

Codes and Ordinances Committee

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



Others Present

Terence O'Rourke, City Attorney
Jim Grant, Director BZLS

CODES AND ORDINANCES COMMITTEE

Of the Rochester City Council

Thursday, March 4, 2021

31 Wakefield Street, Rochester, NH

Meeting conducted remotely

6:00 PM

Minutes

1. Call to Order

Vice Chair Lauterborn called the Codes & Ordinances meeting to order at 6:00 PM and read the following preamble:

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).*

d.) **Roll Call:** Please note that all votes that are taken during this meeting shall be done by Roll Call vote. Let's start the meeting by taking a Roll Call attendance. When each member states their name (and/or ward), also please state whether there is anyone in the room with you during this meeting, which is required under the Right-to-Know law. (Additionally, Council members are required to state their name and ward each time they wish to speak.)

Deputy City Clerk Cassie Givara took the roll call. The following councilors were present and indicated that they were alone in the location from which they were connecting remotely: Councilors Abbott, Hainey, and Lauterborn. Councilors Lachapelle and Rice were both excused.

2. Public Input

There was no email or voicemail correspondence received for the meeting, nor was there anyone present at City Hall to speak.

3. Acceptance of the Minutes

3.1 February 4, 2021 *motion to approve*

Councilor Hainey **MOVED** to **APPROVE** the minutes of the February 4, 2021 Codes & Ordinances meeting. Councilor Abbott seconded the motion. The **MOTION CARRIED** by a 3-0 roll call vote with Councilors Hainey, Lauterborn, and Abbott all voting in favor.

4. Code of Ordinances Review

4.1 Building, Zoning, and Licensing Services

4.1.1 Chapter 22: Amusements & Entertainment (*Addendum A*)

Terence O'Rourke, City Attorney, referred the committee to section 22-1 and indicated that the majority of the section and its references were outdated. It is being suggested to strike the subsection in its entirety.

Attorney O'Rourke referenced section 22-2 in regards to boxing and wrestling exhibitions. He clarified that these are required by the State to license for these events, so the ordinance cannot currently be changed.

In section 22-3, the \$2 fee for public dances and parades is suggested to be removed since that fee has never been collected

Section 22-4 regarding licensing for Bowling Alleys and Billiards Tables, as well as section 22-5 regarding Pinball and Video Games & Machines, are suggested to be stricken in their entirety. Attorney O'Rourke stated that these subsections and the related subsections following may have originated from concern over gambling associated with these types of establishments. He said there are State statutes which regulate gambling and the concerns have since been alleviated. This ordinance as it stands is forcing establishments to pay money to have video games. Attorney O'Rourke stated that upon review, the ordinance did not make sense for modern day use and the suggestion is to strike out articles 22-4 through 22-17 in their entirety.

Sections 22-18 and 22-19 have been updated to change the terminology from "article" to the correct term which is "Chapter."

Councilor Lauterborn referred to the beginning of Chapter 22 under "General References" which has a reference to "Chapter 11: Adult-Oriented Establishments" which was removed in its entirety at a prior meeting and thus should have this referenced removed.

Councilor Hainey inquired if local dance studios would be able to still hold performances at outdoor events under Chapter 22-3. Attorney O'Rourke stated that it was just the fee which had been waived, but the performances are permissible; the City does not require individual acts performing at an event to apply for licensing.

Councilor Abbott **MOVED** to send the recommended amendments to Chapter 22 as presented by City Staff to full Council. Councilor Hainey seconded the motion. The **MOTION CARRIED** by a 3 – 0 roll call vote with Councilors Lauterborn, Abbott, and Hainey voting in favor.

4.1.2 Chapter 110: Junk & Secondhand Dealers (*Addendum B*)

Attorney O'Rourke directed the committee to section 110-3 where wording has been added to require applicants to submit an up-to-date criminal history to the licensing officer. He stated that the police department had indicated that the licensing agreement between the police department and the FBI does not allow the City to run criminal history checks, which was past practice. This

wording change will require the applicant to have their own criminal history check performed and to provide this information to the City.

Councilor Abbott **MOVED** to send the recommended amendments to Chapter 110: Junk & Secondhand Dealers as presented by City Staff to full Council. Councilor Hainey seconded the motion. The **MOTION CARRIED** by a 3 – 0 roll call vote with Councilors Hainey, Abbott, and Lauterborn voting in favor.

4.1.3 Chapter 162: Pawnbrokers (*Addendum C*)

Attorney O'Rourke stated that the rules and regulations which govern pawnbrokers are set forth in NH RSA 398 and the city ordinance states that. However, although the City has always collected fees and issues licenses for pawnbrokers, the process had not been previously laid out in the ordinance.

Councilor Abbott **MOVED** to send the recommended amendments to Chapter 162: Pawnbrokers as presented by City Staff to full Council. Councilor Hainey seconded the motion. The **MOTION CARRIED** by a 3 – 0 roll call vote with Councilors Abbott, Lauterborn, and Hainey all voting in favor.

4.1.4 Chapters 40: Building Construction & Property Maintenance (*Addendum D*)

Jim Grant, Director of Building, Zoning and Licensing, directed the committee to section 40-5 and explained that the suggested changes were just to update the references to the 2006 International Property Maintenance Code to the 2015 version. There was also an update within the section to reference the correct state RSA for the building code.

Director Grant explained the suggested strikeout of the entirety of section 40-13 "Fire Limits Established" which no longer apply to modern day fire safety and building practices.

Director Grant referenced the addition of 40-15 (1) e, which added window replacement as an item which would be charged the minimum permit fee of \$10 along with a \$10 application fee. Mr. Grant clarified that the permit is already required by the building code, the addition of this wording to the ordinance serves to reduce the price for these permits and charge a flat fee. Mr. detailed the reasons that these permits are necessary. Councilor Hainey reported concerns from constituents with the delay they have experienced in having inspections completed. Mr. Grant stated that there have not been large delays and, in fact, with COVID most inspections are done online.

Councilor Abbott inquired if the adoption of the 2015 Property Maintenance Code under the building code would require a public hearing. Director Grant stated that the property maintenance code could be adopted by reference to the State RSA 48(a). Councilor Abbott stated that the reference in the ordinance is to RSA 47:22 which leads back to the building code; he stated that he believes a public hearing would be required in this circumstance, but he suggested the City could look into adopting the code under RSA 48-A which could not require a public hearing. Mr. Grant and Attorney O'Rourke stated that they would have to look into this further to determine if it could

be adopted in this manner without a public hearing process. Councilor Abbott suggested doing a thorough review to ensure that it fits for Rochester; as it stands, he stated some of the verbiage conflicts with State statutes and the City's zoning ordinance. Attorney O'Rourke said that 48-A and 47-17 can be added as the granting authority to avoid the need for public hearing.

It was decided that the remainder of the changes to Chapter 40 would be discussed a future meeting after the suggested changes to RSA references had been made and the appropriately referenced set of standards are being enforced within the ordinances. Amendments to Chapter 40 were held in committee.

**5. Discussion: Amendment to the General Ordinances of the City of Rochester
Creating Chapter 41, Disorderly Residence**

Councilor Hainey stated that she did not have anything new to report, but she is still working on this with the police department staff and would like to carry the item over as a discussion for the April Codes meeting.

6. Other

No discussion.

7. Adjournment

Vice Chair Lauterborn **ADJOURNED** the meeting at 6:40 PM.

Respectfully Submitted,

Cassie Givara
Deputy City Clerk

Amendments to Chapter 22 of the General Ordinances of the City of Rochester

THE CITY OF ROCHESTER ORDAINS:

That Chapter 22 of the General Ordinances of the City of Rochester and currently before the Rochester City Council, be amended as follows (deletions ~~struck out~~ additions in **RED**):

Chapter 22

Amusements and Entertainment

[HISTORY: Adopted by the City of Rochester as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

~~Adult-oriented establishments — See Ch. 11.~~

Parks, recreation and arena — See Ch. 158.

~~Article I~~ **Theaters**

~~[Adopted 6-6-1995 as § 26.2 of the 1995 Code]~~

~~§ 22-1 **Blanket licenses; fees.**~~

~~The Licensing Board may grant blanket licenses to theaters and in such case the licensee shall pay in advance the following fees:~~

~~A. For the public showing of moving pictures, fifty dollars (\$50.) for the first three months and twenty dollars (\$20.) for every three months thereafter.~~

~~B. For exhibitions, vaudeville, entertainment, and presentations other than moving pictures or in addition to moving pictures, one hundred dollars (\$100.) for the first three months and seventy-five dollars (\$75.) for every three months thereafter; provided, however, that if a licensee has paid a fee for a license for a motion picture, the fee for occasional exhibitions, vaudeville, entertainment and presentations shall only be such sum in addition to a motion picture fee as the Board may deem just and reasonable, but the fee for a license to exhibit in any hall shall not exceed fifty dollars (\$50.).~~

Article II **Boxing and Wrestling Exhibitions**

[Adopted 6-6-1995 as § 26.5 of the 1995 Code]

§ 22-2 Exhibitions authorized.

[Amended 3-5-2019]

The holding of boxing and/or wrestling exhibitions or bouts within the City of Rochester, under license issued by the New Hampshire Boxing and Wrestling Commission and permit issued by the Licensing Board of the City of Rochester, is hereby permitted and authorized, subject to the provisions of the statutes of the State of New Hampshire relating to athletic exhibitions. No permit for the holding of boxing and/or wrestling

exhibitions or bouts within the City of Rochester shall be issued by the Licensing Board unless the place for holding such exhibition or bout shall have been approved by majority vote of the City Council. After issuance by the Licensing Board, the City Council may revoke or suspend said permit after hearing for any cause which the Council may deem sufficient. The fee for such permit shall be twenty-five dollars (\$25.) per day.

Article III

Public Dances, Circuses and Parades

[Adopted 6-6-1995 as § 26.6 of the 1995 Code]

§ 22-3 License required.
[Amended 3-5-2019]

Unless a license therefor shall first have been obtained from the Licensing Board, no person shall conduct a public dance, circus or carnival, theatrical or dramatic representation, parade or procession upon any public street or way, and no open air public meeting upon any ground abutting a public street or way or any party or gathering on private property which party or gathering is open to the general public. ~~The fee for such license shall be two dollars (\$2.).~~

~~Article IV~~

~~Bowling Alleys and Billiard Tables~~

~~**[Adopted 6-6-1995 as § 26.8 of the 1995 Code]**~~

~~**§ 22-4 Licensing.**~~

~~Bowling alleys, billiard tables and pool tables shall be licensed by the Licensing Board in accordance with the procedures and fees established in RSA 286 as it is now constituted and as it may from time to time be amended.~~

~~Article V~~

~~Pinball and Video Games and Machines~~

~~**[Adopted 6-6-1995 as Ch. 27 of the 1995 Code]**~~

~~**§ 22-5 Definitions.**~~

~~As used in this article, the following terms shall have the meanings indicated:~~

~~**MECHANICAL AMUSEMENT DEVICE**~~

~~Any machine which, upon insertion of a coin, slug, token, plate or disc, may be operated by the public generally for use as a game, entertainment or amusement, whether or not registering a score, but shall not include jukeboxes. It shall include, but not be limited to, such devices as marble machines, pinball machines, video games, skill ball, mechanical grab machines, and all games, operations, and transactions similar thereto under whatever name they may be indicated.~~

~~**[Amended 3-5-2019]**~~

~~**PERSON, FIRM, CORPORATION or ASSOCIATION**~~

~~Includes the following: any person, firm, corporation, or association in whose place of business any such machine is placed for use by the public, and the person, firm, corporation, or association having control over such machine.~~

~~§ 22-6 Gambling devices not permitted.~~

~~Nothing in this article shall in any way be construed to authorize or license or permit any gambling devices whatsoever, or any mechanism that has been judicially determined to be a gambling device, or in any way contrary to law.~~

~~§ 22-7 License required.~~

~~{Amended 3-5-2019}~~

~~Any person, firm, corporation, or association displaying for public patronage any mechanical amusement device shall obtain a license for each such mechanical amusement device from the Licensing Board of the City of Rochester. Application for such license shall be made upon a form to be supplied by the Licensing Board for that purpose. No license shall be issued to any applicant unless he/she shall be 18 years of age and a citizen of the United States and of good moral character. No license shall be issued to any applicant until after the Chief of Police has approved the application.~~

~~§ 22-8 Application for license.~~

~~The application for such license shall contain the following information:~~

- ~~A. Name and address of the applicant and his/her age, date and place of birth. If the applicant is a naturalized citizen, he/she shall also give satisfactory proof of naturalization.~~
- ~~B. Prior criminal convictions of applicant, if any.~~
- ~~C. Place where machine or device is to be displayed or operated and the business conducted at that place.~~
- ~~D. Description of machine to be covered by license, mechanical features, name of manufacturer, and serial number.~~
- ~~E. Signed "release of information authorization" form authorizing the Rochester Police Department to conduct a criminal record check of the applicant and authorizing individuals to supply information to the Rochester Police Department in connection with such record check.~~

~~§ 22-9 Inspection.~~

~~The Chief of Police shall investigate wherein it is proposed to operate such machine and ascertain if the applicant is a person of good moral character.~~

~~§ 22-10 License fees.~~

~~{Amended 12-3-1997}~~

~~Every applicant before being granted a license shall pay an annual nonrefundable application fee of ten dollars (\$10.) per machine for which a license is sought. Upon approval of an application, every applicant shall pay an annual license fee of fifty dollars (\$50.) per machine for the privilege of operation, or maintaining for operation, a mechanical amusement device as defined in § 22-5 above; provided, however, that with respect to any machine for which a license is sought under the provisions of this section on or after July 1 of any calendar year and for which machine no license has been issued under the provisions of this article since January 1 of the preceding calendar year, the license fee for such machine for the balance of such year shall be twenty five dollars (\$25.). Each license shall expire at 12:00 midnight, December 31, of the year in which such license is issued.~~

~~§ 22-11 Display of license.~~

~~The license or licenses herein provided for shall be posted permanently and conspicuously at the location of~~

the machine in the premises wherein the device is to be operated or maintained to be operated.

~~§ 22-12 Transfer of license.~~

- A. ~~Such license may be transferred from one machine or device to another similar machine, in the same place of business, upon application to the Chief of Police to such effect and the giving of a description and the serial number of the new machine or device as described in § 22-8D. Not more than one machine shall be operated under one license, and the applicant or licensee shall be required to secure a license for each and every machine displayed or operated.~~
- B. ~~If the licensee shall move his/her place of business to another location within the City of Rochester, the license may be transferred to such new location upon application to the Chief of Police, giving the street and number of the new location. The new location shall be approved by the Chief of Police in the same manner as provided in § 22-9 of this article.~~
- C. ~~A license shall not be transferable from person to person and shall be usable only at the place and by the person designated in the license except as designated in Subsections A and B of this section.~~

~~§ 22-13 Hours of operation by minors.~~

~~{Amended 3-5-2019}~~

~~No person, firm, corporation, or association holding a license under this article shall permit any person under 18 years of age and over five years of age to play or operate any mechanical amusement device as defined in § 22-5 of this article during normal school hours on any day in which the Rochester public schools are in session, or permit any minor under the age of 16 years to play or operate any such mechanical amusement device after 9:00 p.m. unless accompanied by a parent, guardian or other suitable person.~~

~~§ 22-14 False representation of age.~~

~~A minor who falsely represents his/her age for the purpose of operating such mechanical amusement device as defined in § 22-5 of this article shall be fined not more than one hundred dollars (\$100.). The owner shall have the right to request said minor to exhibit his birth certificate or other proof of age.~~

~~§ 22-15 Revocation of license.~~

~~{Amended 3-5-2019}~~

~~Every license issued hereunder may be revoked in the event the licensee, directly or indirectly, permits the operation of any mechanical amusement device contrary to the provisions of this article or other ordinances of the City of Rochester or the laws of the State of New Hampshire. The license may be revoked by the Licensing Board by a written notice to the licensee, which notice shall specify the ordinances or law violations with which the licensee is charged.~~

~~§ 22-16 Appeals.~~

~~Any licensee may, by written notice filed with the City Clerk within seven days of the refusal of the Licensing Board to grant him/her a license or of the revocation of a license, appeal to the City Council at which appeal hearing the licensee may present witnesses and submit evidence on his/her own behalf.~~

~~§ 22-17 Seizure and destruction of machine.~~

~~{Amended 3-5-2019}~~

~~If the Chief of Police shall have reason to believe any mechanical amusement device is used as a gambling device, such machine may be seized by the police and impounded, and if, upon trial of the exhibitor for allowing it to be used as a gambling device, said exhibitor is found guilty, such machine shall be destroyed by the police.~~

§ 22-18 Violations and penalties.

Any person, firm, corporation, or association violating any of the provisions of this ~~article~~ **Chapter**, in addition to the revocation of his/her license, shall be liable to a fine or penalty of not more than one hundred dollars (\$100.) for each offense.

§ 22-19 Severability.

Each provision of this ~~article~~ **Chapter** shall be deemed independent of all other provisions therein, and if any provision of this ~~article~~ **Chapter** be declared invalid, all other provisions thereof shall remain valid and enforceable.

Amendments effective upon passage.

Deletions are show as ~~striketroughs~~ and Additions are in **red**

Chapter 110

Junk and Secondhand Dealers

[HISTORY: Adopted by the City of Rochester 6-6-1995 as § 26.4 and Ch. 34 of the 1995 Code; amended 5-1-2007. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Pawnbrokers — See Ch. **162**.

Peddling and soliciting — See Ch. **171**.

Zoning — See Ch. **275**.

§ 110-1 **Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

JUNK DEALER

A person, firm or corporation engaged in the purchase, sale or barter of old iron, steel, chain, aluminum, brass, copper, tin, lead or other base metals, belting, wastepaper, old rope, old bags, bagging barrels, piping, rubber, glass, empty bottles and jugs of all kinds and quantities of less than one gross, and all other articles discarded or no longer used as manufactured articles composed of any one or more of the materials hereinbefore mentioned.

SECONDHAND DEALER

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

§ 110-2 **License required.**

[Amended 10-15-2013]

No person, firm or corporation shall engage in the business of junk dealer or secondhand dealer as herein defined unless licensed therefor by the Licensing Officer who shall be the Director of Building, Zoning, and Licensing Services.

§ 110-3 **Procedure for issuance of license.**

[Amended 2-3-2015; 6-2-2015]

A. Formal application required. Applications for licenses shall be made to the Licensing Officer. The

application shall:

- (1) Form of application. Be a written statement upon forms provided by the Licensing Officer; such forms shall include such affidavits to be sworn to by the applicant before a notary public or justice of the peace of this state as the Licensing Officer shall deem necessary.
 - (2) Contents of application. Require the disclosure of any information which the Licensing Officer shall find to be reasonably necessary to the fair administration of this chapter. **This shall always include the requirement of providing an up-to-date Criminal History to the Licensing Officer.**
 - (3) Payment of fees. The application shall be accompanied by the full amount of fees chargeable for such license. The fee for a junk dealer's license or secondhand dealer's license or any renewal thereof granted under the provisions of RSA 322 shall be fifty dollars (\$50.) a year, payable in advance. **[Amended 3-5-2019]**
- B. Renewal of license procedure. The applicant for renewal of a license shall submit an application to the Licensing Officer. The application shall:
- (1) Form of application. Be a written statement upon forms provided by the Licensing Officer; such forms shall include such affidavits to be sworn to by the applicant before a notary public or justice of the peace of this state as the Licensing Officer shall deem necessary.
 - (2) Contents of application. Require the disclosure of any information which the Licensing Officer shall find to be reasonably necessary to the fair administration of this chapter and the disclosure of such information concerning the applicant's conduct and operation of the licensed activity during the preceding licensed period as is reasonably necessary to the determination by the Licensing Officer of the applicant's eligibility for a renewal license. **This shall always include the requirement of providing an up-to-date Criminal History to the Licensing Officer.**
- C. Fitness investigation. Upon receipt of any license application or application for license renewal, the Licensing Officer shall forward said application to the Chief of Police who shall cause an investigation to be made of the fitness of the applicant to engage in the business of a junk dealer or secondhand dealer and report his/her findings to the Licensing Officer prior to the Licensing Officer's acting upon said application.
- D. Notice. The Licensing Officer shall notify any applicant of the acceptance or rejection of his/her application and shall, upon his/her refusal of any license, state in writing the reasons therefor and deliver them to the applicant.
- E. Non-approval of license. The Licensing Officer shall, upon disapproving any application submitted under the provisions of this chapter, refund to the applicant all fees paid in advance, provided the applicant is not otherwise indebted to the City.
- F. Compliance pending legal action. When the issuance of a license is denied and any action is instituted by the applicant to compel its issuance, such applicant shall not engage in the activity for which the license was refused unless a license is issued to him/her pursuant to a judgment ordering the same.

§ 110-4 Right of appeal.
[Amended 2-3-2015; 6-2-2015]

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

- A. Contents of appeal. The appeal shall set out a copy of the order or decision appealed from and shall include a statement of facts relied upon to void such order together with any defenses, legal objections or explanations which the appellant wishes the Board to consider. **[Amended 3-5-2019]**
- B. Notification of Licensing Officer. At the time of filing the appeal, a copy thereof shall be filed by the appellant with the Licensing Officer.
- C. Hearing. The City Manager shall fix a time and place for hearing the appeal and shall serve a written notice upon the appellant informing him/her thereof. The City Manager shall also give such notice to the Licensing Officer and the officer shall be entitled to appear to defend such order.
- D. Effect of decision. The findings of the Licensing Board shall be served upon the appellant as required herein.

§ 110-5 License expiration and revocation.

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

§ 110-6 Purchases from minors.

No junk dealer or secondhand dealer shall, directly or indirectly, either purchase or receive, by way of barter or exchange, any of the articles aforesaid of a minor under the age of 18 years, knowing or having reason to believe him/her to be such, except when said minor shall be accompanied by a parent or legal guardian who shall sign the transaction record in person before said dealer.

§ 110-7 Records.
[Amended 10-15-2013]

- A. Secondhand dealers. Every secondhand dealer, upon acquisition of any article, either by purchase or exchange, enumerated in the definition of "secondhand dealer" in § **110-1** hereof, shall prepare and keep a written record of the transaction stating the full name, address, month, day and year when the transaction took place, and a full, accurate, and detailed description of each article so purchased or exchanged, with the price paid therefor, and cause said record to be signed by the seller in person. A copy of said record shall be available for inspection by any Rochester police officer or the Rochester Director of the Building, Zoning, and Licensing Services Department at any and all times.
- B. Junk dealers. Every junk dealer, upon the acquisition of any items enumerated in the definition of "junk dealer" in § **110-1** hereof, shall keep a permanent record of such transactions which shall include a full, accurate, and detailed description of the item with the full name and address of the seller, together with the registration number of any vehicle used by said seller in delivery of said items and the month, day and year of said transaction. A copy of said record shall be available for inspection by any Rochester police officer or the Rochester Director of the Building, Zoning, and Licensing Services Department at any and all times.

§ 110-8 Exclusions.

Specifically excluded from the provisions of this chapter are the following:

- A. Antique dealers.
- B. Purchases from private residences.
- C. Wearing apparel stores.

§ 110-9 Violations and penalties.

Any person, firm, corporation or association violating any of the provisions of this chapter, in addition to the revocation of his/her or its license, shall be liable to a fine or penalty of not more than one hundred dollars (\$100.) for each offense.

§ 110-10 Severability.

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

Deletions are show as ~~strike throughs~~ and Additions are in red

Chapter 162

Pawnbrokers

[HISTORY: Adopted by the City of Rochester 6-6-1995 as § 26.3 of the 1995 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Junk and secondhand dealers — See Ch. 110.

§ 162-1 **Pawnbroker's license.**

The provisions of RSA 398 relative to pawnbrokers are hereby accepted. A pawnbroker's license shall designate the place where the licensee may carry on his/her business and the licensee shall not carry on said business at any other location within the City. The fee for a pawnbroker's license or any renewal thereof shall be fifty dollars (\$50.) a year, payable in advance. **License applications shall be processed in accordance with the procedures established for the issuance of Junk and Second Hand Dealer Licenses established in Chapter 110 of this Code.**

Amendments to Chapter 40 of the General Ordinances of the City of Rochester

THE CITY OF ROCHESTER ORDAINS:

That Chapter 40 of the General Ordinances of the City of Rochester and currently before the Rochester City Council, be amended as follows (deletions ~~struck out~~ additions in **RED**):

Chapter 40

Building Construction and Property Maintenance

[HISTORY: Adopted by the City of Rochester 6-6-1995 as Ch. 40 of the 1995 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Fires and fire safety — See Ch. 75.

Health and sanitation — See Ch. 94.

Nuisances — See Ch. 149.

Sewers — See Ch. 200.

Stormwater management and erosion control — See Ch. 218.

Water — See Ch. 260.

Zoning — See Ch. 275.

§ 40-1 Statutory authority.

The provisions of New Hampshire Revised Statutes Annotated Chapter 673, as amended, pertaining to an inspector of buildings, building plans, regulations, and appeal are hereby adopted.

§ 40-2 Building Code Board of Appeals.

The power of a Building Code Board of Appeals in Chapter 673 of the New Hampshire Revised Statutes Annotated shall be vested in the Rochester Zoning Board of Adjustment.

§ 40-3 Recognition and adoption of State Building Code and State Fire Code.

[Amended 4-19-2005]

The City of Rochester hereby recognizes that the State Building Code under RSA 155-A and the State Fire Code under RSA 153 are applicable within the City of Rochester and for enforcement purposes adopts the provisions of the same.

§ 40-4 Department of Building, Zoning, and Licensing Services.

[Amended 4-19-2005; 10-15-2013]

For enforcement purposes by the City of Rochester, all references in the State Building Code under RSA 155-A, or in any applicable successor code, to the "department of building safety" shall be deemed to refer to the Department of Building, Zoning, and Licensing Services for the City of Rochester, and all duties as defined therein, including those imposed upon the "Building Official," shall be assumed by said Director of the Building, Zoning, and Licensing Services Department, along with the right to enforce the same.

§ 40-5 Adoption of other codes.

[Amended 4-19-2005; 9-4-2007; 5-18-2010; 10-15-2013]

- A. Pursuant to the provisions of RSA 47:22, 674:51 and 674:51-a, there are hereby adopted by the City of Rochester for the purpose of establishing rules and regulations, including the issuance of permits for the construction, alteration, removal, demolition, equipment, location, maintenance, use and occupancy of buildings and structures, installation of plumbing, use of concrete, masonry, metal, iron and wood, and other building material, the installation of electric wiring, and fire protection incident thereto and for the prevention of fires, the following codes:
- (1) International Property Maintenance Code (~~2006~~ 2015 edition), published by the International Code Council, Inc., Copyright ~~2006~~ 2015.
 - (2) International Existing Building Code, as codified at RSA ~~453~~ 155-A. **[Amended 8-6-2019]**
- B. Three copies of each of the aforesaid codes have been and are now on file in the office of the City Clerk of the City of Rochester and three copies of such codes are filed with the Department of Building, Zoning, and Licensing Services for the City of Rochester. Such codes are hereby adopted and incorporated as fully as if set out at length herein, and from the date on which this section shall take effect, the provisions thereof shall be controlling on the construction of all buildings and other structures within the corporate limits of the City of Rochester. There are annexed to such of the aforesaid codes, as filed in the office of the City Clerk and the Department of Building, Zoning, and Licensing Services, as set forth below, the following exhibits setting forth the insertions in, deletions from, exceptions to and/or changes in such codes, which insertions, deletions, exceptions and/or changes are adopted as part of the aforementioned codes:
- (1) ~~Exhibit A, Statement dated September 4, 2007, of insertions in, deletions from, exceptions to and changes in the International Property Maintenance Code (2006 edition) by the City of Rochester, New Hampshire.~~
 - (2) Exhibit A, Statement dated January 4, 2011, of insertions in, deletions from, exceptions to and changes in the International Existing Building Code (2009 edition) by the City of Rochester, New Hampshire.

§ 40-6 Life Safety Code.

[Amended 4-19-2005; 8-6-2019]

The duties defined in and the enforcement of the Life Safety Code, as codified at RSA 153 or any applicable successor code, shall be assumed by the Fire Chief of the City of Rochester or his/her authorized representative.

§ 40-7 Electrical Code and Property Maintenance Code.

[Amended 4-19-2005; 9-4-2007; 10-15-2013; 8-6-2019]

The duties defined in and the enforcement of the NEC 2005, National Electrical Code, as codified by RSA 155-A, and the International Property Maintenance Code (~~2006~~ 2015 edition), or any applicable successor codes, shall be assumed by the Director of Building, Zoning, and Licensing Services or his/her authorized representative.

§ 40-8 Plumbing Code.

[Amended 4-19-2005; 9-4-2007; 10-15-2013; 3-5-2019; 8-6-2019]

The duties defined in and the enforcement of the International Plumbing Code, as codified at RSA 155-A, or any applicable successor code, shall be assumed by the Director of Building, Zoning, and Licensing Services, or his/her authorized representative, except as otherwise provided in Chapter **200**, Sewers, of the Code of the City of Rochester where the same are defined as the duties of the Commissioner of Public Works, with inspections to be done by the Director of Building, Zoning, and Licensing Services or an authorized member of the Division of Water Supply Works or Division of Sewage and Waste Treatment Works.

§ 40-9 Regulation of construction storage yards.

Any individual or entity engaged in excavation, development, construction, building, and/or similar project within the City and involving the outside storage of construction and/or related equipment and/or materials shall forthwith cease to store such equipment and/or materials upon the premises involving such excavation, development, construction, building and/or similar project upon the expiration of the building permit or other similar authorization for such project, or upon the written notification by the City Engineer that such project has been completed, whichever event shall first occur. Upon removal of such equipment and/or material upon the completion of a project, the land disturbed by such storage shall be returned to its original state.

§ 40-10 Right of entry.

[Amended 10-15-2013]

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

§ 40-11 Definitions.

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

§ 40-12 Violations and penalties.

- A. Any person who shall violate any provisions of any code adopted herein, or fail to comply therewith or with any requirements thereof, or who shall erect, construct, alter, or repair or has erected, constructed, altered, or repaired a building or structure or portion thereof in violation of a detailed statement or plan submitted and approved thereunder, or of a permit or certificate issued thereunder, shall be punishable by a civil penalty of two hundred seventy-five dollars (\$275.) for the first offense and five hundred fifty dollars (\$550.) for subsequent offenses, for each day that such violation is found by a court to continue after the conviction date or after the date on which the violator receives written notice from the City that he/she is in violation thereof, whichever date is earlier. Each day that a violation continues shall be a separate offense. The owner of a building or structure or portion thereof or of the premises where anything in violation of any code adopted herein shall be placed or shall exist, and an architect, building contractor, agent, person or corporation employed in connection therewith and who may have assisted in the commission of such violation, shall be guilty of a separate offense and upon conviction thereof shall be punishable by a civil penalty of two hundred seventy-five dollars (\$275.) for the first offense and five hundred fifty dollars (\$550.) for subsequent offenses, for each day that such violation is found by a court to continue after the conviction date or after the date on which the violator receives written notice from the City that he/she is in violation thereof, whichever date is earlier. Each day that a violation continues shall be a separate offense. **[Amended 4-5-2016; 3-5-2019]**
- B. The imposition of the penalties herein prescribed shall not preclude the City Solicitor from instituting an appropriate action or procedure to prevent any unlawful erection, construction, reconstruction,

alteration, repair, conversion, maintenance or use, or to restrain, correct or abate a violation or to prevent the occupancy of a building, structure, or premises, or portion thereof, or of the premises, or to prevent an illegal act, conduct, business or use in or about the premises.

~~§ 40-13 Fire limits established.
[Amended 3-5-2019]~~

~~The fire limits for the City of Rochester are hereby established as those areas classified as Downtown Commercial, Office Commercial and Highway Commercial Districts and adjacent to North and South Main Streets in Rochester proper and Main Streets in Gonic and East Rochester, so called, as shown on the Zoning Maps, as an overlay, adopted as part of the Zoning Ordinance, adopted on March 4, 1986, which are incorporated herein by specific reference thereto.~~

§ 40-14 More restrictive provisions to apply.

When the provisions of any codes adopted herein cover essentially the same subject matter, the more restrictive provisions shall apply.

§ 40-15 Permits.

- A. Permits shall be obtained from the Director of Building, Zoning, and Licensing Services for the construction, alteration, removal, demolition, or repair of any foundation, footing, building or structure or for the installation of plumbing, use of concrete, masonry, metal, iron and wood, and other building material, the installation of electric wiring, and fire protection incident thereto for the prevention of fires, including but not limited to swimming pools, signs, and fences, except that no permit shall be required for painting, papering, laying floors, or upkeep in maintenance of any structure. Separate permits shall be required for building, electrical, plumbing, mechanical, fire protection, and demolition. Prior to the issuance of a foundation or building permit by the Director of Building, Zoning, and Licensing Services, the applicant for such permit shall file with the Department of the Building, Zoning, and Licensing Services a foundation certification plan bearing the stamp of a New Hampshire licensed land surveyor and containing a statement from such surveyor to the effect that the proposed building or structure complies with all applicable building or structure setback requirements and that no portion of the new building or structure is located within any of the setback areas required by law. The requirement for a foundation certification plan may be waived, in writing, by the Director of Building, Zoning, and Licensing Services if, in the discretion of the Director of Building, Zoning, and Licensing Services there are reasonable grounds to conclude that the preparation and submission of a foundation certification plan is unnecessary to ensure that the new building or structure does not violate any required setback. **[Amended 6-15-1999; 6-15-2004; 10-15-2013]**

- (1) The following fees shall be charged for said permits, based upon the estimated cost of construction as presented to the Director of Building, Zoning, and Licensing Services upon application forms provided by him/her: on proposed work, the fee of nine dollars (\$9.) per one thousand dollars (\$1,000.) of estimated cost of work, or any portion thereof, with a minimum fee of ten dollars (\$10.), in addition to an application fee of ten dollars (\$10.) for each permit. 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: **[Amended 10-1-2019]**
- (a) Fences.
- (b) Roofing (re-shingling only).

Commented [1]: Editor's Note: See Ch. 275, Zoning. Original § 40.14, Access to basements, which immediately followed this section, was repealed 9-6-2011.

(c) Siding.

(d) Sheds under 200 square feet.

(e) Window Replacements.

(2) Each building permit shall expire 12 months from the date of issuance unless renewed by the Director of Building, Zoning, and Licensing Services prior to the expiration date. Any renewal shall require reapplication and payment of required fees based on the remaining work to be done. The Director of Building, Zoning, and Licensing Services may issue no building permit until such other permits or approvals as may be required by any code, other ordinances, or state statutes have been acquired.

(3) ~~A separate permit shall be required for staging, scaffolding, platforms, or other similar equipment to be erected on private property that is to be erected for a period exceeding 30 days. Said permit shall expire 12 months from the date of issue and all equipment shall be removed upon said expiration or upon completion of the work, whichever comes first. The fee for said permit shall be five dollars (\$5.). The City reserves the right to revoke, deny, or not reissue said permit if work required is not being actively pursued in a timely or otherwise reasonable manner.~~

(4) Fees for building permits shall be waived for an honorably discharged veteran or an active duty, National Guard or reserve member of the United States Armed Forces who plans to construct or have constructed for himself/herself a home or appurtenance to a home already owned by him/her for exclusive occupancy by himself/herself and his/her immediate family. **[Amended 1-12-2016]**

(5) Permits issued to or for the City of Rochester are exempt from the above fees.

B. The estimated cost of construction for purposes of Subsection A of this section shall be calculated on the following basis: **[Amended 9-4-2007; 1-4-2011]**

(1) For contract work, new buildings and newly constructed additions, the building permit fee shall be based on the greater of all contract/construction costs associated with the total construction project or the cost of construction as determined using the latest "Building Valuation Data" as published periodically by the International Code Council. When construction costs are determined using the "Building Valuation Data" as published by the International Code Council, such costs shall be multiplied by a modification factor of 0.60. Construction costs shall include, but not be limited to, pile driving, foundations, structural and nonstructural framing, interior finish (as regulated by this chapter), fire protection systems and any other work which would render the building complete and ready for occupancy. **[Amended 3-5-2019]**

(2) For non-contract work, not covered under Subsection B(1), such as when a homeowner furnishes his/her own or has furnished free labor but purchases the materials, the fee shall be based on the actual cost of all materials with a multiplier of two applied. For example, total materials of five thousand dollars (\$5,000.): $\$5,000 \times 2 = \$10,000$. The permit fee would therefore be ninety dollars (\$90.) (or $10.0 \times \$9$). If, in the opinion of the Building Official, the cost of construction is underestimated on the application, the permit shall be denied, unless the applicant can show detailed documentation to meet the approval of the Building Official. Final building permit cost of construction shall be approved by the Building Official.

- (3) Any person who is found to have demolished, constructed, altered, removed, or changed the use of a building or structure without the benefit of a building, electrical, plumbing, mechanical, fire protection or demolition permit shall, ~~upon application for said permit(s),~~ **before issuing the permits,** be assessed a permit fee of twice the normal rate outlined in Subsection A of this section or twenty-five dollars (\$25.), whichever is greater. Example: Cost of materials = \$15,392; Labor = Self; Permit Fee = 16.0 x \$9 x 2 (self labor) x 2 (added fee) = \$576.
- (4) In the case of a revocation of a permit or abandonment or discontinuance of a building project, the portion of the work actually completed shall be computed and any excess fee for the uncompleted work shall be returned to the permit holder upon written request. All plan examination and permit processing fees and all penalties that have been imposed on the permit holder under the requirements of this chapter shall first be collected. The permit processing fee shall be 10% of the building permit application fee with a minimum fee of ten dollars (\$10.). **[Amended 3-5-2019]**

§ 40-16 Prospective application.

Nothing in this chapter or in the codes hereby adopted shall be construed to affect any suit or proceeding now pending in any court or any rights acquired or liability incurred, nor any causes of action accrued or existing, under any act or ordinance repealed hereby, nor shall any right or remedy of any character be lost, impaired, or affected by this chapter. This chapter shall have prospective application only.

§ 40-17 Severability.

The invalidity of any section or provision of this chapter or of the codes hereby adopted shall not invalidate any other sections or provisions thereof.

§ 40-18 Cleanup of construction sites.

[Amended 2-4-1997; 10-15-2013]

Within 30 days of the issuance of a certificate of occupancy or, in the case of a project which is terminated or delayed indefinitely, within 30 days of appropriate notification by the Director of Building, Zoning, and Licensing Services, the land at any construction site must be reclaimed. Such reclamation includes removal of all vehicles, equipment, materials, and temporary structures related to the construction project and restoration of any disturbed land to a grassed, planted, or otherwise erosion-free condition.

Amendments effective upon passage.