

Codes and Ordinances Committee

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



CODES AND ORDINANCES COMMITTEE

Of the Rochester City Council

Thursday, March 5, 2020

31 Wakefield Street, Rochester, NH

City Council Chambers

6:00 PM

Agenda

- 1. Call to Order**
- 2. Public Input**
- 3. Acceptance of the Minutes: September 5, 2019 P. 3**
- 4. Review of the City Council Rules of Order P. 9**
 - Proposed change to Rules of Order 4.12 P. 32**
- 5. Proposed Amendment to 7.26 Board of Health P. 31**
- 6. Other**
- 7. Adjournment**

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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

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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

ROCHESTER NEW HAMPSHIRE



2019 CITY COUNCIL RULES OF ORDER

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

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

**ARTICLE 1
CITY COUNCIL MEETINGS**

SECTION 1.1 REGULAR MEETINGS

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

SECTION 1.2 SPECIAL MEETINGS

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

SECTION 1.3 ABSENCE OR DISABILITY OF MAYOR, DEPUTY MAYOR

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

SECTION 1.4 REMOTE PARTICIPATION DURING COUNCIL AND BOARD MEETINGS

a) INTRODUCTION / PURPOSE

The City Council strongly encourages board members to be physically present for all board and committee meetings. The Council recognizes, however, that extenuating circumstances may occasionally prevent a member from being physically present at a meeting. Therefore, to promote full participation of board members while ensuring access and transparency for the public as required by NH RSA 91-A:2 Access to Governmental Records and Meetings, the Council authorizes remote participation in board meetings subject to the following procedures and requirements.

b) PERMISSIBLE REASONS FOR REMOTE PARTICIPATION

Remote participation is not to be used solely for a board member's convenience or to avoid attending a particular meeting in person. Any Board member who is unable to physically attend a meeting of the board may make arrangements to remotely participate in the meeting under the following conditions:

1. Personal illness or disability;
2. Out-of-town travel;
3. Unexpected lack of child-care;
4. Family member illness or emergency;
5. Weather conditions;
6. Military service;
7. Employment obligations; or
8. A scheduling conflict.

c) CONDITIONS / Authority

(State NH RSA 91-A:2):

III. A public body may, but is not required to, allow one or more members of the body to participate in a meeting by electronic or other means of communication for the benefit of the public and the governing body, subject to the provisions of this paragraph.

(a) A member of the public body may participate in a meeting other than by attendance in person at the location of the meeting only when such attendance is not reasonably practical. Any reason that such attendance is not reasonably practical shall be stated in the minutes of the meeting.

(b) Except in an emergency, a quorum of the public body shall be physically present at the location specified in the meeting notice as the location of the meeting. For purposes of this subparagraph, an "emergency" means that immediate action is imperative and the physical presence of a quorum is not reasonably practical within the period of time requiring action. The determination that an emergency exists shall be made by the chairman or presiding officer of the public body, and the facts upon which that determination is based shall be included in the minutes of the meeting.

(c) Each part of a meeting required to be open to the public shall be audible or otherwise discernable to the public at the location specified in the meeting notice as the location of the meeting. Each member participating electronically or otherwise must be able to simultaneously hear each other and speak to each other during the meeting, and shall be audible or otherwise discernable to the public in attendance at the meeting's location. Any member participating in such fashion shall identify the persons present in the location from which the member is participating. No meeting shall be conducted by electronic mail or any other form of communication that does not permit the public to hear, read, or otherwise discern meeting discussion contemporaneously at the meeting location specified in the meeting notice.

(d) Any meeting held pursuant to the terms of this paragraph shall comply with all of the requirements of this chapter relating to public meetings, and shall not circumvent the spirit and purpose of this chapter as expressed in RSA 91-A:1.

(e) A member participating in a meeting by the means described in this paragraph is deemed to be present at the meeting for purposes of voting. All votes taken during such a meeting shall be by roll call vote.

d) Additional Conditions

A board member considered present through remote participation will be permitted to vote on any action item at the meeting except:

Any item for which the member was not participating remotely during the entire discussion and deliberation of the matter preceding the vote; and

Any item that was being discussed when an interruption to the electronic communication occurred, if the board's discussion was not suspended during the interruption. A brief loss of simultaneous communication, such as a few seconds, will not disqualify the member from voting on the matter under discussion.

Per RSA 91-A:1 All votes taken during such a meeting shall be by roll call vote.

A board member may participate remotely in a closed session of the board provided the member provides assurance to the board that no other person is able to hear, see, or otherwise participate in the closed session from the remote location.

The City of Rochester staff will not be held liable for failed technology or things beyond our control that would interfere with the remote communication.

Board member wishing to engage in remote participation shall adhere to following procedures: section (d).

e) PROCEDURE FOR REMOTE PARTICIPATION

1. *With the exception of an emergency*, a member of the board who desires to participate in a meeting remotely shall notify the board chair at least one week in advance of the meeting.

2. At the time of this writing, because current mode of phone call in only allows one member at a time, remote participation will be on first come first serve basis, when criteria is met.

3. Meeting Chair will contact the City Manager's office as soon as possible and state they have allowed board member to participate remotely (state meeting date) based on criteria laid out in this document.
4. City Manager's office will send participant call in phone number along with a copy of this policy / procedure document and arrange tentative "test date" for phone call. City Manager's office shall notify Government Channel Coordinator.
5. Previous to the meeting, the Chair will inform board members of the request and intention to allow remote participation of such board member.
6. A test a few days prior to the meeting should be performed to ensure that the caller's device will suffice, and that they can hear on their device at their remote location. While not always possible, it is recommended a land line phone be used with external speaker.
7. The participant shall initiate the phone call in to designated phone number at 6:45pm eastern standard time or 15 minutes prior to the meeting start. Caller should be aware of not to be near televised or live streaming audio during the meeting.
8. The chair shall announce the remote participant after the Call to Order and follow suggested script: "Board member (name) is participating in this meeting by telephone. (name) are you there? (participant– "yes I am here") (name) was it reasonably impractical for you to be physically present at this meeting? (participant) – yes, it was impractical for me to be physically present)."
9. The meeting chair may decide how to address technical difficulties that arise when utilizing remote participation, but whenever possible, the chair should suspend discussion while reasonable efforts are made to correct any problem that interferes with a remote participant's ability to hear or be heard clearly by all persons present at the meeting location. If, however, the technical difficulties distract from or impede the orderly progress of the meeting, a majority of the members physically present may vote to end the remote participation.
9. A member participating remotely shall notify the chair if leaving the meeting before it is adjourned or rejoining the meeting after a period of absence.
10. All votes taken during such a meeting shall be by roll call.
11. Remote participant may partake in non-public and non-meetings sessions, but in most cases will require participant to end the call to Council Chambers, call into Council conference room, and call back into Council Chambers, if required to do so per voting reasons of Council rules of Order.
12. Participation by remote communication will be noted in the official board minutes. Any interruption to or discontinuation of the member's participation will also be noted in the minutes.
13. Any telephone costs associated with remote participation shall be borne by the remote participant.

SECTION 1.5 ORDER OF BUSINESS

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

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

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

SECTION 1.6 PUBLIC HEARINGS

Public Hearings: To receive citizen input and feedback on certain specific matters that have been placed on the meeting agenda for consideration and action by the City Council, Public Hearings will be scheduled and held as required by law and/or whenever referred for a public hearing by simple majority vote of Council Members present. Upon being referred by Council vote, Public Hearings will be noticed for and held during a subsequent Regular and/or Special Meeting or Committee Meeting. At the request of the presiding officer, Ordinances or Resolutions scheduled on an agenda for public hearing will be briefly introduced with appropriate explanations by staff.

Citizens will then have the opportunity to address the Council speaking to the specific item(s) subject to public hearing, subject to the following guidelines: [6/4/2013]

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

ARTICLE 2
DUTIES AND POWERS OF PRESIDING OFFICER

SECTION 2.1 PRESIDING OFFICER - DECORUM AND ORDER

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

SECTION 2.2 PRESIDING OFFICER - DECLARING VOTES

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

SECTION 2.3 PRESIDING OFFICER - ROLL CALL VOTES

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

SECTION 2.4 PRESIDING OFFICER - ORDER OF QUESTIONS

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

SECTION 2.5 DISPOSAL OF MOTIONS

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

SECTION 2.6 MOTION FOR ADJOURNMENT

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

SECTION 2.7 PRESIDING OFFICER - RECOGNIZING MEMBERS

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

SECTION 2.8 COMMITTEE APPOINTMENTS

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

SECTION 2.9 ROBERT'S RULES OF ORDER

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

ARTICLE 3
RIGHTS AND DUTIES OF MEMBERS

SECTION 3.1 COUNCIL MEMBER SPEAKING

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

SECTION 3.2 COUNCIL MEMBER IN DEBATE

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

SECTION 3.3 INTERRUPTION OF COUNCIL MEMBER

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

SECTION 3.4 COUNCIL MEMBER SPEAKING, LIMITATIONS

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

SECTION 3.5 PRECEDENCE OF MOTIONS

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

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

5. **TO REFER:** Requires a second; debatable.
6. **TO AMEND:** Requires a second; debatable.
7. **TO POSTPONE INDEFINITELY:** Requires a second; debatable.
8. **MAIN MOTION:** Requires a second; debatable.

SECTION 3.6 MOTION REDUCED TO WRITING

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

SECTION 3.7 VOTING ON MOTIONS, ABSTENTIONS

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

SECTION 3.8 MAYORAL VETO - EXERCISE AND VOTE TO OVERRIDE

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

SECTION 3.9 DIVISION OF A QUESTION

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

SECTION 3.10 READING OF A PAPER, OBJECTIONS

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

SECTION 3.11 SUSPENSION, AMENDMENT, AND REPEAL OF RULES

No standing Rule of Order of the Council shall be suspended unless two-thirds (2/3) of the members present shall consent thereto. Nor shall any Rule of Order be

repealed or amended without a motion therefore, made at a previous meeting, nor unless a majority of the whole City Council concur therein. The Rules of Order of the City Council shall be reaffirmed by the new Council following each municipal election. The Rules of the former Council shall not be binding.

SECTION 3.12 ATTENDANCE OF MEMBERS

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

ARTICLE 4
AGENDAS, COMMUNICATIONS, COMMITTEES,
REPORTS, RESOLUTIONS

SECTION 4.1 AGENDA PREPARATION

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

SECTION 4.2 MEMORIALS AND DOCUMENTS, PRESENTATION

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

SECTION 4.3 REPORTS AND PAPERS, LEGIBLY WRITTEN OR TYPED

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

SECTION 4.4 STANDING COMMITTEES

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

Finance:

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

Public Works and Buildings:

Shall consist of five (5) members.

Public Safety:

Shall consist of five (5) members.

Codes and Ordinances:

Shall consist of five (5) members.

Community Development:

Shall consist of five (5) members.

Appointments Review Committee:

Shall consist of five (5) members.

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

SECTION 4.5 SPECIAL COMMITTEES

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

SECTION 4.6 REMOVAL OF A COMMITTEE MEMBER

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

SECTION 4.7 PUBLIC INPUT AT WORKSHOP OR COMMITTEE MEETINGS

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

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

- i. Speakers shall be residents of the City of Rochester, property owners in the City of Rochester, and/or designated representatives of recognized civic organizations or businesses located and/or operating in the City of Rochester;
- ii. Speakers shall address their comments to the presiding officer and the Council as a body and not to any individual member;
- iii. Speakers shall first recite their name and address for the record, and, if applicable, the name and address of the civic organization and/or business they have been designated to represent;

- iv. Each speaker shall be provided a single opportunity for comment, limited to five (5) minutes with the five (5) minutes beginning after the obligatory statement of named and address by the speaker;
- v. Public Input shall not be a two-way dialogue between speaker(s), Council Member(s), and/or the City Manager, or administrative staff; with the exception of Committee meetings when allowed by the Chair; and
- vi. The presiding officer shall preserve strict order and decorum for and by all speakers appearing before the Council.

SECTION 4.8 SITTING OF COMMITTEE DURING COUNCIL MEETINGS

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

SECTION 4.9 COMMITTEE REPORTS

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

SECTION 4.10 COMMITTEE OF THE WHOLE, COUNCIL RULES

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

SECTION 4.11 AUTHORIZATION OF EXPENDITURES, CITY DEBT

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

SECTION 4.12 ORDINANCES AND RESOLUTIONS

Every ordinance, and all resolutions imposing penalties or authorizing the expenditure of money when introduced, shall be written and shall pass through the following stages before they shall be considered as having received the final action of the Council, to wit: First reading for information, and if not rejected or otherwise disposed of, the City Attorney and City Clerk, shall carefully examine them to see that they are in technical form and that their provisions are not repugnant to the Laws and Constitution of the State of New Hampshire or to the Charter and Ordinances of the City of Rochester: They shall then be referred by the chair to the appropriate Council committee for review, public hearing (if required) and discussion. All committees shall make a report for final action to the Council. After such report, the question shall be, "Shall they be read a second time?" If not then rejected, the question shall be on the passage of the same to be enrolled. Upon an affirmative vote, the chair shall refer such ordinance or resolution to the Codes and Ordinances Committee for review as set forth in Section 4.13. and

make a report of them to the Council, at which time they shall be deemed to be enrolled. No ordinance or resolution as above referred shall be amended except on its second reading. All other resolutions shall have one reading before they shall finally be passed by the Council.

SECTION 4.13 CODES AND ORDINANCES COMMITTEE, ORDINANCE ENROLLMENT

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

SECTION 4.14 ELECTIONS BY BALLOT

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

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

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

SECTION 4.15 RECORD OF VOTES AND PROCEEDINGS

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

SECTION 4.16 FUNCTIONS OF FINANCE COMMITTEE

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

SECTION 4.17 FUNCTIONS OF CODES AND ORDINANCES COMMITTEE

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

SECTION 4.18 FUNCTIONS OF PUBLIC WORKS AND BUILDING COMMITTEE

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

SECTION 4.19 FUNCTIONS OF PUBLIC SAFETY COMMITTEE

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

SECTION 4.20 FUNCTIONS OF COMMUNITY DEVELOPMENT COMMITTEE

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

SECTION 4.21 FUNCTIONS OF THE APPOINTMENTS REVIEW COMMITTEE

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

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

SECTION 4.22 INAUGURAL MEETING. ORDER EXERCISES

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

1. Call to Order
2. Pledge of Allegiance
3. Prayer
4. Roll Call of Councilors-Elect
5. Mayor takes Oath of Office
6. Councilors-Elect take Oath of Office
7. Roll Call of School Board Members-Elect
8. School Board Members-Elect take Oath of Office

9. Roll Call of Police Commissioners-Elect
10. Police Commissioner-Elect takes Oath of Office
11. Election of Deputy Mayor
12. Inaugural Address
13. Old and/or New Business

SECTION 4.23 COUNCIL COMMUNICATIONS

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

SECTION 4.24 MINUTES

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

SECTION 4.25 CANCELLATION OR POSTPONEMENT OF MEETING(S)

- (a) The Mayor, Deputy Mayor, and City Manager shall confer and determine if insufficient business or other non-urgent matter warrants postponement or cancellation of a scheduled Council meeting.
- (b) The Mayor, Deputy Mayor, and City Manager shall confer and determine if inclement weather or other emergency warrants postponement or cancellation of a scheduled Council meeting.
- (c) All such decisions regarding postponement or cancellation shall be made no later than 3:00 PM on the date of the scheduled meeting.
- (d) The City Clerk will notify Council members by both email and telephone upon determination of a meeting cancellation or postponement.
- (e) The City Clerk shall ensure that notification of any such cancellation or postponement shall immediately post on the City's website and Face book page.

APPENDIX

REVISED AND ADOPTED BY CITY COUNCIL FEBRUARY 6, 1990 [1]
 AMENDED AND REAFFIRMED BY CITY COUNCIL JANUARY 14, 1992 [2]
 REAFFIRMED BY CITY COUNCIL JANUARY 11, 1994 [3]
 AMENDED BY CITY COUNCIL MARCH 1, 1994 [4]
 AMENDED AND REAFFIRMED BY CITY COUNCIL JANUARY 9, 1996 [5]
 AMENDED AND ADOPTED BY CITY COUNCIL FEBRUARY 3, 1998 [6]
 AMENDED AND ADOPTED BY CITY COUNCIL FEBRUARY 5, 2002 [7]
 AMENDED AND ADOPTED BY CITY COUNCIL MARCH 5, 2002 [8]
 AMENDED AND ADOPTED BY CITY COUNCIL FEBRUARY 3, 2004 [9]
 AMENDED AND ADOPTED BY CITY COUNCIL JANUARY 10, 2006 [10]
 AMENDED AND ADOPTED BY CITY COUNCIL JANUARY 15, 2008 [11]
 AMENDED AND ADOPTED BY CITY COUNCIL February 2, 2010 [12]
 AMENDED AND ADOPTED BY CITY COUNCIL February 7, 2012 (1.4) (3.1) (3.5) and (4.1) [13]
 AMENDED AND ADOPTED BY CITY COUNCIL June 4, 2013 (1.3) (1.5) and (4.7) [14]
 AMENDED AND ADOPTED BY CITY COUNCIL March 4, 2014 (4.21) and (4.14) [15]
 AMENDED AND ADOPTED BY CITY COUNCIL March 1, 2016 (1.4) (3.8) (4.1) and (4.7) [16]
 AMENDED AND ADOPTED BY CITY COUNCIL March 6, 2018 (1.4 12&13), (4.25) [17]
 AMENDED AND ADOPTED BY CITY COUNCIL October 2, 2018 (Added 1.4, which moved the order of 1.5 & 1.6) [18]

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City Clerk's Office

§ 7-26 **Board of Health.**

A.

The composition of the Board of Health shall be as provided in Section 21 of the Rochester City Charter. The three Board members, other than the City Physician and the City Health Officer, shall be appointed by the City Manager. ~~for three year terms, with said terms so arranged that one of the three appointed members, other than the City Physician or the City Health Officer, shall be appointed each year in January. Vacancies in these three appointed positions shall be filled by the City Manager for the unexpired term.~~

B.

The Board of Health shall meet annually and at other times as the Board or the Health Officer deems necessary.

The Board of Health shall perform the following functions:

(1)

Formulate general policies regarding public health in the City of Rochester.

(2)

Advise the Health Officer on all public health matters.

[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

(3)

Conduct public hearings and perform any quasi-judicial functions which may be required by law or necessitated by the operation of the Health Department.

(4)

Make all rules and regulations relating to the public health as in its judgment the health and safety of the people may require.

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.