collection projects regulated under NH Code of Administrative Rules Env-Wm 401.03(b)(1) and 501.01(b) are exempt from Performance Standard C.
- I. Underground storage tank systems and aboveground storage tank systems that are in compliance with applicable state rules are exempt from inspections under Article XV of this ordinance.

XIV. RELATIONSHIPS BETWEEN STATE AND LOCAL REQUIREMENTS

Where both the State and the municipality have existing requirements, the more stringent shall govern.

XV. MAINTENANCE AND INSPECTION

- A. For uses requiring planning board approval for any reason, a narrative description of maintenance requirements for structures required to comply with Performance Standards shall be recorded so as to run with the land on which such structures are located, at the Registry of Deeds for Strafford County. The description so prepared shall comply with the requirements of RSA 478:4-a.
- B. Inspections may be required to verify compliance with Performance Standards. Such inspections shall be performed by City staff at reasonable times with prior notice to the landowner.
- C. All properties in the Aquifer Protection District known to City staff as using or storing regulated substances in containers with a capacity greater than the reportable quantity, except for facilities where all regulated substances storage is exempt from this Ordinance under Article XII, shall be subject to inspections under this Article.
- D. The Rochester City Council may require a fee for compliance inspections. The fee shall be paid by the property owner. A fee schedule shall be established by the City Council as provided for in RSA 41-9:A.

XVI. ENFORCEMENT PROCEDURES AND PENALTIES

Any violation of the requirements of this ordinance shall be subject to the enforcement procedures and penalties detailed in RSA 676 or RSA 485-C.

XVII. SAVING CLAUSE

If any provision of this ordinance is found to be unenforceable, such provision shall be considered separable and shall not be construed to invalidate the remainder of the ordinance.

XVIII. REPEAL

All ordinances or parts of ordinances in conflict with this chapter are to the extent of such conflict, hereby repealed.

XIX. EFFECTIVE DATE

This ordinance shall be effective upon adoption by the Rochester City Council.

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Planning and Development
Conservation Commission
Historic District Commission
Arts and Culture Commission

PLANNING & DEVELOPMENT DEPARTMENT

City Hall - Second Floor

31 Wakefield Street,

Rochester, New Hampshire 03867-1917

(603) 335-1338 - Fax (603) 335-7585

Web Site: www.rochesternh.net

Aquifer Protection Compliance **Biennial Report**

Date: _____

Property information

Tax map #: _____; lot #('s): _____; Zone: _____

Property address/location: _____

Name of project (if applicable): _____

Applicant / Agent

Name (include name of individual): _____

Mailing address: _____

Telephone #: _____ Email address: _____

Property owner (if different from applicant)

Name (include name of individual): _____

Mailing address: _____

Telephone #: _____ Email address: _____

Please address the following:

1) Please list date of Planning Board approval(s): _____

2) Have any changes been made to the site or facility over the last 24 months? If yes, please summarize the changes, and note how the changes have or have not the regulated materials response plan: _____

3) Have there been any changes in the previously submitted in the contact list and phone numbers for the facility response coordinator, cleanup contractors, and all appropriate federal, state, and local agencies who must be contacted in case of a release to the environment? If so, please list changes: _____

4) Have there been any changes in the type of regulated substances (*refer to 'regulated substances' definition in the Aquifer Protection Ordinance*) stored/used onsite? _____

5) Have there been changes in the locations of where regulated substances are used and/or stored? _____

6) Have there been any changes of containment and/or diversionary structures or equipment which are preventing regulated substances from infiltrating into the ground? If so, list changes and note locations: _____

7) Are the positions which are responsible for responding to spills still the same? _____

8) Have there been any prevention protocols that are to be followed after an event that causes large releases of any regulated substance? _____

9) **a)** Have any releases occurred over the last 24 months? Please describe and provide location information: _____

b) Were these reported to the Rochester Fire Department and NH Dept. of Environmental Services? _____

Submission of application

This biennial report must be signed by the property owner.

I (we) hereby submit this Aquifer Protection Compliance Annual Report to the City of Rochester Planning Department and attest that to the best of my (our) knowledge all of the information on this report is true and accurate.

Signature of applicant/agent: _____ Date: _____

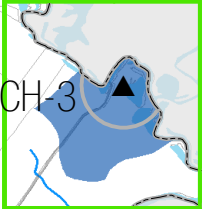
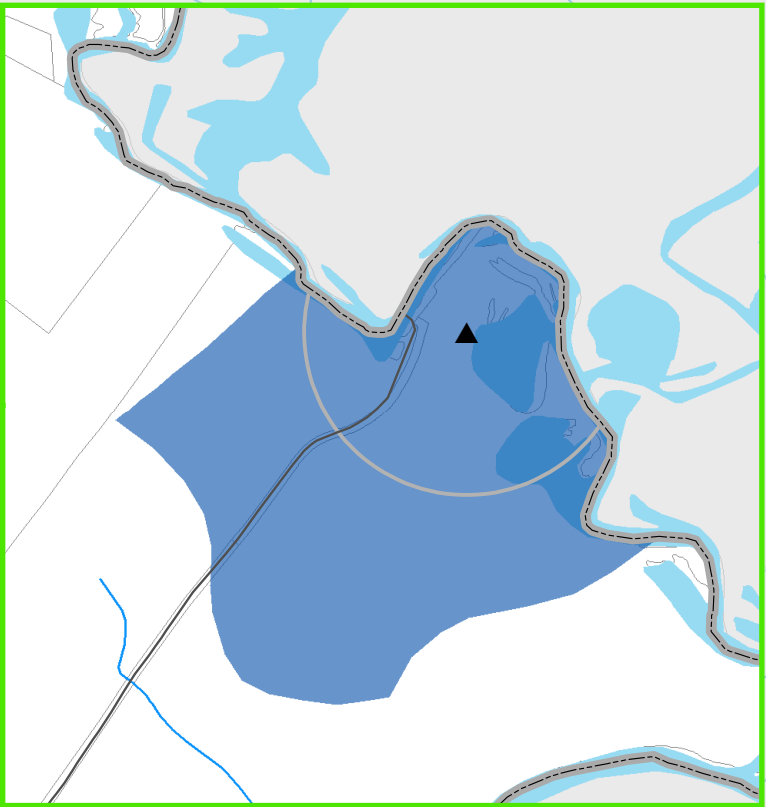
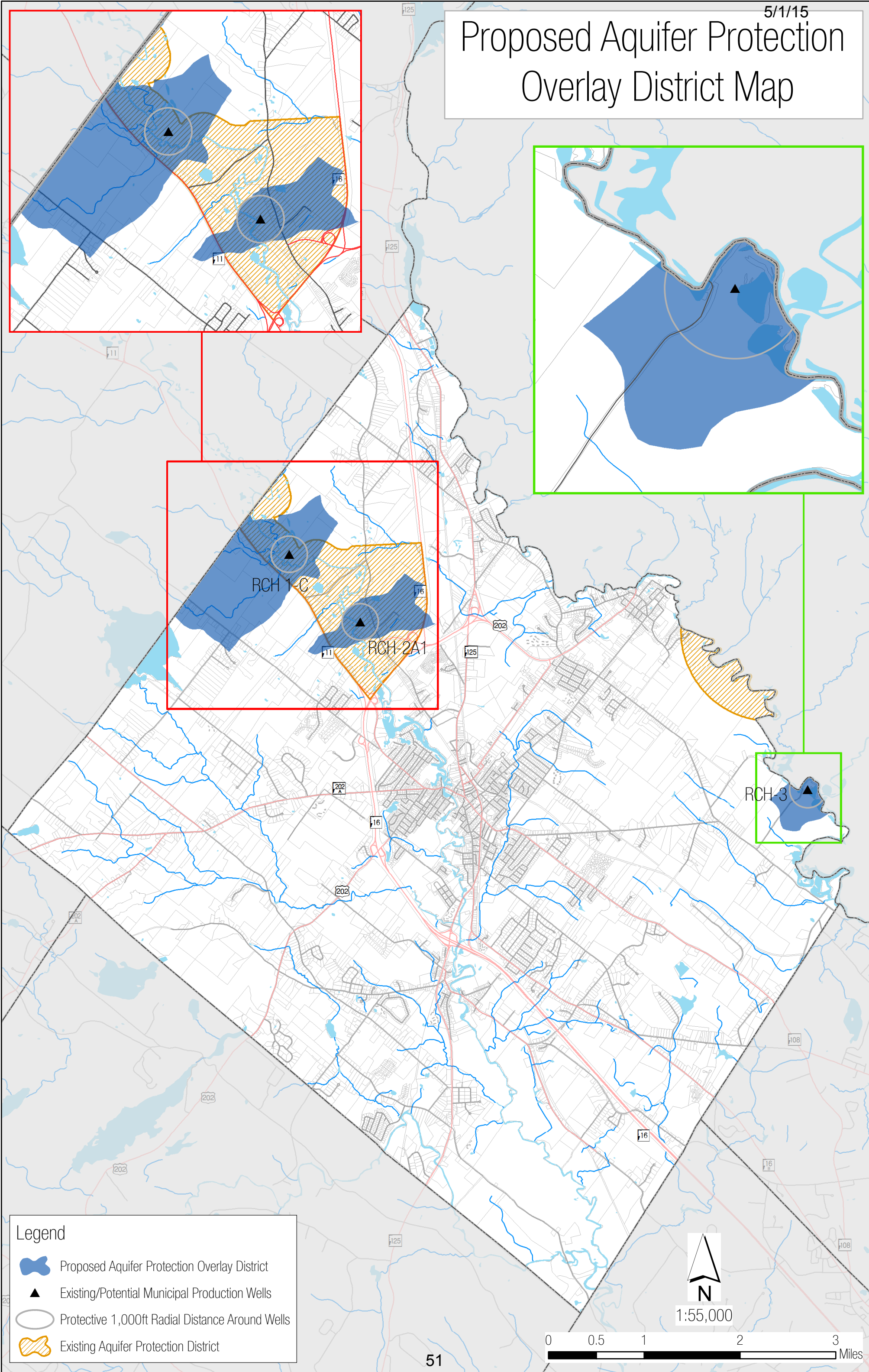
Signature of property owner: _____ Date: _____



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Proposed Aquifer Protection Overlay District Map



Legend

- Proposed Aquifer Protection Overlay District
- Existing/Potential Municipal Production Wells
- Protective 1,000ft Radial Distance Around Wells
- Existing Aquifer Protection District



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FINANCE COMMITTEE

Agenda Item

5/1/15

Agenda Item Name: **Trustees of Trust Fund Membership**

Date Submitted: **4/6/15**

Name of Person Submitting Item:

Deputy City Manager Cox

E-mail Address:

blaine.cox@rochesternh.net

Meeting Date Requested:

April 14, 2015

This Item is (Select One):

- ☐ Informational Only
- ☒ Discussion
- ☐ As Requested by Finance Committee
- ☐ Review & Recommendation to Full City Council
- ☐ Referred by Other Council Committee

Summary Statement:

When the Trustees of the Trust Fund appeared before the Finance Committee on March 10, 2015, the Deputy Mayor asked the Trustees if it would be deemed beneficial to increase the current number of Trustees from 3 to 5. Mr. Ouelette and Mr. Pallas indicated that such a change would in fact be beneficial.

The General Ordinances of the City of Rochester, Section 3.6, read in part:

3.6 Trustees of Trust Funds.

*(a) The **Board of Trustees of Trust Funds shall consist of three members**. One Trustee shall be appointed annually in January by the Mayor in accordance with the provisions of Section 74 of the Rochester City Charter for a term of three years, and vacancies occurring in such office shall be filled in like manner for the unexpired term. The Trustees shall organize annually by electing one of their number treasurer, who shall keep the records and books of the Trustees.*

Recommended Action:

Refer to Codes & Ordinances Committee.



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Current City Ordinance 5/1/15

City of Rochester

CHAPTER 34

JUNK AND SECOND-HAND DEALERS

SECTION ANALYSIS

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

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

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

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

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

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

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

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

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

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

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

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

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

[1] Amended 5/1/07

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



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Proposed Ordinance

City of Rochester

5/1/15

34.3 License Required. No person, firm, or corporation shall engage in the business of junk dealer or second-hand dealer unless licensed therefore by the Licensing Officer who shall be the Director of Building, Zoning & Licensing Services.

34. 4. a. Procedure for Issuance of License.

(a) Formal Application Required. Applications for licenses shall be made to the Licensing Officer. The application shall:

1. Form of Application. Be a written statement upon forms provided by the Licensing Officer; such forms shall include such affidavits to be sworn to by the applicant before a Notary Public or Justice of the Peace of this State, as the Licensing Officer shall deem necessary.

2. Contents of Application. Require the disclosure of any information which the Licensing Officer shall find to be reasonably necessary to the fair administration of this Ordinance.

3. Payment of fees. Be accompanied by the full amount of fees chargeable to such license.

(b) Renewal of License Procedure. The applicant for renewal of a license shall submit an application to the Licensing Officer. The application shall:

1. Form of Application. Be a written statement upon forms provided by the Licensing Officer, such forms shall include such affidavits to be sworn to by the applicant before a Notary Public or Justice of the Peace of this State, as the Licensing Officer shall deem necessary.

2. Contents of Application. Require the disclosure of any information which the Licensing Officer shall find to be reasonably necessary to the fair administration of this Ordinance and the disclosure of such information concerning the applicant's conduct and operation of licensed activity during the preceding licensed period as is reasonably necessary to the determination by the Licensing Officer of the applicant's eligibility for a renewal license.

(c) Fitness Investigation. Upon receipt of any license application or application for license renewal, the Licensing Officer shall forward said application to the Chief of Police who shall cause an investigation to be made of the fitness of the applicant to engage in the business of a junk dealer or second-hand dealer and report his findings to the Licensing Officer prior to the Licensing Officer's acting upon said application.

(d) Give Notice. The Licensing Officer shall notify any applicant of the acceptance or rejection of his application and shall, upon his refusal of any license, state in writing the reason therefore and deliver them to the applicant.

(e) Non-approval of License. The Licensing Officer shall, upon disapproving any application submitted under the provisions of this chapter, refund to the applicant all fees paid in advance, provided the applicant is not otherwise indebted to the City.

(f) Compliance Pending Legal Action. When the issuance of a license is denied and any action instituted by the applicant to compel its issuance, such applicant shall not engage in the activity for which the license was refused unless a license be issued to him pursuant to a judgment ordering the same.

34.4. b. Right of Appeal.

Any person aggrieved by any decision of the Licensing Officer shall have the right to appeal to the Licensing Board by filing a written appeal with the City Manager within three (3) business days following the effective date of the action or decision complained of.

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

(b) Notification of Licensing Officer. At the time of filing the appeal, a copy thereof shall be filed by the appellant with the Licensing Officer.

(c) Hearing. The City Manager shall fix a time and place for hearing the appeal and shall serve a written notice upon the appellant informing them thereof. The City Manager shall also give such notice to the Licensing Officer and the Officer shall be entitled to appear to defend such order.

(d) Effect of Decision. The findings of the Licensing Board shall be served upon the appellant as required herein.