



City of Rochester, NH
Preamble for August 6, 2020 Codes & Ordinances Committee Meeting

Good Evening, as Chairperson of the Codes & Ordinances Committee I am declaring that an emergency exists and I am invoking the provisions of RSA 91-A:2, III (b). Federal, state, and local officials have determined that gatherings of 10 or more people pose a substantial risk to our community in its continuing efforts to combat the spread of COVID-19. In concurring with their determination, I also find that this meeting is imperative to the continued operation of City government and services, which are vital to public safety and confidence during this emergency. As such, this meeting will be conducted without a quorum of this body physically present in the same location.

- a.) **Providing public access to the meeting by telephone:** At this time, I also welcome members of the public accessing this meeting remotely. Even though this meeting is being conducted in a unique manner under unusual circumstances, the usual rules of conduct and decorum apply. Any person found to be disrupting this meeting will be asked to cease the disruption. Should the disruptive behavior continue thereafter, that person will be removed from this meeting. The public can call-in to the below number using the conference code. Some meetings will allow live public input, however you must have pre-registered online, otherwise, the meeting will be set to allow the public to "listen-in" only, and there will be no public comment taken during the meeting. [Public Input Registration](#) (Please note: In order to notify the meeting host that you would like to speak, press 5* to be recognized and unmuted)

Phone number: 857-444-0744

Conference code: 843095

- b.) **Public Access Troubleshooting:** If any member of the public has difficulty accessing the meeting by phone, please email PublicInput@RochesterNH.net or call 603-332-1167.
- c.) **Public Input:** Due to the ongoing situation with COVID-19, the City of Rochester will be taking extra steps to allow for public input, while still ensuring participant safety and social distancing. In lieu of attending the meeting, those wishing to share comments, when permitted, with the City Council (Public Hearing and/or Workshop settings) are encouraged to do so by the following methods:
- **Mail:** City Clerk/Public Input, 31 Wakefield Street, Rochester, NH 03867 (*must be received at least three full days prior to the anticipated meeting date*)
 - **email** PublicInput@rochesternh.net (*must be received no later than 4:00 pm of meeting date*)
 - **Voicemail** 603-330-7107 (*must be received no later than 12:00 pm on said meeting date in order to be transcribed*)

Please include with your correspondence the intended meeting date for which you are submitting. *All correspondence will be included with the corresponding meeting packet (Addendum).*

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City Clerk's Office

Codes and Ordinances Committee

Councilor Peter Lachapelle, Chair
Councilor Elaine Lauterborn, Vice Chair
Councilor Tom Abbott
Councilor Laura Hainey
Councilor Christopher Rice



07/31/2020

CODES AND ORDINANCES COMMITTEE

Of the Rochester City Council

Thursday, August 6, 2020

31 Wakefield Street, Rochester, NH

Meeting Conducted Remotely

6:00 PM

Agenda

1. **Call to Order**
2. **Public Input**
3. **Acceptance of the Minutes**
 - 3.1 February 6, 2020 *motion to accept* P. 5
 - 3.2 March 5, 2020 *motion to accept* P. 11
4. **Temporary amendment to 275-29.13 regarding Political Signage P. 15**
5. **Proposed Amendment to Chapter 80: Outdoor Dining P. 23**
6. **Discussion: Chapter 275-28.3 Noise Ordinance P. 31**
7. **Other**
8. **Adjournment**

[Public Input Registration](#)

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City Clerk's Office

Codes and Ordinances Committee

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

**Others Present**

Councilor Sandra Keans
ACO, Sue Paradis
Lt. Andrew Swanberry
City Atty. Terence O'Rourke
Director BZLS, Jim Grant
Deputy Finance Director, Mark Sullivan

CODES AND ORDINANCES COMMITTEE

Of the Rochester City Council
Thursday, September 5, 2019
31 Wakefield Street, Rochester, NH
City Council Chambers
6:00 PM

Minutes**1. Call to Order**

Councilor Lachapelle called the Codes and Ordinances Committee meeting to order at 6:00 PM. Susan Morris, Certified Clerk Typist II, took a silent roll call and all committee members were present.

2. Public Input

Councilor Lachapelle opened public input at 6:02 PM.

Jackie Raab of East Rochester spoke about fireworks still being an issue in East Rochester. Ms. Raab stated that every weekend since the 4th of July, there have been fireworks set off in her neighborhood. She stated that residents are shooting fireworks off earlier in the evening due to it becoming dark earlier. She stated that this item was brought to the Police Commission and that it was stated that when the Police Department reaches full staffing, the Commission would be in favor of a dedicated police detail to address the fireworks issue during this time of year.

Devin Robbins of Gonic addressed the committee regarding a complaint made by her neighbor in reference to Ms. Robbin's dog's nuisance barking. She came to the Committee to receive clarification on what is considered a nuisance. Councilor Lachapelle stated that the Committee would be addressing this item on the agenda shortly and suggested Ms. Robbins address this further at that time.

Councilor Lachapelle closed public input at 6:10 PM.

3. Acceptance of the Minutes: August 1, 2019

Councilor Abbott **MOVED** to **ACCEPT** the minutes of August 1, 2019. Councilor Bogan

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

4. Chapter 28 Animals – Nuisance

Councilor Lachapelle addressed Lt. Andrew Swanberry and Animal Control Officer, Sue Paradis, to confirm that NH state law defines a nuisance as thirty (30) minutes or more of continuous barking. ACO Paradis stated that this criteria relates to daytime hours; during nighttime hours, any amount of time could be considered a nuisance. ACO Paradis stated that nighttime is defined as half-hour after sunset to half-hour before sunrise. If a dog barks and disturbs the neighborhood during these hours, the owners can be fined. If a neighbor calls the police and complains, then the police need to go out and investigate. The police department does take the time to educate the person on the law and has a conversation regarding the potential consequences, although the responding officer is able to use their discretion on whether or not to issue a fine.

Councilor Lachapelle called Devin Robbins back up to the podium and inquired if her dog is outside in her yard continuously. Ms. Robbins answer that her dog was not outside continuously and stated that there are a couple of dogs in the neighborhood which do bark continuously. When an officer responded to her residence in regards to the complaint, Ms. Robbins asked the officer whether the police department needs to substantiate a nuisance claim before a determination is made that a dog is barking too much. She stated that the officer was very clear on the law, although she questioned why she was being singled out when there were clearly other nuisance barkers. Councilor Lachapelle stated that this was complaint driven, so the officers were doing their job investigating the complaint.

Councilor Abbott stated that this ordinance was changed a few years ago, specifically because of this particular neighborhood in question. This ordinance previously mirrored the state statute and it was changed due to a resident alleging that a neighbor's dog barked, but they could not prove it was for longer than half hour. Councilor Abbott suggested that the City Ordinance is very vague, and that this should be changed back to mirror the state statute to then put the burden of proof on someone other than the dog owner. Councilor Bogan stated that she understands letting a dog out and it barks, but listening to a dog bark for a half hour is excessive. She stated that is too long of a period to allow a dog to bark. Councilor Bogan stated that the Committee should leave this ordinance as-is and leave it to the discretion of the police officers. Councilor Abbott stated that he respectfully disagrees because, having worked for the City, any decision made by discretion can be publicized. Councilor Abbott suggested the Committee entertain a different length of time to be considered a nuisance. Ms. Robbins stated that an addition of the word "continuously" or "nonstop" would be a great addition to the ordinance. Councilor Bogan suggested the length of time considered a nuisance be defined as fifteen (15) minutes. Douglas Robbins came forward and addressed the board as well.

Councilor Abbott **MOVED** to send to the Legal Department to amend the **City Ordinance Chapter – 28 Animals – Nuisance** to mirror the language of the State RSA excepting that **15 minutes** be inserted where it says **30 minutes**, and the word **continuous** replaced with **sustained**. The amendment will then be sent to the full City Council for approval. Councilor Bogan seconded the motion. Further discussion was held. Councilor Lachapelle asked the ACO, Sue Paradis and Lt. Swansberry if this would give them more to work with to enforce the ordinance ACO Paradis stated that the way the ordinance is written is based on the person placing the complaint, their comfort level and repose. Further discussion was held. The **MOTION CARRIED** by unanimous voice vote.

Current State RSA:

466:31 *Dogs a Menace, a Nuisance or Vicious.* –

II. Under this section, a dog is considered to be a nuisance, a menace, or vicious to persons or to

property under any or all but not limited to the following conditions:

(b) If it barks for sustained periods of more than 1/2 hour, or during the night hours so as to disturb the peace and quiet of a neighborhood or area, not including a dog which is guarding, working, or herding livestock, as defined in RSA 21:34-a, II(a)(4);

5. Proposed definition of “Donation Bin”

City Attorney O’Rourke stated that he did research from all over the country and came up with the documentation presented in the packet. Councilor Lauterborn stated that in section 167-25 “Licenses and Permit Requirements,” it states someone who wants to place a donation bin is required to obtain a license for a fee of \$200. She stated that she felt the fee was excessive to pay annually for a donation bin when they are just trying to perform a good deed. Councilor Gates confirmed with Attorney O’Rourke that the Committee, as a governing body, can set the fees. Discussion was held among Committee members.

Councilor Abbot **MOVED** to **AMEND** the proposed amendment of the General Ordinances of the City of Rochester, chapter Section 167-25 as follows:

§167-25 LICENSES AND PERMITS REQUIREMENTS

Whether for the owner of the premises or the person who has obtained the written permission of the owner the fee to obtain the initial license to own, install, operate, or use a drop-off bin is ~~\$200~~ **\$25.00** that must be tendered at the time of license application. Such license may be annually renewed on or before the anniversary date of the application for an annual renewal fee of ~~\$200~~ **\$25.00**. Regardless of the number of drop-off bins owned, installed, operated, or used by a license applicant, the applicant shall only pay one annual license fee. The initial permit fee for a drop-off bin is ~~\$50~~ **\$10.00** per bin payable at the time of application for the license. The annual renewal fee for each drop-off bin permit is ~~\$50~~ **\$10.00** payable on or before the anniversary date of the initial application. Each drop-off bin shall display its current permit at all times.

Councilor Bogan seconded the motion. The **MOTION CARRIED** by unanimous voice vote.

Councilor Abbott **MOVED** to send the **Amendment to Chapter 167 of the General Ordinances of the City of Rochester Regarding Drop-Off Bins** as **AMENDED** to the full City Council for approval. Councilor Bogan seconded the motion. The **MOTION CARRIED** by unanimous voice vote.

6. Rental Inspection Program

Councilor Lachapelle stated that he received correspondence from the Department of Building, Zoning and licensing that there are no updates on the Rental Inspection Program at this time. BZLS Director Jim Grant came forward and stated that they will be meeting with the Strafford County Rental Properties Association on October 3, 2019. An update may be brought forward to the October 3rd Codes and Ordinances Meeting, though there most likely will not be any documentation in the packet as these two meeting are on the same day. Councilor Lachapelle stated that this item would be kept in Committee.

7. Waiver to Certain Building Permit Fees, Which Do Not Require an Inspection

BZLS Director Jim Grant, stated that this item originally came in from a constituent who came in to talk about permit fees for items which are not inspected by the department. Such as, but not limited to fences, sheds and roofing. These permits are required mainly for zoning purposes. He went on to explain different types of permits and the regulations which need to be followed even though there are no inspections required. BZLS Director Grant proposed that the Committee amend the following section

40-15 Permits to read:

The following permits shall be charged only the minimum permit fee of ten dollars (\$10.), in addition to an application fee of ten dollars (\$10.) for each permit.

- (a) **Fences**
- (b) **Roofing (Re-Shingling only)**
- (c) **Siding**
- (d) **Sheds under 200 square feet**

Mr. Grant supplied a handout which described the potential deficit in revenue from the change in permit fees. He also stated that potentially the council will look at the possibility of increasing permit fees to make up the lost revenue and to be comparable to surrounding communities. Councilor Lauterborn stated that she has no problems with the potential loss of revenue if it means a savings to the home owners. Councilor Abbott stated that he would be in favor of the flat \$10 permit fee.

Councilor Abbott **MOVED** to add to the **City Ordinances of the City of Rochester Section 40-15 Permits (1)** at the end of that section, the following and to send to full Council for approval:

The following permits shall be charged a flat permit fee of ten dollars (\$10.00)

- (a) Fences***
- (b) Roofing (reshingling only)***
- (c) Siding***
- (d) Sheds under 200 square feet***

Councilor Bogan seconded the motion. The **MOTION CARRIED** by unanimous voice vote.

8. Fireworks

Councilor Lachapelle stated that the Police Commission did meet and discuss this item at their last meeting. They stated that when the police department is up to full staff, they hope to have officers for a dedicated detail during the two days in which fireworks are allowed.

Councilor Lachapelle stated he did not have any further updates. He asked Jackie Raab if she had anything else to add to the discussion. Ms. Raab addressed the Committee asking if it was a possibility to have the fire department go out to observe the fireworks situation in her neighborhood, gather names and pass the information to fire dispatch for follow up when time and staffing allows.

Councilor Gates stated that he would prefer to see an armed and trained police officer address these situations as these officers are equipped to handle these situations; having the Fire Department respond would put them in unknown dangerous situations.

Councilor Lachapelle stated that the City could ban fireworks outright, but the Committee does not want to punish residents who are following the rules due to the handful that are not following the rules. Councilor Lachapelle stated that even if the City did ban fireworks outright, some residents are still going to set them off regardless.

9. Ordinance Enrollment: Chapter 275

Councilor Lauterborn **MOVED** to Enroll Chapter 275 of the General Code to be put online Councilor Bogan seconded the motion. The **MOTION CARRIED** by unanimous voice vote.

10. Other

Deputy Finance Director, Mark Sullivan, presented amendments for the following:

- a. General Ordinances – Administrative Code Chapter 7-40 Purchasing
- b. General Ordinances – Administrative Code Chapter 7-62 Undesignated Fund Balance & proposed Fund Balance Policy

Discussion was held among committee members.

Councilor Lauterborn **MOVED** to send proposed amendments to **General Ordinances – Administrative Code Chapter 7-40 Purchasing** and **General Ordinances – Administrative Code Chapter 7-62 Undesignated Fund Balance & proposed Fund Balance Policy** to the full City Council for approval. Councilor Gates seconded the motion. The **MOTION CARRIED** by unanimous voice vote.

Councilor Keans came forward to speak about the Fire Codes which the City Council adopted; specifically a section in the code which talks about a required 50-square feet of living space per individual living in a property. Councilor Keans inquired how the City plans to enforce this requirement when the complaints start coming in. She stated that there are several areas and homes which surely do not meet this requirement currently.

11. Adjournment

Councilor Gates **MOVED** to **ADJOURN**. Councilor Bogan seconded the motion. The **MOTION CARRIED** by unanimous voice vote.

Respectfully Submitted,

Susan Morris
Certified Clerk Typist II
City of Rochester
City Clerk's Office

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City Clerk's Office

Codes and Ordinances Committee

Councilor Peter Lachapelle, Chair
Councilor Elaine Lauterborn, Vice Chair
Councilor Tom Abbott
Councilor Chris Rice
Councilor Laura Hainey



Others Present

Terence O'Rourke, City Attorney

CODES AND ORDINANCES COMMITTEE

Of the Rochester City Council

Thursday, March 5, 2020

31 Wakefield Street, Rochester, NH

City Council Chambers

6:00 PM

Minutes

1. Call to Order

Councilor Lachapelle called the meeting to order at 6:00 PM. Deputy City Clerk Cassie Givara took a silent roll call. All Committee members were present except for Councilor Rice, who was absent.

2. Public Input

No Discussion.

3. Acceptance of the Minutes: September 5, 2019

Councilor Lauterborn **MOVED** to accept the minutes of the September 5, 2019 Codes & Ordinances Committee meeting. Councilor Abbott seconded the motion. Councilor Hainey stated she was abstaining from the vote because she had not yet been appointed to the Committee when the meeting occurred. The **MOTION CARRIED** by a unanimous voice vote.

4. Review of the City Council Rules of Order

- **Proposed change to Rules of Order 4.12**

City Attorney O'Rourke explained the background on the proposed amendment (Addendum A); the previous City Council had discussed the routine suspending of the rules in order to do a second reading and adoption. It had been questioned why this rule was in place if it was going to be suspended each and every time. Attorney O'Rourke stated that he had revised the rules of order to reflect the process as it carries out currently.

Councilor Lachapelle clarified that the new wording would replace the entirety of section 4.12. Attorney O'Rourke confirmed that the amendment would replace the existing wording.

Councilor Lachapelle inquired if the Council would still be able to suspend the rules if needed after this amendment has been adopted. Attorney O'Rourke answered that the amendment is only changing the rule in question and will allow the Council to read a resolution for a first time and adoption without suspending this particular rules for a second reading unless otherwise required.

Councilor Abbott **MOVED** to send the amendment to section 4.12 of the Council Rules of Order to full Council. Councilor Lauterborn seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Lachapelle asked the Committee if there were any other proposed changes to the Council Rules of Order. Councilor Lauterborn stated that she had reviewed the rules and did not feel there were changes needed; they reflect how the Council operates currently.

Councilor Lachapelle referred the Committee to section 1.1 of the Rules of Order titled "Regular Meetings." The rules currently state that City Council meetings will begin at 7:00 PM. Councilor Lachapelle suggested changing the start time to 6:00 PM due to the prevalence of Councilor early arrivals and the earlier start allowing earlier adjournment. Councilor Lachapelle reported that he had received favorable feedback from City staff regarding this proposed earlier start time. Councilor Abbott stated that there are occasionally subcommittee meetings prior to the Council meetings. It was agreed that subcommittee meetings may need to be adjusted if the City Council meetings occur earlier.

Councilor Lauterborn stated that she would support the earlier start time at the Codes meeting, but if there were reservations expressed at full Council regarding Councilors' inability to make it to the earlier start time, she intended to vote against the amendment under those conditions. Councilor Lachapelle clarified that there could be some flexibility with the proposed time and it could be adjusted earlier or later as needed.

Councilor Walker **MOVED** to recommend the 6:00 PM City Council meeting start time to full Council. Council Abbott seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Attorney O'Rourke informed the Committee that if there was a cause to have the meeting at a time other than what was stated in the rules of order, the Council is able to suspend the rules at the prior meeting and vote to have the meeting at an alternate time.

5. Proposed Amendment to 7.26 Board of Health

Attorney O'Rourke explained that these officers of the Board of Health are appointments made by the City Manager. Rather than giving the different members varying term expirations for positions which are already challenging to fill, the amendment would make the term limits indefinite.

Councilor Abbott asked what would occur if there was a new City Manager hired who did not want the same officers serving on the Board of Health. Attorney O'Rourke stated that the City Manager has the authority to remove people from the Board if desired.

Councilor Lauterborn **MOVED** to send the amendment to 7.26 “Board of Health” to full Council. Councilor Abbott seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

6. Other

No Discussion.

7. Adjournment

Councilor Abbott **MOVED** to **ADJOURN** the Codes & Ordinances Committee meeting at 6:08 PM. Councilor Lauterborn seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Respectfully Submitted,

Cassie Givara
Deputy City Clerk

PROPOSED CHANGE TO RULE OF ORDER 4.12

Every Resolution, including those which propose to change the Ordinance, shall be placed on the City Council Agenda in accordance with Rule 4.1. Any Resolution shall receive a First Reading during the first meeting in which it appears on the Agenda. Following the First Reading, the Council shall take one of the following actions:

1. Vote to disapprove the Resolution.
2. Refer to a Public Hearing if required by law.
3. Refer to an appropriate standing committee, or to the City Council sitting as a Committee of the Whole, for further review. Any Resolution proposing a change to the Ordinance, which did not originate in the Codes and Ordinances Committee, must be referred to said committee prior to a vote of approval. Resolutions referred to Public Hearing per action #2 may also be referred to committee.
4. If actions #2 and #3 do not apply to the Resolution, the Council may proceed to a vote of approval.

For a Resolution which is not subject to action #1 or #4, it shall receive a Second Reading at the next meeting during which it appears on the City Council Agenda. Following the Second Reading, for any Resolution referred to a standing committee, the chairperson of said committee shall deliver a report detailing the review of the Resolution. After the committee report is delivered, the City Council shall entertain any motions to amend. Following disposition of the motions to amend, the City Council shall vote on final approval or disapproval of the Resolution.

§ 275-29.13. Specific sign requirements.

- A. Animated signs. Animated signs, except as prohibited in § 275-29.9C, 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.
- B. Awning signs.
 - (1) The copy area of awning signs shall not exceed an area equal to 25% 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.
 - (2) 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.
- C. Canopy signs.
 - (1) The permanently affixed copy area of canopy or marquee signs shall not exceed an area equal to 25% of the face area of the canopy, marquee or architectural projection upon which such sign is affixed or applied.
 - (2) 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.
- D. Directory signs. For businesses located on secondary streets within the Downtown Commercial District. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**
 - (1) Not to exceed four square feet in area.
 - (2) Permission must be obtained in writing from the property owner on whose premises the sign is to be placed.
 - (3) These signs shall not obscure any portion of road, intersection, or sidewalk.
- E. 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% of the area of any

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directional sign shall be permitted to be devoted to business identification or logo, which area shall not be assessed as identification sign area.

F. Development and construction signs; planned unit development signs. **[Amended 9-4-2018]**

(1) 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 building permits by the Building, Zoning, and Licensing Services Department and must be removed not later than 24 hours following issuance of a certificate of occupancy for any or all portions of the project. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**

(2) Planned unit development signs. These signs shall be used to identify a project and/or inform the public of the name of a development.

(a) Such signs shall only be used for planned unit developments.

(b) Such signs shall be no greater than 16 square feet.

(c) Such signs may not be lit.

(d) Such signs are allowed in open space.

(e) Such signs shall require approval from the Planning Board. The Board may require specific materials, landscaping, or other features.

(f) This subsection shall also apply to previously approved planned unit developments.

- G. Electronic message centers. All permitted electronic message centers (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 article:
- (1) 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.
 - (2) 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.
 - (3) 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 eight seconds.
 - (4) 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 subsection.
 - (5) The brightness shall not exceed 0.3 footcandle at night.
 - (6) Flashing or animated signs (including temporary interior window displays or banners) of red, amber, or green colored lights shall not be permitted.
- H. Flags. Each store front may be allowed one "open" or "welcome" flag that is positioned at a height so as not to impede the flow of pedestrians.
- I. Home occupation signs. See Article 24, Home Occupations. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**
- J. Marquee. No marquee shall be erected unless designed by a registered structural engineer and approved by the Director of Building, Zoning, and Licensing Services. It may extend over the sidewalk across the right-of-way to the curbline provided it has a

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minimum height above the sidewalk of 10 feet above the curb level and does not exceed five feet in height.

K. Off-premises signs. 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 five 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).

- (1) One freestanding sign per business directing people to the site. The sign may not exceed two square feet per side or four 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.
- (2) A real estate sign, one per premises, shall not exceed six square feet per side.
- (3) Yard sale signs (see Subsection V).
- (4) A sign for an office park or industrial park may be erected at the entrance to the park on an out parcel or within the road right-of-way, with the approval of the City Manager.
- (5) A promotional banner for a special event may be placed anywhere in the City, including across a public road, if approved by the City Manager.
- (6) Two seasonal agricultural directional signs not to exceed four 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.
- (7) One portable sign on the sidewalk in front of businesses in the Downtown Commercial District, Special Downtown Overlay District, and Neighborhood Mixed-Use District lying in density rings.
- (8) Road signs.

L. Political signs; 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:

- (1) Political advertising shall be defined in RSA 664:2, as amended. 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.

(2) Signature, identification, and lack of authorization shall be in accordance with RSA 664:14, as amended.

(3) Political signs shall not be erected in the City Adopt-A-Spots or the Rochester Common.

(4) Removal of signs shall be in accordance with RSA 664:17, as amended.

(5) 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.

(6) Political signs shall not require a sign permit. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**

M. Portable signs. Portable signs shall be permitted only in the Downtown Commercial District, Special Downtown Overlay District, and Neighborhood Mixed-Use District lying in density rings, subject to the following limitations:

(1) No more than one such sign may be displayed on any property, and the sign shall not exceed a height of four feet or an area of eight square feet per side.

(2) Any portable sign that is placed on a sidewalk:

(a) Shall be situated directly in front of the business(es) which is being advertised.

(b) Shall not block passage along the sidewalk, including passage for handicapped persons, and shall not present a safety hazard.

(3) May be displayed during business hours only.

(4) Appropriately placed to minimize appearance of clutter as determined by the Director of Building, Zoning, and Licensing Services.

(5) Only one sign per individual business.

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- N. Projecting signs. Signs are permitted in the following zones:
- (1) Multiple projecting signs shall be permitted on buildings having multiple occupants provided only that one projecting sign per occupant will be permitted.
 - (2) Projecting signs shall:
 - (a) Not overhang any public property or public right-of-way.
 - (b) Be attached to the side of a building with a decorative support bracket engineered to and designed to withstand wind loads.
 - (c) Extend from the side of the building no more than 11 feet.
 - (d) Be part of the wall sign calculations, which cumulative total, including both projecting and wall signs, shall not exceed 20% of the wall area to which the sign is attached.
 - (e) Maintain a clear vertical distance above any public sidewalk a minimum of 10 feet.
- O. Roadside farm stand signs. No more than two signs with a maximum combined total of 20 square feet are permitted.
- P. Real estate signs. Real estate signs shall be permitted in all zoning districts, subject to the following limitations:
- (1) Real estate signs located on a single residential lot shall be limited to one sign, not greater than eight square feet in area and six feet in height.
 - (2) Real estate signs may not be illuminated in residential districts.
 - (3) There may be no more than one sign per street frontage, except that on lots with more than 500 feet of street frontage a second sign may be placed.
 - (4) 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.
- Q. Sandwich board signs. See Subsection M, Portable signs.
- R. 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.

- S. Special promotion, event and grand opening signs. Signs temporarily displayed to advertise special promotions, events and grand openings shall be permitted for nonresidential uses and for all commercial and industrial districts subject to the following limitations:
 - (1) Such signs shall be limited to one sign per street front.
 - (2) Such signs may be displayed for not more than 30 consecutive days in any twelve-month period, and not more than 30 days in any calendar year. The signs shall be erected no more than five days prior to the event or grand opening and shall be removed not more than one day after the event or grand opening.
 - (3) The total area of all such signs shall not exceed 32 square feet.
- T. 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 the City Manager as to the size, location and method of erection. The City Manager 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.
- U. Window signs. Window signs shall be permitted for any nonresidential use in all Downtown Commercial and Industrial Districts, subject to the following limitations:
 - (1) 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.
- V. Yard sale signs.
 - (1) Yard sale signs may not be placed prior to three 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.
 - (2) They may not exceed six square feet and may not be illuminated.
 - (3) 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

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utility poles, are not a distraction to traffic, and comply with
§ 275-29.14, Requirements by zoning district.

ARTICLE II
Outdoor Dining Establishments
[Adopted 1-12-2016 (§ 26.10 of the 1995 Code)]

§ 80-14. Requests for use of City property.

Requests for use of City property for outdoor dining providing food and alcohol service shall be made in writing to the City Manager on an annual basis by February 1 with no expectation of continued year-to-year use of the City property on a continuing basis. Requests will only be accepted by businesses licensed to serve food to the public. In the event that a new business opens during the outdoor dining season and wishes to incorporate outdoor dining in its plans, an application will be allowed for the remainder of the dining season only.

§ 80-15. Site plans required.

Such requests shall include a dimensioned site plan of the existing conditions, including a depiction of public infrastructure such as curblines, light poles, bike racks, street trees, tree grates, manhole covers, meters, licensed A-frame signs, adjacent on-street parking and loading zones, adjacent accessible sidewalk curb cuts and the like. Such requests shall also include a dimensioned site plan depicting the proposed table/chair layout plan for outdoor dining, dimensioned routes of travel within the outdoor dining area and on the adjoining public sidewalk, as well as detail sheets for the proposed enclosure system, tables, chairs, lighting, trash receptacles, and the like. These plans will be reviewed by the Technical Review Group and suggestions forwarded to the City Manager.

§ 80-16. Area service agreement; season. [Amended 3-1-2016]

The terms and conditions of any such requests that are approved by the City Manager in any given year shall be described in an annual area service agreement, which includes a clear depiction of the area approved for outdoor dining use and the time period of approved use ("season"), with said area service agreement to be signed by the City Manager and the party or parties making the request. The season shall run from April 1 through October 31.

- A. Area service agreements shall not be assignable to other parties.
- B. Use of the area subject to the area service agreement (the "area") may be precluded, modified or made subject to any such terms and conditions as may be determined by the City Manager at any

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time during the season in order to accommodate special municipal events.

§ 80-17. Fee.

A minimum fee for the season of twenty-five dollars (\$25.) shall be required even if the size of the area subject to the agreement is less than 100 square feet. A fee of one dollar (\$1.) per square foot will be charged for the area subject to the agreement for all square feet above 100 square feet. The fee shall be due and payable to the City of Rochester prior to authorization to use the area.

§ 80-18. Restoration of area. [Amended 3-1-2016]

The area specified for outdoor dining use in the area service agreement shall be restored upon termination of the area service agreement at season's end. Specifically, at season's end, the enclosure system, tables, chairs and all other materials in their entirety shall be removed from the City-owned area with the area left in an unobstructed, undamaged, clean and sanitary condition at no cost to the City. Semi-permanent objects may remain in the area at season's end at the discretion of the City Manager.

§ 80-19. Indemnification; insurance.

Outdoor dining establishments on City property shall indemnify and hold harmless the City of Rochester and shall maintain and provide insurance of the types and amounts specified by the City's Legal Department and shall list the City as additional insured. A certificate of insurance documenting said types and amounts of insurance is to be submitted to the City's Legal Department before the start of the season.

§ 80-20. Damaging or obstructing public facilities.

Outdoor dining establishments shall not damage sidewalks, curbing, bike racks, street trees, light poles, trash containers, utilities or any other City amenities or infrastructure, or make the same inaccessible for public use (other than within the approved area) or maintenance purposes.

§ 80-21. Hours of operation.

Outdoor dining establishments may utilize the area for outdoor dining during their normal business hours, except that all tables within the area shall be cleared of all food and alcoholic beverages by 11:00 p.m. Monday through Saturday and by 10:00 p.m. on Sunday with

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no alcohol served within the area subsequent to 1/2 hour before the foregoing closure times.

§ 80-22. Alcoholic beverages.

- A. Outdoor dining establishments shall agree at all times to comply with all laws, rules and regulations of the New Hampshire State Liquor Commission and all other local, state and federal laws. Approval of the area service agreement by the State Liquor Commission is required. Alcoholic beverage violations shall be self-reported to the State Liquor Commission and the City Manager. See RSA 178:24 and 179:27.
- B. Outdoor dining establishments shall only serve alcoholic beverages to patrons who are seated at a table and who are ordering food with service at tables conducted by wait staff only.

§ 80-23. Accessibility.

Outdoor dining establishments will agree that they shall be solely responsible for compliance with the Americans with Disabilities Act (ADA).

§ 80-24. Suspension of area service agreement.

The area service agreement may be suspended at the sole discretion of the City on an administrative basis.

§ 80-25. Revocation of area service agreement.

The area service agreement may be revoked in its entirety, excepting for indemnity provisions, by the City Manager at any time.

§ 80-26. Site design standards for establishments with alcohol service.

Outdoor dining establishments with alcohol service should meet the following site design standards:

- A. Outdoor dining establishments shall be separated from the public pedestrian space on the adjacent municipal sidewalk by an enclosure system consisting of heavy-duty black decorative metal materials or equivalent as approved by the City Manager or his/her designee; special attention shall be paid to the method used to support the enclosure system in order to avoid damage to public property and ensure public safety; the minimum height of

the enclosure system shall be 30 inches and the maximum height shall be 36 inches.

- B. Outdoor dining establishments shall not have live entertainment of any type located outside, and no visual entertainment shall be situated on the inside of the building in such a manner that it is directed toward patrons in the outdoor dining area.
- C. Seating shall be appurtenant and contiguous to a doorway accessing the main restaurant facility with service provided within the area approved by the City Manager. Exceptions to this provision will be allowed consistent with New Hampshire State Liquor Commission approval for particular licensees. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**
- D. The internal dimensions and table/chair layout of the outdoor dining area must allow for the passage of customers and wait staff and shall, in any event, meet ADA requirements.
- E. Outdoor dining establishments must provide a five-foot radius clearance from the center of restaurant doorways (exterior), and doorways shall be kept clear at all times and a five-foot minimum clear pedestrian path in front of restaurant doorways (exterior) shall be maintained at all times.
- F. The enclosure system, tables and chairs shall be movable/nonpermanent.
- G. In all areas where outdoor dining establishments are allowed the width for the pedestrianway adjacent to the area shall, at a minimum, be three feet and, in any event, meet ADA requirements, but will depend on site conditions. The pedestrianway in both instances shall allow for and provide clear unimpeded passage and access along the area. The pedestrianway shall be located entirely on the public sidewalk and shall meet criteria that ensure pedestrian safety, usability and ADA compliance. In no event shall the area interfere with accessibility or public safety, including safe lines of sight for motor vehicles.
- H. Canopies over the outdoor dining areas shall not be allowed unless they are completely supported by hardware on the building structure, that is, there shall be no vertical supports in or around the outdoor dining. Table umbrellas are allowed, but must not extend beyond the area.

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- I. No object strictly related to advertising shall be allowed in the area.
- J. No improvements or personal property located within the area shall extend on or over any City property located outside the area.

§ 80-27. Rules and regulations.

Outdoor dining establishments shall agree at all times to comply with all local laws, rules, regulations and orders, including but not limited to the following:

- A. The Health Department shall approve outdoor food service operations and cleaning operations, with the area to be left in a clean and sanitary condition at all times, and no outdoor garbage containers will be permitted. The area shall be left in clean condition at close of business with all garbage removed in its entirety from the area, and any ground debris swept up, at close of daily business. No food prep, grilling, service windows, service counters, wait stations, or bus buckets shall be allowed in the area and no condiments, paper products or the like shall be stored on the tables in the area. The Health Department shall review/approve that kitchen facilities are sufficient to support additional seating.
- B. The Director of Buildings, Zoning, and Licensing Services shall review/approve that bathroom facilities are sufficient to support outdoor dining seating.
- C. Only decorative lighting shall be permitted.
- D. A place of assembly inspection and updated place of assembly permit shall be required from the Fire Department, and the Fire Department shall review/approve means of egress as part of the Technical Review Group process.

§ 80-28. Approval of agreement.

No area service agreement should be approved by the City Manager except in conformance with the foregoing.

§ 80-29. Other terms and conditions.

The above are policy guidelines that will serve as the basis for area service agreements, which may include other terms and conditions deemed by the City Manager to be in the public interest.

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§ 80-30. Number and location of establishments.

The number and location of outdoor dining establishments on City property shall be at the sole unfettered discretion of the City Manager acting in the public interest, and no entitlement is created by this policy for any party to have outdoor dining at any location.

§ 80-31. Use of property other than sidewalks. [Added 4-5-2016]

Use of City property, other than sidewalks, for outdoor dining as defined in this article and the terms of said use must be separately negotiated with the City outside of the above-delineated permitting process.

Amendments to Chapter 80 passed at the July 21, 2020 Special City Council Meeting**THE CITY OF ROCHESTER ORDAINS:**

That Chapter 80 of the General Ordinances of the City of Rochester and currently before the Rochester City Council, be amended as follows (additions in italics and deletions struck out):

§ 80-21 Hours of operation.

Outdoor dining establishments may utilize the area for outdoor dining during their normal business, except that all tables within the area shall be cleared of all food and alcoholic beverages by ~~11:00 p.m.~~ 1:00 a.m. Monday through ~~Saturday and by 10:00 _____ p.m. on~~ Sunday with no alcohol served within the area subsequent to ½ hour before the foregoing closure times.

The effective date of these amendments shall be upon passage.

THE CITY OF ROCHESTER ORDAINS:

That Chapter 80 of the General Ordinances of the City of Rochester and currently before the Rochester City Council, be amended as follows deleting section 80-31 in its entirety:

~~§ 80-31 Use of property other than sidewalks.~~

~~Use of City property, other than sidewalks, for outdoor dining as defined in this article and the terms of said use must be separately negotiated with the City outside of the above delineated permitting process.~~

The effective date of these amendments shall be upon passage.

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City Clerk's Office

§ 275-28.3. Noise.**A. General terms.**

- (1) No persistently loud or disruptive noise shall be permitted.
- (2) All noise that could be objectionable due to intermittence, beat frequency, or shrillness shall be appropriately muffled, mitigated, or terminated.
- (3) No external loudspeakers shall be permitted except for special events for which approval is granted by the Director of Building, Zoning, and Licensing Services or the Police Department, as appropriate.

B. Maximum decibels. The following standards apply to any steady noise, measured at the lot line:

Maximum Permitted Decibels*		
Zoning District	Day	Night
Residential	60	50
Commercial	65	55
Industrial	70	60

***Notes to table:**

- A. The Commercial District includes the Hospital Special District. The Industrial District includes the Airport Special District.
- B. Day includes the hours between 7:00 a.m. and 10:00 p.m., Monday through Friday, and 9:00 a.m. to 10:00 p.m. on Saturday and Sunday.
- C. Night includes the remaining hours.
- C. Measurement. The preferred method for measuring noise is with a sound-level meter meeting the standards of the American National Standards Institute [ANSI S1.4-1983 (R 2006)], American National Standard Specification for Sound-Level Meters, or as amended. The instrument should be set to the A-weighted response scale and the meter to the slow response. Measurements should be conducted in accordance with current ANSI guidelines for the measurements of sound.
- D. Reference information. The following table is provided for reference only.

Sample Sound Levels in Decibels	
Decibels	Activity
30	Whisper
40	Quiet room
50	Rain
60	Conversation, dishwasher
70	Busy traffic, vacuum
80	Alarm clock
90	Lawn mower
100	Snowmobile, chain saw

Source: New Hampshire Sunday News, July 7, 1996, from the American Speech-Language-Hearing Association.

- E. Exemptions; special exceptions. The following uses and activities shall be exempt from the provisions of this section:
- (1) Safety signals, warning devices, emergency relief valves, emergency generators, and other equipment when in operation due to an emergency, or testing or other planned operation.
 - (2) Unamplified human voices and crowd noises generated at gatherings open to the public.
 - (3) Power tools, including lawn mowers, snowblowers and chain saws, when used for the construction or maintenance of property (subject to any specific restrictions under this chapter or other applicable law or regulation).
 - (4) Music and entertainment uses for which the ZBA has granted a special exception to exceed the limits herein subject to appropriate conditions.