

**Regular City Council Meeting
March 5, 2019
Council Chambers
7:00 PM**

COUNCILORS PRESENT

Councilor Abbott
Councilor Bogan
Councilor Gates
Councilor Gray
Councilor Hamann
Councilor Hutchinson
Councilor Keans
Councilor Lachapelle
Councilor Lauterborn
Councilor Torr
Councilor Varney
Councilor Walker
Mayor McCarley

OTHERS PRESENT

Blaine Cox, City Manager
City Attorney Terence O'Rourke

Minutes

1. Call to Order

Mayor McCarley called the Regular City Council meeting to order at 7:00 PM.

2. Opening Prayer

Mayor McCarley asked all those present to observe a moment of silence for peace in the world.

3. Pledge of Allegiance

Mayor McCarley led Council in the Pledge of Allegiance.

4. Roll Call

Kelly Walters, City Clerk, called the roll. All Councilors were present.

5. Acceptance of Minutes

5.1 Regular City Council Meeting: February 5, 2019 ***consideration for approval***

Councilor Lachapelle **MOVED** to accept the minutes from the February 5, 2019 Regular City Council Meeting. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

5.2 Special City Council Meeting: February 19, 2019 ***consideration for approval***

Councilor Lachapelle **MOVED** to accept the minutes from the February 19, 2019 Special City Council Meeting. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

6. Communications from the City Manager

6.1 Employee of the Month Award

City Manager Cox announced that the Employee of the Month Award for March, 2019 has been postponed until the March 19, 2019, Workshop.

6.2 City Manager's Report

City Manager Cox announced that there shall be a winter parking ban in effect for this evening, March 7, 2019.

The City Manager's Report has been included in the Council packet as follows:

Contracts and documents executed since last month:

• Department of Public Works

- Colonial Pines Sewer Extension Project, Phase II – Notice of Award
- Colonial Pines – Underwood Engineers CWSRF Contract - Construction Engineering
- Four Rod Road – Bridge/Culvert Project - Engineering Design through Bidding Contract
- Franklin Street Area Construction Project – Northeast Earth Mechanic Change Order # 4 – Final Balancing Change
- Envirovantage – PD Fire Range HVAC Project – Change Order #1
- Route 125 Pump Station Project – NHDES SAG Grant Application

- Route 202A Water Main Extension Project – Conceptual Design Services
- River Street Pump Station Engineering – Final Design & Bidding
- Water Treatment Plant Low/Raw Water Pump Upgrade Project – Keypoint Construction – Change Order #1
- WasteWater Treatment Facility Programmable Logic Controller Replacement Project – Task Order #1
- **Economic/Community Development**
 - CDBG – CAP Weatherization – Hot Water Heater – Gonic
 - CDBG – CAP Weatherization – under-house insulation – East Rochester
 - Victims of Crime Act (VOCA) Assistance Grant application
- **Planning Department**
 - Drainage Easement – 685 Salmon Falls Road

Standard Reports:

- Monthly Overnight Travel Summary – **none**
- Permission & Permits Issued
- Personnel Action Report Summary

7. Communications from the Mayor

Mayor McCarley thanked the City Council members who were able to attend the City Council Retreat. This was an opportunity to discuss the direction of the City over the next twelve months. She added that there would be follow-up discussions as a result of that meeting.

Mayor McCarley appointed Katie O'Connor as the Poet Laureate for another two year term.

8. Presentation of Petitions and Council Correspondence

No Discussion.

9. Nominations, Appointments, Resignations, and Elections

9.1. Resignation: Matt Wyatt, Arts & Culture Commission

9.2. Resignation: Matt Wyatt, Historic District Commission

Councilor Lachapelle **MOVED** to **ACCEPT** the resignations, with regret, from the Commissions as stated above. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice.

10. Reports of Committees

10.1 Appointments Committee

10.1.1 **Re-appointment: Barbara Soley – Conservation Committee, Term to Expire 1/02/2022**

Councilor Keans reviewed the Committees recommendation of Barbara Soley. Mayor McCarley nominated Barbara Soley to be reappointed to the Conservation Commission, with a term to expire on 1/02/2022. Councilor Lachapelle seconded the nomination. Councilor Walker **MOVED** that nomination cease and the City Clerk cast one ballot for Ms. Soley. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Mayor McCarley announced that Ms. Soley has been reappointed to the Conservation Commission with a term to expire on 1/02/2022 by a unanimous voice vote.

10.1.2 **Re-Appointment: Mark E. Jennings – Conservation Commission, Term to Expire 1/02/2022**

Councilor Keans reviewed the Committees recommendation of Mark Jennings. Mayor McCarley nominated Mark Jennings to be reappointed to the Conservation Commission, with a term to expire on 1/02/2022. Councilor Lachapelle seconded the nomination. Councilor Walker **MOVED** that nomination cease and the City Clerk cast one ballot for Mr. Jennings. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Mayor McCarley announced that Mr. Jennings has been reappointed to the Conservation Commission with a term to expire on 1/02/2022 by a unanimous voice vote.

10.1.3 **Re-Appointment: Robert May – Planning Board, Term to Expire on 1/02/2022**

Councilor Keans reviewed the Committees recommendation of Robert May. She said that Mr. May is now the Vice Chair of the Planning Board. Mayor McCarley nominated Robert May to be reappointed to the Planning Board, with a term to expire on 1/02/2022. Councilor Lachapelle seconded the nomination. Councilor Walker **MOVED** that nomination cease and the City Clerk cast one ballot for Mr. May. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Mayor McCarley announced that Mr. May has been reappointed to the

Planning Board with a term to expire on 1/02/2022 by a unanimous voice vote.

**10.1.4 Re-Appointment: Timothy Fontneau –
Planning Board, Term to Expire on
1/02/2022**

Councilor Keans reviewed the Committees recommendation of Timothy Fontneau. Mayor McCarley nominated Timothy Fontneau to be reappointed to the Planning Board, as a Regular Member, with a term to expire on 1/02/2022. Councilor Lachapelle seconded the nomination. Councilor Walker **MOVED** that nomination cease and the City Clerk cast one ballot for Mr. Fontneau. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Mayor McCarley announced that Mr. Fontneau has been reappointed to the Planning Board with a term to expire on 1/02/2022 by a unanimous voice vote.

Councilor Lachapelle informed the City Clerk that there is one error on the Appointments Committee meeting minutes, which is that Mr. Brown's name should be corrected to Mr. May. The City Clerk agreed to make this correction.

10.2 Codes and Ordinances Committee

Councilor Lachapelle informed the Council that there are no action items for this evening. He announced that the next Codes and Ordinances Committee meeting is scheduled for Thursday, March 7, 2019 at 6:00 PM.

10.3 Community Development

**10.3.1 Committee Recommendation: To formalize the
City's Ad Revenue Sharing Agreement with
COAST *consideration for approval***

Councilor Lauterborn said the Committee is continuing to work on the CDBG Block Grant recommendations. The Committee will discuss the "facilities" portion of the CDBG Block Grant at the next Community Development Committee.

Councilor Lauterborn said that Rad Nichols, COAST Executive Director, attended the Community Development Committee meeting. She said the idea of an "ad" revenue agreement had already been to the City Council last year; however, City staff has not been able to confirm the agreement had been properly presented and approved by the City Council. Having such an

agreement would allow the City to receive a percentage of the ad revenue, which could equate to approximately \$7,000 to \$8,000 for the City this year.

Councilor Lauterborn **MOVED** to **APPROVE** the Committee's action item relative to formalizing the City's Ad Revenue Sharing Agreement with COAST. Councilor Bogan seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

10.4 CTE Joint Building Committee

Councilor Varney said the Committee met on February 18th and shall meet again on March 25th. The project is on schedule and within the budget. Councilor Keans asked when the completion date is expected. Mayor McCarley recalled that the completion date had been set for beginning of September, 2020.

Mayor McCarley said the first hearing of the Governor's Capital Budget took place earlier this morning. She attended the hearing along with Superintendent Hopkins and the Architect of the CTE project, in order to voice their concerns about a significant reduction in State funding. They voiced support of the Capital budget with a recommended amendment. She informed the Council that the amount of money set aside for the City of Rochester's CTE project is only \$3,600,000 opposed to the \$4,000,000 previously committed to the City of Rochester by the State. She gave reasons why the Governor has requested an across-the-board reduction. Mayor McCarley said that the response from the State was overall responsive and understanding of the impact this would have to the City of Rochester. She agreed to keep the City Council updated on this process.

10.5 Finance Committee

10.5.1 Committee Recommendation: To Approve the Hiring of Recreation Department Summer Staff *consideration for approval*

Councilor Lachapelle **MOVED** to **APPROVE** the hiring of the summer staff for the Recreation Department. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

10.5.2 Committee Recommendation: To Approve the Creation of the Accountant II Position for the Finance Department *consideration for approval*

Councilor Lachapelle **MOVED** to **APPROVE** the creation of the Accountant II Position for the Finance Department. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

10.5.3 Committee Recommendation: To Approve the Elimination of the Senior Accountant Position for the Finance Department *consideration for approval*

Councilor Lachapelle **MOVED** to **APPROVE** the elimination of the Senior Accountant Position for the Finance Department. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

City Manager Cox briefed the City Council about the discussion which had been held at the Finance Committee relative to re-organizing the Finance Department. He said part of this discussion included the need for a second Deputy Finance Director position. City Manager Cox sought the City Council's approval prior to proceeding with the hiring of a second Deputy Finance Director even though the position currently exists. Councilor Walker **MOVED** to support the City Manager's request of hiring a second Deputy Finance Director. Councilor Lachapelle seconded the motion. Councilor Gray gave reasons why he did not support the motion. He said it is not a good business practice to have a supervisor responsible to supervise only one person. Councilor Lauterborn said she had some of the same concerns that Councilor Gray brought up at the Finance Committee, however, City Manager Cox subsequently submitted a memorandum detailing the need for a second Finance Director. She expressed mixed feeling but stated she will support the City Manager's request. The **MOTION CARRIED** by a majority voice vote.

10.6 Public Safety

10.6.1 Committee Recommendation: To Install two School Zone signs on Eastern Avenue, one southbound and one northbound, at the discretion of DPW *consideration for approval*

Councilor Walker reviewed the Committee's recommendation as outlined above. He **MOVED** to **APPROVE** the installation of two School Zone signs on Eastern Avenue: *one northbound and one southbound, both at the discretion of DPW*. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

10.6.2 Committee Recommendation: To Place another

20 mph School Speed Limit sign with times, two End School Speed Limit signs, and School Crossing signs on Winter Street *consideration for approval*

Councilor Walker reviewed the Committee's recommendation as outlined above. He **MOVED** to **APPROVE** the request for the placement of the following signs: one 20 mph "school speed limit" sign, two "end school speed limit" signs, and one school "crossing" sign on Winter Street. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Keans referred to the Committee meeting minutes about a problem with the Washington Street/Brock Street area. She did not agree with comments made at the meeting that speeding in that area was the problem. She said it seems to be more of a distraction issue with all of the businesses and entrances/exits. The area is too close to the off ramp to be a speeding issue. Councilor Walker agreed and said the Committee is seeking more data prior to making a recommendation. Councilor Walker stated that this is the intersection where a crossing guard was hit by a car.

10.7 Public Works

10.7.1 Committee Recommendation: Supplemental Appropriation to the 2018-2019 Water Capital Improvements Plan Fund in an amount of \$8,766,000.00 for Route 202A Water Main Extension Project and Bonding Authority pursuant to RSA 33:9 *first reading and refer to public hearing*

Councilor Torr reviewed the Committee report. The Committee discussed a delay on the Strafford Square roundabout. Peter Nourse, Director of City Services, said the project is moving along. The Department of Transportation has agreed with the City's recommendations for the classifications of the different types of abutters in that area. Per the Uniform Act property owners are to be compensated fairly for any temporary or permanent easements obtained by the City of Rochester. The DOT is requesting that the City of Rochester submit a revised market analysis of what the properties in that area are worth. Once that has been completed a public information meeting can be scheduled. A tentative date for the public information meeting is May 22, 2019.

Councilor Torr said the Committee discussed the sewer project on the

south end of the City. He said this has been an ongoing problem for some time, especially for residents on Tingley Street. Councilor Walker said there is currently a Sewer/Drainage project (Colonial Pines) occurring in that area. He suggested that Wildwood Street be added to Phase II of that project, which would take care of at least two complaints received by the City in that particular area. Councilor Torr said the City Council should keep in mind an issue that Ms. Crowley explained to the Public Works Committee. Councilor Varney said a suggestion had been made to authorize funding for Phase III of the Colonial Pines Project, which would include the particular street being discussed. The idea was to have Mr. Nourse speak with the developer and try to fit that portion of the project into the schedule at the end of Phase II, which should be completed by the end of the summer. Mr. Nourse said this is the Colonial Pines Project Phase II, which is the first portion of the neighborhood to have sewer installation. This part of the project is scheduled between April and July of this year. He agreed to speak with the contractor about scheduling; however, authorizing additional funds at this time may not be possible because of the SRF funding. He agreed to speak to the contractor about including Wildwood Street, which would bring the sewer installation closer to the problem area. The public informational meeting for Colonial Pines is Tuesday, March 6, 2019, at Frisbie Memorial Hospital. Councilor Varney suggested that Phase III of the project could be funded through "cash" now, and then the funding source could be updated to SRF Loan later.

Councilor Keans recalled that at least four lots in that area were not supposed to be built upon; however, in the last 10 years they have been developed, and this development is part of the problem. Councilor Torr said lot 27 was not one of the lots that was supposed to be left vacant.

Councilor Torr spoke about the Committee's recommendation relative to installing a camera near the Dewey Street Bridge.

City Manager Cox said that he previously requested that the City Council postpone the purchase of cameras. The IT Department is conducting research on different camera options available and plan to report back to the Public Works Committee with some sample video footage.

Councilor Torr **MOVED** to read the resolution for the first time by title only. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Mayor McCarley said the resolution was read by Councilor Torr by title only for a first time as follows:

Supplemental Appropriation to the 2018-2019 Water Capital Improvements Plan Fund in an amount of \$8,766,000.00 for Route 202A Water Main Extension Project and Bonding Authority pursuant

to RSA 33:9

BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF ROCHESTER:

That the amount of Eight Million Seven Hundred Sixty Six Thousand Dollars (\$8,766,000.00) is hereby appropriated as a supplemental appropriation to the 2018-2019 Department of Public Works Water Capital Improvements Plan fund for the purpose of paying costs associated with the Route 202A Water Main Extension.

The cash funds for this supplemental appropriation shall be derived as follows: Two Million Two Hundred Seven Thousand Dollars (\$2,207,000.00) from an MtBE Remediation Bureau Grant and Three Million Eight Hundred Thousand Dollars (\$3,800,000.00) from an NHDES Drinking Water & Groundwater Trust Fund (DWGTF) Grant.

In accordance with the provisions of RSA 33:9 and in conjunction with this supplemental appropriation, the City Treasurer, with the approval of the City Manager, be, and hereby are authorized to borrow the sum of Two Million Seven Hundred Fifty Nine Thousand Dollars (\$2,759,000.00) through the issuance of bonds and/or notes, and/or through other legal form(s), such borrowing to be on such terms and conditions as the said Treasurer and City Manager may deem to be in the best interest of the City of Rochester. Such borrowing is authorized subject to compliance with the provisions of RSA 33:9 and Section 45 of the Rochester City Charter to the extent required, necessary and/or appropriate. One Million Two Hundred Ninety Three Thousand Dollars (\$1,293,000.00) of the borrow authority shall be exercised in regards to a DWGTF loan.

Further, One Hundred Thousand Dollars (\$100,000.00) of borrowing authority previously authorized for this project is hereby deauthorized and the source of those funds is changed to the MtBE Grant.

Still further, the City Manager and/or the Finance Director is hereby authorized to execute all grant and loan documents necessary to complete the above transactions on behalf of the City.

To the extent not otherwise provided for in this Resolution, the Finance Director is hereby authorized to establish and/or designate such accounts and or account numbers as are necessary to implement the transactions contemplated in this Resolution.

Councilor Torr **MOVED** to refer the matter to a public hearing. Councilor

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

Councilor Torr mentioned the Water Tower Project which is estimated at \$8,000,000 and is across from Lowes Department store. It seems that 10 to 12 years ago, there was an understanding that the developer was supposed to contribute at least half of the funding for this water tower. Mr. Nourse replied that the City will be approaching the developer in the next week to discuss contributions for this project. As of right now, the City is looking at land at the backside of Highfields Commons as a potential donation and starting point. Mr. Nourse confirmed that this water tank will be a necessity.

10.8 Tri-City Mayors' Task Force on Homelessness

Councilor Hutchinson referred to the meeting minutes in the packet. The Committee will meet again this coming Thursday to finalize the draft Master Plan. The next step in the process would be to submit the Plan for a legal sufficiency review to the attorneys in each of the three cities. The Task Force hopes to present the Master Plan to each of the three Councils. At that point, a meeting shall be set to accept public comments. The next meeting is scheduled for March, 7, 2019, at 6:00 PM at the Somersworth Middle School.

11. Old Business

11.1 An Ordinance of the City of Rochester City Council Adopting Amendments to Chapter 42 of the General Ordinances of the City of Rochester Regarding Zoning and Development Standards for the Development of Lands within the Downtown Commercial Zone District. *second reading and consideration for adoption*

Councilor Lachapelle **MOVED** to read the resolution by title only for a second time. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Mayor McCarley read the resolution for a second time by title only.

See Addendum B

Councilor Lachapelle **MOVED** to **ADOPT** the Amendment. Councilor Lauterborn seconded the motion.

Councilor Walker indicated that some of the street names should be removed from this Amendment prior to adoption. Mayor McCarley agreed and stated that it is wise for the City Council to carefully take a closer look into

this zoning amendment. She said Councilor Abbott has brought up some valid concerns (see Addendum A).

Councilor Abbott cautioned the City Council about simply adopting the Amendment now as it is currently written and then making changes after adoption to avoid unintended consequences. Mayor McCarley agreed with Councilor Abbott's comment and mentioned that one of the topics of discussion at the City Council Retreat had been about supporting the best kind of development for the downtown.

Mayor McCarley reviewed a few options for the City Council to proceed, which would include sending any proposed changes back to the Planning Board. The City Council discussed several options. Jim Campbell, Director of the Planning Department, addressed the City Council. He said the Planning Department is not objecting to the recommendations to which Councilor Abbott has referred; however, it seems that some of the changes are "new" changes and could be dealt with separately after the Amendment has been adopted.

Councilor Gray recalled that minor changes could be made after the Public Hearing. City Attorney O'Rourke replied that these proposed changes are substantial changes and would require that the City Council send the matter back to the Planning Board for a recommendation. Councilor Walker **MOVED** to **TABLE** the motion. Councilor Torr seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Gray said a motion to refer the matter to a Committee (Planning Board) may have been a better option. City Attorney O'Rourke agreed. Councilor Gray **MOVED** for **RECONSIDERATION** of the **MOTION** to **TABLE**. Councilor Lauterborn seconded the motion. The City Council debated the matter and other options to proceed. Councilor Gray **WITHDREW** his motion. Councilor Lauterborn **WITHDREW** her second to the motion.

Councilor Lauterborn **MOVED** to **REMOVE** the Amendment from the **TABLE**. Councilor Bogan seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Walker **MOVED** to send the matter to the Planning Board with "Addendum A" attached for consideration. Councilor Bogan seconded the motion. Mayor McCarley clarified that the City Council did not review and is not recommending "Addendum A". The City Council is simply sending the Amendment back to the Planning Board with the attached Addendum for them to make a formal recommendation back to the City Council. The **MOTION CARRIED** by a unanimous voice vote.

11.2 Amendment to Chapter 42 of the General Ordinances of the City of Rochester Regarding the Historic Overlay District *second reading and consideration for adoption*

Councilor Lachapelle **MOVED** to read the resolution by title only for a second time. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Mayor McCarley read the resolution for a second time by title only.

See Addendum C

Councilor Lachapelle **MOVED** to **ADOPT** the Amendment. Councilor Walker seconded the motion. The **MOTION CARRIED** by a majority voice vote.

11.3 Amendment to Chapter 42 of the General Ordinances of the City of Rochester Regarding Conservation Overlay District

Councilor Lachapelle **MOVED** to read the resolution by title only for a second time. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Mayor McCarley read the resolution for a second time by title only.

See Addendum D

Councilor Lachapelle **MOVED** to **ADOPT** the proposed amendment. Councilor Walker seconded the motion. The **MOTION CARREID** by a unanimous voice vote.

11.4 Amendment to Chapter 42 of the General Ordinances of the City of Rochester Regarding the Location and Boundaries of Zoning Districts (*petition submitted by landowners of two parcels*)

Councilor Lachapelle **MOVED** to read the resolution by title only for a second time. Councilor Bogan seconded the motion. The **MOTION CARRIED** by a majority voice vote. Mayor McCarley read the resolution for a second time by title only.

See Addendum E

Councilor Lachapelle **MOVED** to **ADOPT** the proposed amendment.

Councilor Lauterborn seconded the motion. Councilor Lauterborn questioned why a 2/3 vote is required. Councilor Walker replied that this Amendment was not recommended by the Planning Board and that is why a 2/3 vote from City Council is necessary. He said this is a proposed amendment to rezone a portion of the Agriculture Zone into an Office Commercial Zone, which is a potential problem. He shared a story about a similar situation which ended with a developer able to subdivide his lot into multifamily units. Councilor Varney stated that there is already a large set of apartment building next to this proposed lot. Councilor Keans agreed that there are apartment buildings in this area; however, there are also some nice single-family homes close to this lot. Councilor Varney did not see a problem with the change; however, he requested that this matter be tabled to gather more information.

Councilor Varney **MOVED** to **TABLE** the motion. Councilor Hamann seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

11.5 An Ordinance to Revise and Consolidate, Amend, Supplement, and Codify the Ordinances of the City of Rochester

Councilor Lachapelle **MOVED** to read the resolution by title only for a second time. Councilor Bogan seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Mayor McCarley read the resolution for a second time by title only.

See Addendum F

Councilor Lachapelle **MOVED** to **ADOPT** the Amendment as further amended (schedule A with Clerk notes). Councilor Walker seconded the motion. The **MOTION CARRIED** by a majority voice vote (*Councilors Hamann and Torr voted against the motion*).

12. Consent Calendar

Councilor Lachapelle **MOVED** to **ACCEPT** the Consent Calendar. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

12.1. Resolution Deauthorizing \$59,050.07 from the Arena Department Capital Improvements Plan Fund first reading, consideration for second reading and adoption

Resolution Deauthorizing \$59, 050.07 from the Arena Department Capital Improvements Plan Fund

BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF ROCHESTER:

That Fifteen Nine Thousand Fifty and 07/100 Dollars (\$59,050.07) of funds previously appropriated to the Recreation and Arena Department is hereby deauthorized.

Pursuant to RSA 33:9, Fifty One Thousand Sixty Five and 73/100 Dollars (\$51,065.73) of the deauthorized funds were from previous bond authority and that authority is deauthorized from the Arena Department Capital Improvements Plan Fund.

Further, Seven Thousand Three Hundred Seventy Dollars (\$7,370.00) of the funds deauthorized herein shall be returned to the General Fund Unassigned Fund Balance and Six Hundred Fourteen and 34/100 Dollars (\$614.34) of the funds deauthorized shall be returned to the Arena Fund Retained Earnings Balance.

To the extent not otherwise provided for in this Resolution, the Finance Director is hereby authorized to establish and/or designate such accounts and or account numbers as are necessary to implement the transactions contemplated in this Resolution.

13. New Business

13.1 Resolution Deauthorizing \$39,058.00 of a Previous Supplemental Appropriation for the Replacement of a Fire Department SUV and Changing the Source of Funds of \$1,000.00 of the Remaining Amount *first reading, consideration for second reading and adoption*

Councilor Lachapelle **MOVED** to read the resolution for the first time by title only. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Mayor McCarley read the resolution for the first time as follows:

Resolution Deauthorizing \$39,058.00 of a Previous Supplemental Appropriation for the Replacement of a Fire Department SUV and Changing the Source of Funds of \$1,000.00 of the Remaining Amount

BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF ROCHESTER:

That Thirty Nine Thousand Fifty Eight Dollars (\$39,058.00) of funds previously appropriated as a supplemental appropriation to the Fire Department Capital Improvements Plan Fund to replace a Fire Department SUV are hereby deauthorized.

Further, when the City Council approved the supplemental appropriation the entirety of the appropriation was to be derived from a Primex Reimbursement. Based upon Primex not having recovered the City's One Thousand Dollar (\$1,000.00) deductible, the City Council now changes the source of funds from the Primex Reimbursement to the General Fund Unassigned Fund Balance for that One Thousand Dollar (\$1,000.00) amount.

To the extent not otherwise provided for in this Resolution, the Finance Director is hereby authorized to establish and/or designate such accounts and or account numbers as are necessary to implement the transactions contemplated in this Resolution.

Councilor Lachapelle **MOVED** to suspend the rules and read the resolution for a second time by title only. Councilor Walker seconded the motion. The **MOTION CARRIED** by a majority voice vote. Mayor McCarley read the resolution for a second time by title only.

Councilor Lachapelle **MOVED** to **ADOPT** the resolution. Councilor Walker seconded the motion. The **MOTION CARRIED** by a majority voice vote.

Councilor Keans questioned why this resolution was necessary. Fire Chief Klose explained what had happened to the first SUV and the need for this resolution. Councilor Keans expressed frustration that it seems the resolution is unnecessary, the City still has to keep account for that funding. City Manager Cox clarified that the City has to account for the \$1,000 now, which will subsequently be deposited into the General Fund Balance once it's received.

Councilor Walker noted that a typo on the Agenda should be corrected: ~~\$1,000,00~~ to \$1,000.00.

13.2 Resolution Authorizing Transfer from the General Fund Unassigned Fund Balance to the School Building Capital Reserve Fund in the amount of \$824,762.00 *first reading and refer to public hearing*

Councilor Lachapelle **MOVED** to read the resolution for the first time by

title only and refer the matter to a public hearing. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Mayor McCarley read the resolution for the first time as follows:

Resolution Authorizing Transfer from the General Fund Unassigned Fund Balance to the School Building Capital Reserve Fund in the amount of \$824,762.00

BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF ROCHESTER, AS FOLLOWS:

Pursuant to New Hampshire RSA Chapter 34, that Eight Hundred Twenty Four Thousand Seven Hundred Sixty Two Dollars (\$824,762.00) be, and hereby is, transferred from the General Fund Unassigned Fund Balance to the School Building Capital Reserve Fund, which was created by the City Council by way of Resolution on December 15, 2015.

To the extent not otherwise provided for in this Resolution, the Finance Director is hereby authorized to designate and/or establish such accounts and/or account numbers as necessary to implement the transactions contemplated by this Resolution.

14. Non-Meeting/Non-Public Session

No non-public session held this evening.

15. Other

Mayor McCarley announced that Dan Hussey unexpectedly passed away. He was a devoted citizen and devoted to the local Rotary Club. She added that it will be a great loss for the City.

16. Adjournment

Councilor Lachapelle **MOVED** to **ADJOURN** the meeting at 7:51 PM. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Respectfully Submitted,

Kelly Walters, CMC
City Clerk

City Council Meeting (3/5/2019) – Addendum A

That Chapter 42 of the General Ordinances of the City of Rochester and currently before the Rochester City Council, be amended as follows:

Amendment 1: Section 42.2.b, which section describes terms used within the Chapter, is amended to add two definitions as follows:

no changes to definitions 1 through 189]

190. Parking Facility, Commercial: A Parking Lot or Parking Garage used as an independent business venture for the short-term parking of automobiles on an hourly, daily, weekly, or monthly basis for a fee.

191. Parking Facility, Public: A Parking Lot or Parking Garage, owned by a municipal or public entity, used for the short-term parking of automobiles on an hourly, daily, weekly, or monthly basis, and which may require permitting or usage fees.

[Permanent Foundation renumbered to 192 and remaining definitions renumbered accordingly]

Amendment 2: Section 42.19.b.8, which section defines minimum lot size requirements for various areas within Rochester, is amended as follows:

8. Density Rings. The density rings are shown on the Official City of Rochester Zoning Map that is adopted as part of this Ordinance and only apply to multi-family dwellings/developments. The rings are defined as follows:

There is no minimum lot area per dwelling unit applicable within the Downtown Commercial (DC) Zone District. For areas outside of the DC Zone District, the minimum lot area per dwelling unit within a one (1) mile radius of the center of Rochester, shall be 5,000 square feet. The minimum lot area per dwelling unit outside of the one (1) mile radius of the center of Rochester, shall be 7,500 square feet.

The minimum lot area per dwelling unit within a one-half (½) mile radius of the center of Gonic and East Rochester, shall be 5,000 square feet. The minimum lot area per dwelling unit outside of the one-half (½) mile radius of the center of Gonic and East Rochester, shall be 7,500 square feet.

Any lot that is partially within the radius of a density ring shall be treated as if it were entirely within the radius of the density ring.

Amendment 3: Section 42.20.b.7, which section defines development standards for Lodging Facilities, is amended as follows:

7. Lodging, Motel. Facility. For a Lodging Facility, tThe minimum lot size shall be 30,000 square feet plus 1,000 square feet per unit. Minimum lot size for a Bed and Breakfast shall be the minimum lot size for a single-family home according to the applicable zone district. The minimum lot size for a Hotel in the Downtown Commercial (DC) Zone District shall be 7,500 square feet.

Amendment 4: Section 42.20.b.11, which section defines standards for Multi-Family Dwellings/Development, is amended as follows:

11. Multifamily Dwellings/Development. The following requirements shall apply to multifamily dwellings/developments of 3 or more dwelling units:

A. Buffers from Roads. Except for parcels within the Downtown Commercial (DC) Zone District, a 50- foot buffer shall be established from all neighboring roads, including roads from which access is taken. The Planning Board shall determine treatment of the buffer area, whether it is to be left undisturbed, to have supplemental plantings installed, to be designated part of the overall open space plan for the development, and/or to be part of an individual lot but protected from construction. No roofed structures may be erected in the bufferarea. This buffer shall not be required for parcels in the DC Zone District.

B. Buffers from Single Family. Except for parcels within the Downtown Commercial (DC) Zone District, a 100- foot buffer shall be established adjacent to any existing single- family house or any vacant lots less than 3 acres that are zoned residential. This buffer shall not be required for parcels in the DC Zone District.

This limitation applies to 3 units and above based upon the change that was made to the definition of “multifamily dwellings”. This would prevent further development on most R2 lots within areas intended to allow greater density (within the density rings).

C. Access. Any new multifamily development must take access from an existing collector or arterial road rather than an existing local road. The Planning Board may waive this requirement by conditional use upon a finding that it is preferable to take access from a local rather than a collector road and that

taking access from the local road will have no significant adverse impact upon residents or property owners located on the local road.

D. Commercial Districts. Within any commercial districts, multifamily is allowed only as a secondary use:

i. it must be situated on the second floor or on higher floors of a commercial building or in a separate building behind the commercial building; and

ii. at no time may the area of the multifamily dwellings exceed 80% of the square footage of the on site commercial space.

I would limit the 80% rule to detached multifamily on site. With a 5 story building the math doesn't work,

E. Downtown Commercial District. Within the Downtown Commercial (DC) Zone District, multifamily is allowed with the following restrictions: i. Multifamily units are prohibited on the ground floor within parcels fronting any of the following Streets: • Union Street • North Main Street south of the North Main Street Bridge • South Main Street north of Columbus Avenue • Wakefield Street south of Columbus Avenue • Hanson Street ii. Ancillary ground floor multifamily use, such as entryways, lobbies, utility areas and similar functional spaces shall be minimized to the extent practical. Remaining ground floor space within the first 50 feet of building depth shall be reserved for non-residential uses, as permitted in the DC Zone District. Applicants may apply for a Conditional Use Permit to locate these uses between 20 ft and 50 ft iii. DC Zone District parcels not fronting on the above-listed Streets may contain multifamily use and units on all floors without restriction.

I would recommend deletion of the highlighted sections for the following reasons:

- The requirement for commercial space on the ground floor should apply to the entire DC District.
- The limitation on the first 50 feet could prevent required exit enclosures from being located in compliance with the state building and/or fire codes.
- What are you going to do with a 20-foot-deep commercial space? What type of business will locate in these small units that will help attract the demographic we are seeking to support the downtown?

E.F. Sewer and Water. Any new multifamily dwellings/developments must connect to the City of Rochester's public sewer and water systems.

Amendment 5: Section 42.20.b.14, which section defines development standards for Public Parking Facilities, is added as follows:

14. Parking Facility, Public. For a Public Parking Facility, the following standards shall apply: A. Sizing and capacity of the facility shall be based on current and forecasted use patterns and demand for publicly accessible parking. B. Frontages along a primary commercial street shall, to the extent practicable, incorporate commercial business as a means of minimizing extended expanses of blank walls. C. An operations plan shall define the basic functions of the facility including signage, offsite wayfinding, hours of operation, access and control points, payment systems, and lighting and landscape installation. D. Rate schedules shall be subject to establishment and change by the City of Rochester and shall not be required for approval or conditioned by the Notice of Decision.

[Small Wind Energy Systems renumbered to 15. Remaining items renumbered accordingly.]

Amendment 6: Section 42.21.d.7, which section defines conditional use standards for Lodging Facilities, is amended as follows:

7. Lodging, Motel. Facility. For a Lodging Facility, The minimum lot size shall be 30,000 square feet plus 1,000 square feet per unit. Minimum lot size for a Bed and Breakfast shall be the minimum lot size for a single-family home according to the applicable zone district. The minimum lot size for a Hotel in the Downtown Commercial (DC) Zone District shall be 7,500 square feet.

Amendment 7: Section 42.21.d.10, which section defines conditional use standards for Parking Lots, is added as follows:

10. Parking Lot. For properties within the Downtown Commercial (DC) Zone District, Parking Lots shall be limited to twenty (20) parking spaces for any single tenant unless otherwise approved by the Planning Board pursuant to the standards below:

A. The applicant demonstrates a unique commercial or market-based need for additional parking. B. There is a lack of publicly accessible parking in the immediate vicinity. C. Sharing parking with an adjacent use or property is impractical or not possible.

D. Negative visual effects of a large parking lot are minimized to the extent practicable through site design, breaking-up large expanses of paving, shielding parking from direct public view, or placing parking to the side or behind buildings. Where possible, buildings in the DC District should front a primary street with parking placed to the side or rear. E. The Planning Board may impose operational

parameters regarding signage, limiting access points, and may require specific lighting and landscaping installation.

Amendment 8: Section 42.21.d.11, which section defines conditional use standards for Commercial Parking Facilities, is added as follows:

11. Parking Facility, Commercial. The Planning Board may approve a Commercial Parking Facility based on the following standards: A. Sizing and capacity of the facility is based on current and forecasted use patterns and demand for publicly accessible parking. B. Frontages along a primary commercial street, to the extent practicable, incorporate commercial business on the ground floor as a means of providing pedestrian interest and minimizing extended expanses of blank walls. C. An acceptable operations plan defines the basic functions of the facility including signage, offsite wayfinding, hours of operation, access and control points, payment systems, and lighting and landscape installation. D. Rate schedules and changes thereto shall remain the prerogative of the owner and shall not be required for approval or conditioned by the Notice of Decision.

[Porkchop Subdivision renumbered to item 12 and remaining items renumbered accordingly.]

Amendment 9: Article III, Section 10, of the City of Rochester Site Plan Regulations, which section defines the number, placement, and other stipulations for required parking, is amended as follows:

Ordinance No. ___, 2018

**AN ORDINANCE OF THE CITY OF ROCHESTER CITY COUNCIL ADOPTING
AMENDMENTS TO CHAPTER 42 OF THE GENERAL ORDINANCES OF THE CITY
OF ROCHESTER REGARDING ZONING AND DEVELOPMENT STANDARDS FOR
DEVELOPMENT OF LANDS WITHIN THE DOWNTOWN COMMERCIAL ZONE
DISTRICT**

Whereas, The City of Rochester received a Municipal Technical Assistance Grant from Plan NH and Community Block Grant funds through the U.S. Department of Housing and Urban Development; and,

Whereas, such funding enabled the analysis of regulatory barriers to private-sector investment in Rochester's downtown properties; and,

Whereas, this ordinance seeks to lessen regulatory barriers and encourage residential, commercial, and mixed-use development within the Downtown Commercial Zone District; and,

Whereas, text to be stricken from the Chapter appear as ~~text to be stricken~~; text to be added to Chapter 42 appears as text to be added; and, scrivener's notes appear as [notes]; and,

Whereas, this ordinance supports the public interest and safeguards the health and welfare of the residents and businesses of the City of Rochester.

Therefore; THE CITY OF ROCHESTER ORDAINS:

That Chapter 42 of the General Ordinances of the City of Rochester and currently before the Rochester City Council, be amended as follows:

Amendment 1: Section 42.2.b, which section describes terms used within the Chapter, is amended to add two definitions as follows:

no changes to definitions 1 through 189]

190. Parking Facility, Commercial: A Parking Lot or Parking Garage used as an independent business venture for the short-term parking of automobiles on an hourly, daily, weekly, or monthly basis for a fee.

191. Parking Facility, Public: A Parking Lot or Parking Garage, owned by a municipal or public entity, used for the short-term parking of automobiles on an hourly, daily, weekly, or monthly basis, and which may require permitting or usage fees.

[Permanent Foundation renumbered to 192 and remaining definitions renumbered accordingly]

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Amendment 9: Article III, Section 10, of the City of Rochester Site Plan Regulations, which section defines the number, placement, and other stipulations for required parking, is amended as follows:

[following page]

Chapter 42

Zoning

SECTION ANALYSIS

42.1	General Provisions P. 1
42.2	Definitions P. 6
42.3	Administration P. 36
42.4	ZBA & Building Code Board of Approval P. 43 Residential Zoning
42.5	Districts P. 48
42.6	Commercial Zoning Districts P. 52
42.7	Industrial Zoning District P. 61
42.8	Granite Ridge Development P. 63
42.9	Special Zoning Districts P. 69
42.10	Aquifer Protection Overlay P. 70
42.11	Aviation Overlay District P. 71
42.12	Conservation Overlay District P. 75
42.13	Flood Hazard Overlay District P. 85
42.14	Historical Overlay District P. 93
42.15	Special Downtown Overlay District P. 113
42.16	Reserved P. 115
42.17	Reserved P. 116
42.18	Use Regulations P. 117
	<i>Table A: Residential Uses P. 202</i>
	<i>Table B: Sales – Service – Office – Institutional Uses P. 203</i>
	<i>Table C: Food – Lodging – Public Recreation Uses P. 204</i>
	<i>Table D: Industrial – Storage – Transport – Utility Uses P. 205</i>
	<i>Table E: Agricultural – Animal Care – Land Oriented Uses P. 206</i>
42.19	Dimensional Regulations P. 119
	<i>Table A: Dimensional Regulations – Residential Districts P. 207</i>
	<i>Table B: Dimensional Regulations – Commercial Districts P. 208</i>
	<i>Table C: Dimensional Regulations – Industrial Districts P. 209</i>
	<i>Table D: Dimensional Regulations – Special Districts P.210</i>
42.20	Standards for Specific Permitted Uses P. 123
42.21	Conditional Uses P. 137
42.22	Special Exceptions P. 144
42.23	Accessory Uses P. 154
42.24	Home Occupations P. 164
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42.26	Roads and Parking P. 169
42.27	Miscellaneous Provisions P. 172
42.28	Performance Standards P. 179
42.29	Signs P. 184
42.30	Nonconforming Property P. 188
42.31	Reserved P. 192
42.32	Reserved P. 193
42.33	Conservation Subdivisions P. 194

Chapter 42 Comprehensive Zoning [1]

Adopted by the City Council: 4-22-14

Certified by the Codes and Ordinances Committee: 8-7-14

Amendments:

[2] February 3, 2015, Chapter 42.2; 42.20; and 42.23

[3] June 16, 2015, Chapter 42.10

[4] June 16, 2015, Chapter 42.29

[5] July 7, 2015. Chapter 42.2; 42.20; and 42.27

[6] January 12, 2016 Chapter 42.6 Signage

[7] [date](#)

[TABLE 18-A RESIDENTIAL USES](#)

[TABLE 18-B SALES-SERVICE-OFFICE-INSTITUTIONAL USES](#)

[TABLE 18-C FOOD-LODGING-PUBLIC RECREATION USES](#)

[TABLE 18-D INDUSTRIAL-STORAGE-TRANSPORT-UTILITY USES](#)

[TABLE 19-B DIMENSIONAL STANDARDS - COMMERCIAL DISTRICTS](#)

TABLE 18-A RESIDENTIAL USES 8/7/2014

RESIDENTIAL USES	Residential Districts				Commercial Districts			Industrial Districts		Special		Criteria/Conditions
	R1	R2	AG	NMU	DC	OC	HC	GI	RI	HS	AS	Section Reference
Apartment, Accessory (accessory use)	E	P	P	P	P	P	P	-	-	-	-	Section 42.21 & 42.23
Apartment, Inlaw	P	P	P	P	P	P	P	-	-	-	-	
Apartment, Security	-	P	-	P	P	P	P	P	P	P	P	Sections 42.2 & 42.23
Assisted Living Facility	-	C	C	C	C	C	C	-	-	C	-	Section 42.21
Boarding House	-	-	-	-	E	-	-	-	-	-	-	
Community Residence - I	-	E	E	-	E	E	E	-	E	E	-	Section 42.22
Community Residence - II	-	-	E	-	-	E	-	-	E	E	-	Section 42.22
Conservation Subdivision	C	C	C	-	-	C	C	-	-	-	-	Sections 42.21 & 42.33I
Dwelling, Apartments (Apt/ Mixed Use Bldg)	-	-	-	P	P	C	P	-	-	-	-	Section 42.21
Dwelling, Multifamily Development	-	P	-	-	CP	-	P	-	-	-	-	Sections 42.20 & 42.22
Dwelling, Multifamily	-	P	-	-	CP	-	P	-	-	-	-	
Dwelling, Single Family	P	P	P	P	P ₋	P	P	-	-	P	-	
Dwelling, Three & Four Family	-	P	-	C	CP	C	P	-	-	-	-	Sections 42.21 & 42.33
Dwelling, Two Family	-	P	P	P	P ₋	P	P	-	-	-	-	Sections 42.21 & 42.33
Flag Lots	-	C	C		-	-	-	-	-	C	-	Section 42.21
Home Occupation - 1 (accessory use)	P	P	P	P	P	P	P	-	-	P	-	Section 42.24
Home Occupation - 2 (accessory use)	P	P	P	P	P	P	P	-	-	P	-	Sections 42.22 & 42.24
Home Occupation - 3 (accessory use)	-	E	E	P	P	P	P	-	-	E	-	Sections 42.22 & 42.24
Manufactured Housing Unit on own lot	-	-	P	-	-	-	-	-	-	-	-	Sections 42.20 & 42.21
Nursing Home	-	-	C	-	-	C	-	-	-	P	-	Sections 42.20 & 42.21
Outdoor Wood-Fired Hydronic Boiler	-	-	P	-	-	-	-	-	-	-	-	Section 42.20
Porkchop Subdivision	-	-	C	-	-	-	-	-	-	-	-	Section 42.21
Residential Facility	-	-	E	-	-	E	-	-	E	E	-	Section 42.22
Senior Housing	-	P	C	C	C	C	-	-	-	-	-	Section 42.21
Temporary Structure	P	P	P	P	P	P	P	P	P	P	P	Section 42.20
Zero Lot Line Development	C	C	C	-	-	C	C	-	-	-	-	Section 42.33

*LEGEND. P = Permitted Use, C = Conditional Use, E = Use Allowed by Special Exception

TABLE 18-B SALES-SERVICE-OFFICE-INSTITUTIONAL USES 8/7/2014

Adopted by the City Council: 4-22-14
 Certified by the Codes and Ordinances Committee: 8-7-14

SALES-SERVICE-OFFICE-INSTITUTIONAL USES	Residential Districts				Commercial Districts				Industrial Districts		Special		Criteria/Conditions
	R1	R2	NMU	AG	DC	OC	GR	HC	GI	RI	HS	AS	Section Reference
Adult Day Care Center	-	-	E	E	P	P	-	P	E	-	P	-	Section 42.22
Adult Day Care Home	-	E	E	E	P	P	-	P	-	-	P	-	Section 42.22
Adult Oriented Establishment	-	-	-	-	-	-	-	-	-	C	-	-	Section 42.22
Agricultural Building, Reuse of Existing	C	C	-	C	-	P	-	-	-	-	-	-	Section 42.22
Antique Shop	-	C	P	-	P	P	P	P	-	-	-	-	Section 42.21
Artist Studio	-	C	P	-	P	P	-	P	-	-	-	-	Section 42.21
Bank	-	-	C	-	P	P	P	P	-	-	-	-	Section 42.21
Convenience Store	-	C	P	-	P	E	P	P	-	-	-	-	Section 42.21
Day Care - 1 (Day Care Residence)	P	P	P	P	P	P	-	P	-	-	P	-	
Day Care - 2 (Day Care - Family)	-	E	P	E	P	P	-	P	-	-	P	-	Sections 42.20 & 42.21
Day Care - 3 (Day Care Center)	-	-	E	E	P	P	-	P	E	-	E	-	Section 42.22
Florist	-	-	P	-	P	-	P	P	-	-	-	-	
Funeral Home	-	-	C	-	P	P	-	P	-	-	P	-	
Gas Station	-	-	-	-	P	-	P	P	-	-	-	-	Sections 42.20 & 42.21
Grocery Store	-	-	-	-	P	-	P	P	-	-	-	-	
Hospital	-	-	-	-	P	P	-	P	-	-	P	-	
House of Worship	-	C	C	C	P	C	-	P	-	-	P	-	Section 42.21
Housing Unit Sales	-	-	-	-	-	-	-	P	P	-	-	-	
Laundry Establishment - 1	-	C	P	-	P	-	-	P	-	-	-	-	Section 42.21
Laundry Establishment - 2	-	-	P	-	P	-	-	P	-	-	-	-	
Library	-	C	P	C	P	P	-	P	-	-	-	-	Section 42.21
Marina	-	-	-	-	-	-	-	P	-	-	-	-	
Museum	-	C	P	C	P	P	P	P	-	-	-	-	Section 42.21
Office	-	-	P	-	P	P	P	P	P	P	-	-	
Office, Medical	-	-	C	-	P	P	P	P	C	-	P	P	Section 42.21
Office, Professional	-	-	P	-	P	P	P	P	P	-	-	-	
Personal Service Establishment	-	-	P	-	P	P	P	P	-	-	-	-	
Retail Sales (under 5,000 square feet)	-	-	P	-	P	E	P	P	-	-	-	-	
Retail Sales (5,000 - 30,000 square feet)	-	-	-	-	P	-	P	P	-	-	-	-	
Retail Sales (over 30,000 square feet)	-	-	-	-	-	-	P	P	-	-	-	-	
Retail Service	-	-	C	-	P	P	P	P	-	-	-	-	Section 42.21
School, K-12	C	C	C	C	C	P	-	C	-	-	-	-	Section 42.21
School, Other	-	C	C	C	P	P	-	P	C	-	-	-	Section 42.21
Second Hand Shop	-	C	P	-	P	P	-	P	-	-	-	-	Section 42.21
Service Establishment	-	-	C	-	C	-	P	C	P	-	-	-	Section 42.21
Shelter	-	-	-	-	E	E	-	P	E	E	E	-	
Small Wind Energy Systems	P	P	P	P	P	P	P	P	P	P	P	P	Section 42.20
Vehicle Sales, New	-	-	C	-	-	-	P	P	-	-	-	-	Sections 42.20 & 42.21
Vehicles Sales, Used	-	-	C	-	-	-	P	P	-	-	-	-	Section 42.20
Vehicle Service	-	-	-	-	P	-	P	P	P	-	-	-	
Yard Sale, Commercial	-	-	-	-	-	-	-	C	-	-	-	-	Sections 42.20 & 42.22

*LEGEND. P = Permitted Use, C = Conditional Use, E = Use Allowed by Special Exception

TABLE 18-C FOOD-LODGING-PUBLIC RECREATION USES 8/7/2014

FOOD-LODGING-PUBLIC RECREATION USES	Residential Districts				Commercial Districts				Industrial Districts		Special		Criteria/Conditions Section Reference
	R1	R2	NMU	AG	DC	OC	GR	HC	GI	RI	HS	AS	
Café	-	-	P	C	P	P	P	P	-	-	-	P	Section 42.21
Campground	-	-	-	E	-	-	-	-	-	E	-	-	Section 42.22
Caterer	-	-	P	-	P	P	-	P	P	P	-	-	
Club	-	-	C	-	P	P	-	P	-	-	-	-	Section 42.21
Community Center	-	-	P	-	P	P	P	P	-	-	-	-	
Conference Center	-	-	C	-	P	P	P	P	-	-	P	P	Section 42.21
Country Club	-	-	-	C	-	-	P	E	-	C	-	-	Section 42.21
Foodstand	-	-	E	-	E	E	P	E	E	E	E	E	Section 42.22
Function hall	-	-	-	-	P	P	P	P	-	-	-	-	
Golf Course	-	-	-	P	-	-	P	-	-	P	-	-	Section 42.22
Health Club	-	-	C	C	P	P	P	P	-	-	-	-	Section 42.21
Lodging, Bed and Breakfast	-	C	P	-	P	P	-	P	-	-	-	-	Section 42.21
Lodging, Hotel	-	-	C	-	P	C	P	P	-	-	C	C	Section 42.21
Lodging, Motel	-	-	-	-	-	-	P	P	-	-	-	C	Sections 42.20 & 42.21
Nightclub	-	-	-	-	EP	-	P	P	-	-	-	-	
Recreation, Indoor	-	-	C	-	CP	C	P	P	-	C	-	-	Section 42.21
Recreation, Outdoor	-	-	-	C	-	C	P	P	-	C	-	-	Section 42.21
Recreation, Park	P	P	P	P	P	P	-	P		C	-	-	Section 42.21
Restaurant	-	-	P	-	P	C	P	P	-	-	-	P	Section 42.21
Restaurant, Drive-through	-	-	-	-	P	-	P	P	-	-	-	-	
Tavern	-	-	C	-	P	-	P	P	-	-	-	P	Section 42.21
Theater/Cinema (30,000 s.f. or less)	-	-	P	-	P	P	P	P	-	-	-	-	Section 42.21
Theater/Cinema (over 30,000 s.f.)	-	-	-	-	-	-	P	P		-	-	-	Section 42.21

*LEGEND. P = Permitted Use, C = Conditional Use, E = Use Allowed by Special Exception

TABLE 18-D INDUSTRIAL-STORAGE-TRANSPORT-UTILITY USES 8/7/2014

INDUSTRIAL-STORAGE-TRANSPORT-UTILITY-USES	Residential Districts				Commercial Districts				Industrial Districts		Special		Criteria/Conditions
	R1	R2	NMU	AG	DC	OC	GR	HC	GI	RI	HS	AS	Section Reference
Airport	-	-	-	E	-	-	-	-	-	-	-	P	Section 42.21
Contractor's Storage Yard	-	-	-	E	-	-	-	E	P	P	-	-	Sections 42.20 & 42.22
Distribution Center	-	-	-	-	-	-	P	C	P	-	-	-	Section 42.21
Emergency Services Facility	-	-	-	-	C	C	-	C	C	-	P	-	Section 42.21
Fuel Storage	-	-	-	-	-	-	P	E	E	-	-	-	Section 42.21
Helipad (accessory use)	-	-	-	E	-	E	P	E	P	P	P	P	Section 42.21
Industry, Heavy	-	-	-	-	-	-	P	E	P	E	-	-	Section 42.21
Industry, Light	-	-	-	-	-C	-	P	P	P	-	-	-	Section 42.21
Industry, Recycling	-	-	-	-	-	-	-	-	-	P	-	-	Sections 42.20 & 42.22
Junkyard	-	-	-	-	-	-	-	E	E	P	-	-	Sections 42.20 & 42.22
Laundry Establishment - 3	-	-	-	-	-	-	-	P	P	-	-	-	
Mini-Warehouse	-	-	-	-	-	-	P	C	P	-	-	-	Sections 42.20 & 42.21
Monument Production	-	-	C	-	-	C	-	P	P	P	-	-	Section 42.21
Parking Lot	-	C	C	C	C	C	-	P	C	P	C	P	Section 42.21
Public Parking Facility					P								
Commercial Parking Facility					C								
Printing Facility	-	-	C	-	-	P	P	P	P	-	-	-	
Recycling Facility	-	-	-	-	-	-	-	E	E	P	-	-	Sections 42.20 & 42.22
Research and Development	-	-	-	-	E	P	P	P	P	-	-	-	Section 42.21
Sawmill	-	-	-	-	-	-	-	-	E	-	-	-	Section 42.21
Sawmill, Temporary (accessory use)	-	-	-	P	-	P	-	P	P	P	-	P	Section 42.21
Solid Waste Facility	-	-	-	-	-	-	-	-	-	P	-	-	Sections 42.20 & 42.22
Tank Farm	-	-	-	-	-	-	P	C	P	-	-	-	
Trade Shop	-	-	C	-	C	C	P	P	P	P	-	-	Section 42.21
Transportation Service	-	-	C	-	C	-	P	P	C	C	-	-	Section 42.21
Truck Terminal	-	-	-	-	-	-	P	-	C	C	-	-	Section 42.21
Utility - Substation	E	E	E	E	E	C	E	P	P	P	E	E	Section 42.21
Utility - power generation	-	-	-	-	E	-	E	-	E	E	-	-	Section 42.21
Warehouse	-	-	C	-	C	C	P	P	P	C	-	C	Sections 42.20, 42.21 & 42.23
Wireless Communications Facility	-	-	-	E	E	E	P	E	P	P	E	E	Sections 42.20 & 42.22

*LEGEND. P = Permitted Use, C = Conditional Use, E = Use Allowed by Special Exception

TABLE 18-E AGRICULTURE-ANIMAL CARE-LAND ORIENTED USES 8/7/2014

AGRICULTURE-ANIMAL CARE-LAND ORIENTED USES	Residential Districts				Commercial Districts				Industrial Districts		Special		Criteria/Conditions
	R1	R2	NMU	AG	DC	OC	GR	HC	GI	RI	HS	AS	Section Reference
Cemetery	-	-	-	E	-	E	-	-	-	-	P	-	Section 42.22
Earth, Sand and Gravel Excavation/Processing	-	-	-	E	-	E	E	C	-	E	-	-	Sections 42.20 & 42.22
Fair	-	-	-	-	-	-	-	-	-	-	-	-	Section 42.2
Farm	E	-	-	P	-	E	-	E	-	E	-	E	Sections 42.20 & 42.22
Farm, Crops	E	E	-	P	-	P	-	P	P	P	-	P	Sections 42.20 & 42.22
Farmer's Market (temporary)	-	-	P	-	P	P	P	P	P	P	P	P	Section 42.2
Kennel (commercial)	-	-	-	E	-	E	-	E	E	E	-	-	Section 42.22
Kennel (private)	-	-	-	E	-	-	-	-	-	-	-	-	Section 42.22
Landscaping Materials	-	-	-	C	C	-	-	C	P	C	-	-	
Plant Nursery	-	-	C	P	C	P	P	P	-	P	-	-	
Roadside Farm Stand	-	-	C	P	P	P	E	E	-	E	-	-	Section 42.22
Stable, Commercial	-	-	-	P	-	E	-	E		P	-	-	Sections 42.20 & 42.22
Veterinary Clinic	-	-	C	E	-	P	P	P	C	P	-	-	Sections 42.20 & 42.22

*LEGEND. P = Permitted Use, C = Conditional Use, E = Use Allowed by Special Exception

TABLE 19-A DIMENSIONAL STANDARDS - RESIDENTIAL DISTRICTS 8/7/2014

RESIDENTIAL DISTRICTS	LOTS			SETBACKS				OTHER					STANDARDS, NOTES, AND REFERENCES	
	Minimum Lot Area (Square feet)	Minimum Frontage (Feet)	Minimum Lot Area/Dwelling Unit (Sq Ft)	Minimum Front (Feet)	Maximum Front (Feet)	Minimum Side (Feet)	Minimum Rear (Feet)	Maximum building footprint (%)	Maximum Lot Coverage (%)	Maximum number of stories	Minimum Building Height (Feet)	Maximum Building Height (Feet)	A "- " means there is no dimensional standard for this item.	
RESIDENTIAL-1 (R1)														
Single family	10,000	100	-	10		10	20	30	35			35	See Section 42.19 - Dimensional Standards	
All other uses	10,000	100	-	10		10	20	30	35			35		
RESIDENTIAL-2 (R2)														
Single family	6,000	60	-	10		8	20	30	35			35	See Section 42.19 - Dimensional Standards	
Two family	9,000	80	-	10		8	20	30	45			35	See Section 42.19 - Dimensional Standards	
Three & four family	12,000 & 15,000	80	-	15		10	25	30	60			35	See Section 42.19 - Dimensional Standards	
Multifamily	30,000	100	5000 or 7500	15		10	25	30	60			35	See Section 42.19 - Dimensional Standards	
All other uses	9,000	80	-	10		8	20	30	35			35		
NEIGHBORHOOD MIXED USE (NMU)														
All uses	6,000	60	- ²	-	25	5 ¹	20		90	3	20	20	See Section 42.19 - Dimensional Standards	
AGRICULTURAL														
Single Family, Conventional Subdivision, municipal water & sewer	20,000	150	-	20		10	20	30	35			35	See Section 42.19 - Dimensional Standards	
Single Family, Conventional Subdivision, municipal water OR sewer	30,000	150	-	20		10	20	30	35			35	See Section 42.19 - Dimensional Standards	
Single Family, Conventional Subdivision, neither municipal water nor sewer	45,000	150	-	20		10	20	30	35			35	See Section 42.19 - Dimensional Standards	
Two Family	150% of single	150	-	20		10	20	30	40			-	See Section 42.19 - Dimensional Standards	
Single Family Dwelling - Conservation Subdivision	6,000	60	-	20		10	20		35			35	See Section 42.33 - Conservation Subdivisions	
All other uses	45,000	150	5000 or 7500	20		10	20		40			35		

TABLE 19-B DIMENSIONAL STANDARDS - COMMERCIAL DISTRICTS 8/7/2014

COMMERCIAL ZONING DISTRICTS	Lots				Setbacks				Standards				Notes, and References
	Minimum Lot Area (Square feet)	Minimum Frontage (feet)	Minimum Lot Area/ Dwelling Unit (Square feet)	Maximum Lot Coverage (%)	Minimum Front (Feet)	Maximum Front (Feet)	Minimum Side (Feet)	Minimum Rear (Feet)	Maximum Number of Stories	Minimum Number of Stories	Maximum Height (Feet)	Minimum Height (Feet)	
DOWNTOWN COMMERCIAL (DC)													
All Uses	4,000	40	500	-	10	40	10 ¹	15	5	2	-	20	See Section 42.19(B)(8) Density Rings
OFFICE COMMERCIAL													
All Uses	10,000	80	5000 ²	75	10	-	10 ¹	25	3	-	-	-	See Section 42.19 - Dimensional Standards
HIGHWAY COMMERCIAL													
All Uses	20,000	100	5000/7500 ²	85	20	-	10 ¹	25	3	-	-	-	See Section 42.19 - Dimensional Standards and 42.19(B) (8) Density Rings
GRANITE RIDGE													
All Uses	-	50	-	-	-	-	-	-	-	-	-	-	

Note 1: For lots that adjoin a residential district, the side setback on the side adjoining the residential district shall be the larger of the required side setback in the subject commercial zone or the adjoining residential zone.
 Note 2: For lots without both water and sewer, 10,000 square feet of lot area is required per additional dwelling unit beyond one.

Note 3: For lots without City sewer, the New Hampshire Division of Environmental Services (NHDES) requires minimum lot sizes which may be larger than those shown here.

Note 4: See Setbacks for DTC Zone Section 42.6 C.3 B.1

Commented [MM1]: Commercial see Section 42.6 C 3 B
 i
 Add to refer to note 4

TABLE 19-C DIMENSIONAL STANDARDS - INDUSTRIAL DISTRICTS 8/7/2014

INDUSTRIAL DISTRICTS	Lots			Setbacks			Height	Standards, Notes, and References
	Minimum Lot Area (Square Feet)	Minimum Frontage (Feet)	Maximum Lot Coverage (%)	Minimum Front (Feet)	Minimum Side (Feet)	Minimum Rear (Feet)	Maximum Height (Feet)	
GENERAL INDUSTRIAL (GI)								
See Below								See Section 42.19 - Dimensional Standards
RECYCLING INDUSTRIAL (RI)								
See Below								See Section 42.19 - Dimensional Standards
For GI and RI DISTRICTS								
All uses with no water or sewer	40,000	100	75	25	20 ¹	25	55	
All uses with water or sewer	30,000	100	75	25	20 ¹	25	55	
All uses with water and sewer	20,000	100	75	25	20 ¹	25	55	

TABLE 19-D DIMENSIONAL STANDARDS - SPECIAL DISTRICTS 8/7/2014

SPECIAL DISTRICTS	Lots			Setbacks		Standards, Notes, and References
	Minimum Lot Area (Square feet)	Minimum Frontage (Feet)	Maximum Lot Coverage (%)	Minimum to any Street	Minimum to any Lot Line	
A " - " means there is no dimensional standard for this item.						
HOSPITAL SPECIAL (HS)						
All uses (other than single family)	<u>none</u>	<u>none</u>	85	none	side-10 rear-25	
Single family	<u>none</u>	<u>none</u>	-	none	side-10 rear-25	
AIRPORT SPECIAL (AS)						
All uses	none	none	none	35	50	See Aviation Overlay District (AOD)

City of Rochester Downtown Density Update

Summary of Recommendations

Report Section	Topic	Report Recommendation	Code Section
2.04 Chapter 42	Density & Uses Process	<ul style="list-style-type: none">•To promote 4 and 5 story mixed-use buildings, eliminate the “density limit.”	<ul style="list-style-type: none">•Table 19B•42.19.b.8
2.05 Chapter 42		<ul style="list-style-type: none">•Eliminate single-family and duplex uses as a permitted use in the DC. Explore options for legalizing existing uses.	<ul style="list-style-type: none">•Tables 18A-D•42.22.a.8
2.05 Chapter 42		<ul style="list-style-type: none">•Allow multi-family use (as a single use of the property) as a permitted use on DC properties which do not front a major commercial street.•Define/depict applicable street frontages.	<ul style="list-style-type: none">•42.20.b.11
2.05 Chapter 42		<ul style="list-style-type: none">•To promote a hotel downtown, lower the lot size requirement and eliminate the parking requirement for a hotel fronting a major commercial street.•Define/depict applicable street frontages.	<ul style="list-style-type: none">•42.20.b.7•42.21.d.7

Amendment to Chapter 42 of the General Ordinances of the City of Rochester Regarding the Historic Overlay District

THE CITY OF ROCHESTER ORDAINS:

That Chapter 42 of the General Ordinances of the City of Rochester and currently before the Rochester City Council, be amended as follows (changes in ~~colored~~):

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HISTORIC OVERLAY DISTRICT (HOD)

Article XI of the City of Rochester Zoning Ordinance

****DRAFT****

A. Table of contents

- [A. Table of contents](#)
- [B. Purpose and intent](#)
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- [K. Historic District Demolition Permit](#)
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B. Purpose and intent. This ordinance is established by the Rochester City Council pursuant to and in accordance with NH RSA's 673:4 and 674:44a through 674:50. The purpose of the Rochester Historic Overlay District is to promote the general welfare of the community by:

1. Safeguarding the cultural, social, political, and economic heritage of the City;
2. Fostering the preservation, restoration, and rehabilitation of structures and places of historic, architectural, and community value;

Historic Overlay District Ordinance
Final Version
[Approved by Planning Board on 10/22/18](#)

[Approved by HDC on 10/10/18](#)

3. Fostering civic pride in the beauty and noble accomplishments of the past;
4. Furthering the attractiveness of the City of Rochester to home buyers, tourists, visitors, and shoppers, thereby providing economic benefit to the City;
5. Conserving and improving the value of property in the District; and
6. Enhancing opportunities, where applicable, for financial benefits for owners of historic properties through grants, low interest loans, tax credits, and other tax benefits.

New construction is an essential process in a vital community, representing the current phase of an evolution that has been ongoing since the settlement of Rochester. There are a number of ways of designing new buildings and additions that will meet the objectives of this Section. State of the art contemporary architecture is appropriate – and encouraged - provided that it is respectful of the historic fabric of the District.

~~b. Identification of the Historic District. A Zoning Map of the Rochester Historic District, as amended, which shows the Historic Overlay District, is hereby incorporated as part of this Section and is on file with the City Clerk. The Zoning Map and all the notations, references, district boundaries, and other information shown thereon, shall be as much a part of this Section as if all were fully described therein. See the Appendix which lists properties in the district by Assessor's Map and Lot numbers.~~

~~c. Purview of Commission. The primary responsibility of the Commission is to review applications for Certificates of Approval for development within the Historic District (see subsection 42.4 g, 2 for full list of Commission responsibilities).~~

- ~~1. Intent. It is the intent of this Section to limit review primarily to the building itself and those elements of the building reasonably considered to be key to the architectural integrity of the building.~~
- ~~2. Building Permits. No building permits may be issued and no physical development activity nor significant ground disturbance may occur for activities subject to review herein until a Certificate of Approval has been issued by the Commission for the proposed activity.~~

~~In cases where an applicant seeks to do work: a) on the exterior of a building which is subject to review and b) on the interior of a building, a separate building permit may be issued for the interior work, thus allowing that work to proceed independently from review of the exterior work. A separate building permit, however, may not be issued for any interior work (such as changes to window sizes) which is integrally related to the design for the exterior work, which is subject to review.~~

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3. Activity Subject to Review. Approval is required only when the subject activity or a portion of the subject activity would be visible from a public way. Approval from the Historic District Commission is required for the following activities:

a. Any activity affecting the exterior architectural appearance of a building within the District that is not exempted by Subsection 4) Activity Exempt from Review. Activities subject to review include the erection of new buildings; additions to existing buildings; alterations to existing buildings; renovation or restoration of existing buildings; demolition of existing buildings or portions of existing buildings; reconstruction of damaged or destroyed buildings; and the relocation of any building into, out of, or within the District

b. Signage. The purpose of this review is to promote signage that is creative, distinctive, attractive, pedestrian oriented, reasonably low key, and harmonious with the character of the historic district. See Section 42.29 Signage, of this ordinance for dimensional and other sign standards.

i. The following sign components are subject to review:

(a) Size

(b) Shape

(c) Location/placement

(d) Colors—see Section 42.14 d, K Color, herein, as a reference Illumination—see (iii), below

(f) Materials—see (iv), below

(g) Typefaces

ii. The following sign components are not subject to review:

(a) Text

(b) Logos

(c) Graphic messages

iii. Illumination:

(a) If the sign is to be illuminated, use of exterior illumination is strongly encouraged (with light that does not shine toward pedestrian or vehicular ways).

(b) Internal illumination is discouraged. If a sign is to be internally illuminated, the text should be light colored or white and the background/field should be a darker color.

(iv) Materials. Use of wood, urethane, other solid materials, or metal is preferred. Plastic signs are strongly discouraged.

C. Carts, wagons, trailers, and other vehicles that are intended for the sale of goods, products, or services and which are permanently or temporarily situated in place on the ground

For the purposes of this provision, “temporarily” means for more than three consecutive days or for more than five individual days in a calendar year.

D. Fences and walls. Use of chain link fencing is strongly discouraged. See Section 42.23 Accessory Uses on fences, of this ordinance for other fence/wall standards.

~~E. Light fixtures attached to buildings (but light fixtures attached to single or two family houses are exempt from review).~~

~~F. Color of materials and paint and stain colors. However, color of materials, paint, and stain for single family houses and two family houses is exempt from review. See Section 42.14 d, K Color, herein, as a reference.~~

C. Applicability. This Chapter applies to all properties located within the boundaries of the Historic Overlay District.

D. Historic District Commission

1. Membership

a. Composition. The Historic District Commission shall consist of seven (7) regular members and up to five (5) alternate members. Two (2) seats among the regular members are designated for one member of the City Council and one member of the Planning Board, respectively. Likewise, two (2) seats among the alternate members are designated to one member of the City Council and to one member of the Planning Board, respectively, which two (2) alternate members may only sit for the regular City Council and Planning Board members, respectively. All Commission members shall be appointed in accordance with the provisions of Section 74 of the Rochester City Charter.

b. Qualifications. All members shall be residents of the City of Rochester. In reviewing the qualifications of a candidate for the Commission, the Council/Planning Board shall consider his/her demonstrated interest and experience in, and knowledge of, historic preservation and his/her ability to administer this Section consistent with its purpose and intent. To the extent that such persons are available the Council/ Planning Board shall seek members with backgrounds or interest in the fields of Architecture, Planning, Historic Preservation, History, Archaeology, Anthropology, Engineering, Construction, Real Estate, and Law. At least one member shall live or work in the Historic District.

c. Appointments. The members of the Historic District Commission shall be appointed for terms of three years. Initial appointments shall be staggered so that subsequent terms will not be coterminous.

2. Powers and Duties. The Historic District Commission shall have the following powers and duties:

a. Applications. Reviewing and approving, approving with conditions, or denying applications for Certificates of Approval.

- b. Consultation. Calling upon City staff, citizens, abutters to applicants, and professionals, as it sees fit, for input, consultation, and recommendations on matters before the Commission.
- c. Surveys. Conducting small area or community-wide surveys of historic, architectural, and cultural resources.
- d. National Register. Nominating structures and districts for listing in the National Register and reviewing all proposed National Register nominations within the City; keeping a record of all properties which are included in the local historic districts, listed in the National Register, and determined eligible for National Register listing.
- e. Planning. Preparing historic resources components of local master plans and insuring that historical resources are considered at every level of local decision-making.
- f. Advice and Advocacy. Advising other agencies of local, state, and federal government regarding, and advocating on behalf of, the identification, protection, and preservation of local historic, architectural, archaeological, and cultural resources.
- g. Liaison. Acting as a liaison between local government and individuals or organizations concerned with historic preservation.
- h. Other Applications. Commenting on applications for site plan/subdivision approval, zoning amendments, variances, special exceptions, and other approvals affecting property in the Historic District or other historic resources.
- i. Amendments. Investigating and recommending to the Planning Board and City Council amendments to this Section and appropriate areas for designation as historic districts.
- j. Education. Educating individual members of the Commission, municipal officials, property owners, and the public about the historic district and historic preservation.
- k. Signage and Recognition. Developing and administering a system of markers and monuments recognizing individual properties and the district and acknowledging special contributions toward historic preservation by members of the community.

- l. Budget. Developing and submitting an annual request for funds to the City Council if desired. Subject to the availability of funds, the Commission may retain consultants.
- m. Rules and Regulations. Adopting, and from time to time amending, Rules and Regulations which are consistent with the intent of this Section and appropriate state statutes.
- n. Other. Undertaking any other appropriate action or activity necessary to carry out its mission as embodied in this Section.

E. Definitions

The following definitions apply to this Section only.

Building. Any structure having a roof and intended for the shelter, housing, or enclosure of persons, animals, or personal property.

Contributing property (structure or site). Also known as a historic property. A property that contributes positively to the Historic Overlay District's architectural quality and integrity as a result of its location, design, history, condition, quality, age, materials, workmanship, feeling, and/or association.

Exterior Architectural Appearance. This encompasses the building itself and those individual elements which are integral to the building and are visible on the exterior. It includes colors, materials, texture, arrangement, architectural detailing and trim, the roof, windows, doors, foundation, steps, ramps, porches, decks, awnings, hardware, and light fixtures.

Hardship. A situation where denial of the applicant's request to perform particular work upon a specific property that is not in conformance with the standards of this Section would cause substantial difficulty for the applicant due to significant financial expense, loss of use of the property, diminution in the usability of the property, or impairment of the ability of an existing business to function effectively. *(Note that this definition is different from the concept of hardship used elsewhere in this Ordinance regarding applications for variances.)*

Historic Overlay District. Also known as Historic District and District. An overlay zone district as described in this Chapter.

Massing. The shapes, sizes, and arrangement of the three dimensional forms that compose a building.

Noncontributing property. A property which - due to its recent vintage (generally less than 50 years), incompatible design, incompatible and irretrievable alterations, or deteriorated

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condition - would not be considered to contribute to that character or quality of the District which the City seeks to preserve.

Proportion. The relation of one dimension to another, such as the height of a window compared to its width. Proportion affects visual order through coordination of such elements as height, width, depth, and spacing.

Public Way. A road, sidewalk, footpath, trail, park, or navigable waterway owned by the City of Rochester or another governmental agency and intended to be accessible to the public.

Scale. The perception of the size of a building or building element relative to the human body or other buildings or objects in the vicinity.

Structure. Anything constructed or erected, the use of which requires location on the ground, or attachment to something having location on the ground. Examples include buildings, fences, walls, signs, and light fixtures.

Traditional. Sensitive to, evocative of, or harmonious with any particular style of architecture established prior to 1950 or the prevailing patterns, forms, or styles of architecture dating from the original settlement of the United States up to 1950.

F. Designation of the Historic District

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1. **Procedures for Designation.** The Rochester Historic District functions as a zoning overlay district. It is the role of the Historic District Commission to evaluate properties within the overlay district and to designate specific properties as contributing properties. The District boundaries may be amended and new historic districts may be designated and delineated following the Amendment Procedure described in this Zoning Ordinance with the provision that:
 - a. The Historic District-Commission may initiate such amendments;
 - b. The Historic District-Commission shall have an opportunity to comment on any such proposed amendments prior to enactment by the Codes and Ordinances Commission and by City Council; and
 - c. The Historic District Commission designate individual lots or parcels of land may by itself be designated as a historic district upon determination of worthiness under this Section. within the overlay district as contributing property upon determination by the Historic District Commission that the criteria for designation within this section are met.

2. **Criteria for Designation.** Any building, group of buildings, site, property, group

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of properties, or area (collectively referred to herein as “site”) proposed for inclusion in the Rochester Historic District should generally (but not necessarily) be at least fifty (50) years old and possess one or more of the features listed below. [These criteria should be considered when the Commission, Planning Board and/or City Council deliberate the enlargement or reduction of an existing district or the creation of a new district.](#) In any district which contains multiple properties or structures, not every property or structure need meet these criteria; rather the district overall should embody a meaningful degree of continuity, cohesiveness, integrity, and a prevailing conformance with one or more of the criteria.

- a. The site embodies distinguishing characteristics of, or high quality in, design, detailing, materials, craftsmanship, or a particular architectural style;
- b. Its antique age, good condition, and special features make it worthy of preservation.
- c. Its unique location and characteristics make it an established and appreciated element or visual landmark for the community.
- d. The site is identified as the work of a master builder, designer, architect, engineer, or landscape architect whose individual work was influential in the development of the City of Rochester, region, state, or nation.
- e. The site contributes to the visual continuity of the District.
- f. One or more significant cultural, social, political, economic, or military events in the history of the City of Rochester, region, state, or nation occurred at the site.
- g. The site is identified with a person or persons of historic significance;

G. Identification of the Historic District. [This district may be referred to as the Historic Overlay District, HOD, or Rochester Historic District.](#) A Zoning Map of the Rochester Historic District, as amended, which shows the Historic Overlay District, is hereby incorporated as part of this Section, and is on file with the City Clerk. Within the District are [contributing and noncontributing](#) buildings as identified by the Historic District Commission and on file with the City of Rochester Planning Department. The Zoning Map and all the notations, references, district boundaries, and other information shown thereon, shall be as much a part of this Section as if all were fully described therein. See the Appendix which lists properties in the district by Assessor’s Map and Lot numbers.

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[Surveys, Maps and Historic Context Papers. The Planning Director or designee shall](#)

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conduct or cause to be conducted such preliminary surveys, studies or investigations as deemed necessary or advisable to adequately inform Historic District Commission of those properties located within the City which represent Rochester's history. The Planning Director or designee shall memorialize the results of surveys, studies and investigations in a series of historic inventory forms, maps and/or historic context papers. Said inventory forms, maps, and context papers shall be maintained by the Planning Department and shall be made available for public inspection at all reasonable times.

These resources shall be referenced by the Historic District Commission when reviewing applications for changes or boundary adjustments within the Historic Overlay District.

- H. Delineation of the Historic District.** The Rochester Historic District is defined as that area made up of the lots listed below as delineated on the Rochester Tax Maps. Unless otherwise noted or shown on the map, all of the land composing each lot shall be considered to lie within the District. The District also includes all City property necessary to make a contiguous District. (Note that in the case of discrepancy between the Zoning Map and this list of lots, the Zoning Map shall be determining.) Lots in the district include: Tax Map 116, Lots 156-162, and 201-204; Tax Map 120, Lots 322-324, 332-340, 342, 342-1, 343, 346, 347, 351, 352, 354, 355, 358-367, 379-381, 383-390, 392-408, and 419-422; Tax Map 121, Lots 9-18, 28, 29, 361-364, 366-368, 368-1, 369-400; and Tax Map 125, Lots 1, 181, 182, and 202-204.

Commented [MM5]: Moved from Appendix
No changes to district boundaries

I. Effect of inclusion in the Historic District.

1. Approvals required. Any development involving properties included within the boundaries of the Historic Overlay District, unless determined exempt, requires the approval of a Certificate of No Negative Effect or a Certificate of Approval before a building permit or any other work authorization will be issued by the City.
2. Design Guidelines.
 - a. The Historic District Commission has adopted design guidelines, hereinafter referred to as "the guidelines." These guidelines set forth the standards necessary to preserve and to maintain the historic and architectural character of the Historic Overlay District. The standards apply to the exterior features of properties within the District and are intended to offer assistance to property owners undertaking construction, rehabilitation, alterations, or other exterior changes. The guidelines will be periodically reviewed by the Historic District Commission and amended at a public hearing as needed.
 - b. The guidelines will be used in the review of requests of Certificate of no negative effect or Certificates of appropriateness. Conformance with applicable guidelines is strongly recommended for the approval of any proposed project.

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c. The guidelines effectively replace the Architectural Regulations under the Site Plan Regulations for properties located within the Historic Overlay District. The Architectural Regulations and Site Plan Regulations and associated reviews do not apply.

3. *Special Consideration for contributing and noncontributing buildings within the Historic District.* To preserve and maintain the historic and architectural character of the District, the Historic District Commission or City Council may approve variations from the requirements set forth in the Land Use Code and may make recommendations to the Chief Building Official who has the authority to grant certain exceptions from the International Building Code (IBC) through the provisions of the International Existing Building Code (IEBC).

To the extent practicable and appropriate, as determined by City staff and the Commission, applicants may file applications for various permits - to the Planning Board, Zoning Board of Adjustment, Building Department, etc. – simultaneously, or in any appropriate order, in order to save time. This provision, however, shall not be construed in a manner which would prevent the Commission from conducting a thorough review, as it sees fit.

All City authorities, including the Historic District Commission and City Council, are authorized to grant economic and developmental benefits to historic properties within the Historic District.

In cases where the Historic District Commission has purview, the Planning Board shall not have jurisdiction over architectural design. The Architectural Regulations under the Site Plan Regulations shall not apply. Nonetheless, the Planning Board shall review all other elements of a site otherwise subject to its review.

4. Property owned by the City of Rochester shall be subject to review and approval by the Commission in like manner to all other property in the City situated within the district, provided, however, that a vote by 2/3 of the total membership of the Rochester City Council may override any vote of the Commission pertaining to land or property owned by the City of Rochester.

J. Development involving a property within the Historic District. No building, structure, significant ground disturbance or sign may be constructed, altered, repaired, relocated or otherwise improved within the boundaries of the Historic Overlay District until sufficient information is submitted to the City of Rochester Planning Office and approved in accordance with the procedures established within the Municipal Code.

1. ~~Activity Exempt from Review~~ *Exempt activity.* A Certificate of appropriateness or Certificate of no negative effect shall not be required for the following activities. A project may be subject to other requirements within the Zoning Ordinance.

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~~Structures which are not buildings as defined in this Section (such as light poles and street furniture).~~

- a. Work completed on a single family or duplex building within the Historic Overlay District.
- b. Structures which are not buildings as defined in this Section (such as light poles, street furniture, and fences)
- c. Work performed on the interior of buildings that does not effect the exterior appearance.
- d. Land uses. Land uses are not be regulated through this Section herein nor by the Commission. Permitted uses are set forth elsewhere in this Zoning Ordinance. However, in cases where the applicant is unable or unwilling to develop a design which conforms to the guidelines and requirements herein because of unusual constraints in the nature of the proposed use the Commission is by no means required to issue a Certificate of Approval simply to accommodate that permitted use. (Example: A gasoline station might be permitted in the historic district but if no design is presented for which the appearance of the canopy and the pump stations which meet the standards of this Section then the application should be denied, even though this specific permitted use may thereby be precluded.)
- ~~e. Elements which are appurtenant to a building but which are not integral to the building including antennas, satellite dishes, flagpoles, mailboxes, window air conditioning units, and similar elements. on the rear portions of buildings or where they will be least noticeable from any public way.~~
- ~~e. Minor maintenance and repair which does not involve any significant change in materials, design, or the outward appearance of the building~~
- f. Installation or removal of any plants.
- ~~g. G. Color of materials, paints and stains for single family houses and two family houses. Color of paint or stain of wood siding with the condition that the paint color or stain is from an approved historic paint color palette. Refer to the City of Rochester Planning Staff for approved historic paint color palettes.~~
- h. Installation of pavement or other impervious or semi-impervious material in an already established parking area. or driveway area. However, the Commission has purview over the location and position of new construction and additions (which could affect other site conditions).
- i.

Minimally intrusive work that does not adversely affect the historic character of the property or District as determined by Planning Staff.

~~I. Lighting treatment, i.e. wattage and types of bulbs and light fixtures attached to single and two family houses. However, light fixtures attached to buildings (other than single and two family houses) are subject to review.~~

~~J. Modifications to the site which do not affect buildings.~~

~~K. Any temporary emergency repairs provided that review and conformance with the guidelines of this Section will be required afterward. As part of that review, the HDC may impose appropriate requirements, including establishing a timeframe in which proper repairs must be completed.~~

~~L. Items which are not explicitly addressed in this subsection but for which the proposed work clearly:~~

- ~~—— i. would not have any meaningful negative impact;~~
- ~~—— ii. would be barely noticeable, if at all, from any public way; and~~
- ~~—— iii. would be consistent with the intent of this Section, all as reasonably determined by the Planning Department.~~

2. *Certificate of no negative effect.* An application for a Certificate of no negative effect may be made to the City of Rochester Planning Department for approval of work that has no adverse effect on the physical appearance or character defining features of a property located within the Historic Overlay District. An application for a Certificate of no negative effect may be approved by the Planning Director or designee with no further review if it meets the requirements set forth below:

a. The Planning Director or designee shall issue a Certificate of no negative effect within fourteen days after receipt of a complete application if:

- 1) It is determined that the activity is an eligible work item and meets the City Historic Preservation Design Guidelines; and,
- 2) Any modifications to the proposed work requested by the Planning Director or designee are agreed to by the owner/applicant; and,
- 3) The proposed work will not diminish, eliminate or adversely affect the significant historic and/or architectural character of the subject property or Historic District in which it is located.

b. An application for a Certificate of no negative effect shall include the following:

- 1) Elevations or drawings of plans not less than 1/8 inch showing the proposed work.

- 2) Photographs, building material samples and other exhibits, as needed, to accurately depict location, extent and design of proposed work.
 - 3) Demonstrated compliance with applicable design guidelines.
- c. The following work shall be considered for a Certificate of no negative effect:
- 1) Replacement of architectural features which creates no change to the exterior physical appearance of the building or structure.
 - 2) Installation of awnings on historic properties.
 - 3) Signs.
 - 4) Alterations to noncontributing buildings within the Historic Districts that have no adverse effect on its historic or architectural character.
 - 5) Alterations to non-street facing facades on contributing buildings within the Historic District that have no adverse effect on its historic or architectural character.
 - 6) Small structures or additions of 250 sf or less in size.
 - 7) Installation of site improvements, such as walkways, patios, decks, or similar significant features.

d. In the event that the Planning Director or designee determines that the issuance of a Certificate of no negative effect is not appropriate or the design guidelines are not met, the owner may apply for a certificate of appropriateness from the HDC.

5. Other Terms

~~A. A Certificate of Approval is required for all work within the purview of the Commission whether or not such work requires a building permit or any other permits issued by the City or other authorities. A Certificate of Approval shall not be required for any construction, alteration, or demolition of any structure or element of a structure which the Director of Building, Zoning, and Licensing Services, certifies as being required for public safety. However, the Director shall give the Commission an opportunity to comment upon any such action unless a time emergency precludes it.~~

~~B. A Certificate of Approval is only required for new activities which the property owner initiates/proposes after adoption of this ordinance. The Commission does not otherwise initiate any review except in response to such proposals/activities by the property owner. Thus, property owners are not required to bring any existing conditions into "conformity" with this ordinance, except in cases where improving certain existing conditions may be integrally related to a proposal presented by the applicant.~~

C. Property owned by the City of Rochester shall be subject to review and approval by the Commission in like manner to all other property in the City situated within the district, provided, however, that a vote by 2/3 of the total membership of the Rochester City Council may override any vote of the Commission pertaining to land or property owned by the City of Rochester.

D. The Commission may, after majority vote of the Commission, coordinate with, or defer to, other City boards, regarding review of items which might also be subject to review by those boards.

d. Guidelines for Review. The following guidelines shall be used by the Historic District Commission in reviewing applications for Certificates of Approval. Recognizing that every property, every proposal, and every situation is unique, the Commission shall utilize its reasonable judgment, and is granted a fair degree of flexibility, in applying these guidelines, consistent with other requirements and limitations of this Section.

1. General Principles. The following general principles are adapted from the U.S. Secretary of the Interior's Standards for Rehabilitation:

A. Every reasonable effort shall be made to minimize alteration of the significant features of the building.

B. The distinguishing original qualities or character of the building shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features shall be avoided where possible.

C. All buildings shall be recognized as products of their own time. Alterations that have no historical basis and that seek to create an earlier appearance shall be discouraged.

D. Changes that may have taken place in the course of time are evidence of the history and development of the building. These changes may have acquired significance in their own right, and this significance should be recognized and respected.

E. Distinctive stylistic features or examples of skilled craftsmanship that characterize a building should be treated with sensitivity.

F. Deteriorated architectural features should be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historic, physical, or pictorial evidence, rather than on conjectural designs or the availability of different architectural elements from other structures.

G. Contemporary design for alterations and additions to existing buildings should not be discouraged when such designs do not destroy significant historical, architectural, or cultural material, and when those designs are compatible with the size, scale, color, material, and character of the property, neighborhood, and environment.

H. Whenever possible, new additions or alterations to structures should be done in such a manner that if those additions or alterations were to be removed in the future, the essential form and integrity of the building would be unimpaired.

2. Elements of Design. The following principles also apply:

A. Harmony with surrounding buildings. Proposals should be harmonious with the existing building (in the case of additions and alterations) and with contributing neighboring buildings and other buildings within the District, as appropriate, in respect to:

- i. mass;
- ii. width;
- iii. height;
- iv. proportion;
- v. spacing;
- vi. setback; and
- vii. all of the other elements of design discussed herein.

B. Sitting of building. Most buildings are oriented parallel or perpendicular to the street. Those in the downtown are traditionally placed very close to the street if not right up to the sidewalk. This pattern reinforces the streetscape. Buildings should not be oriented at odd angles to the street.

C. Scale. Every effort should be made to provide an appropriate scale to new buildings both in their overall size and in their details:

- i. It is important in downtown areas for buildings to be multistory in order to reinforce the sense of enclosure of the street. Alternatively:
- ii. A single story building should have a relatively steep roof or a high parapet.

D. Proportion. Buildings and their details should be well proportioned in accordance with commonly accepted design principles so as to create a sense of order and balance.

E. Massing. Large structures should be broken into smaller masses to provide human scale, variation, and depth. These smaller masses should have a strong relationship to one another and, ideally, each smaller mass will have an integrity of form.

F. Roof. As a design element the roof has a significant effect on the building's character. The lack of a roof often promotes a feeling of boxiness. The taller the building the less necessary is a pitched roof.

- i. Multistory buildings in downtown rarely included a pitched roof. Extensive areas of visible roof should be broken up with:

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~~_____ dormers,
_____ cross gables,
_____ cupolas,
_____ chimneys, parapets, balustrades,
and
_____ towers.~~

~~ii. Where flat roofs are used there should be a distinct cornice and/or parapet to emphasize the top of the building.~~

~~G. Building façade. Much attention should be given to create an attractive building façade. Broad expanses of blank walls are inappropriate. Traditionally, the parts of a façade that might be embellished, or at least articulated in some fashion include:~~

~~i. the horizontal base where the building meets the ground (such as a different treatment for the foundation or a water table) ii. the horizontal top where the building meets the sky (such as a projecting cornice with brackets)~~

~~iii. a horizontal section in between (such as a belt course between stories)~~

~~iv. the vertical corners on the left and right sides (such as corner boards or quoins)~~

~~v. vertical articulation in the middle (such as pilasters)~~

~~vi. the area around the door/entry (such as a portico)~~

~~vii. the areas around the windows (such as window surrounds) In addition, depth may be created for the façade through use of porches, projecting or recessed sections, bay windows, or arcades.~~

~~H. Windows. Windows are an integral part of a building and should be incorporated on front facades, and preferably side facades to humanize the building. It is desirable that the windows along with the door establish a coherent, orderly pattern and rhythm.~~

~~i. Shape. It is preferable that windows be vertical (except for retail uses, below). Horizontally shaped windows are discouraged. Where horizontal windows are sought a series of contiguous vertical windows with mullions in between should be used arranged in a horizontal "band".~~

~~ii. In the downtown use of large picture type windows for retail uses on the first floor is strongly encouraged.~~

~~iii. Shutters. Shutters are generally not used traditionally on commercial buildings but, where appropriate, should be sized properly for the window opening (approximately one half the width of the opening).~~

~~iv. Preservation of original wood windows is strongly encouraged but not required. Where windows are replaced use of true divided light windows is encouraged but not required. Use of false mullions may be stipulated where appropriate.~~

~~I. Entrance. The entrance is an important element in defining a building. i. Articulation of the entrance is encouraged through use of:~~

- ~~_____ a portico;~~
- ~~_____ a canopy;~~
- ~~_____ an awning;~~
- ~~_____ sidelights;~~
- ~~_____ a surround, or~~
- ~~_____ another device.~~

~~ii. Generally, there should be an entrance, if not the primary entrance, located on the front facade.~~

~~J. Siding materials. Materials should be high quality and durable, especially in the core downtown areas, where masonry is preferred.~~

~~i. Use of the following natural materials is strongly encouraged:~~

- ~~_____ wood (clapboard and shakes);~~
- ~~_____ brick;~~
- ~~_____ stone;~~
- ~~_____ fiber reinforced stucco;~~
- ~~_____ textured block; and~~
- ~~_____ terra cotta~~

~~However, fabricated materials which effectively imitate the character of these materials is acceptable.~~

~~i. Conventional vinyl siding is discouraged, especially on front facades. However, it is less of a concern on side or rear facades. Where used, it should be arranged in a horizontal pattern resembling wood clapboard.~~

~~iii. Use of the following materials is inappropriate:~~

- ~~_____ sheet plastic;~~
- ~~_____ sheet fiberglass;~~
- ~~_____ T-111 plywood;~~
- ~~_____ flaky "fish shack style" wood shingles;~~
- ~~_____ simulated brick;~~
- ~~_____ "salvage style" brick with multiple colors;~~
- ~~_____ highly reflective plastic or metal;~~
- ~~_____ prefabricated metal wall panels;~~
- ~~_____ undressed cinder block; and~~

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_____ other materials similar to these

K. Color. Appropriate color selection is guided by the following: i. Main building color/large areas and signage. The following color palettes are encouraged for the main building color/large areas and signage:

- _____ nature
- _____ blending,
- _____ earth tone,
- _____ neutral, and
- _____ pastel

ii. _____ Main building color/large areas. The following color palettes are discouraged for the main building color/large areas:

- _____ bright colors,
- _____ primary colors, and
- _____ Metallic colors

iii. _____ Building accent areas and signage. The following color palettes are acceptable for building accent areas and signage:

- _____ bright colors,
- _____ primary colors,
- _____ metallic colors

iv. _____ The following color palettes are prohibited:

- * _____ high intensity colors and
- * _____ fluorescent colors

v. _____ For brick, use of deep, dark traditional reds is desirable and may be required.

2. Other Principles

A. New construction. Traditional style architecture is certainly desirable provided that it is skillfully designed in accordance with the objectives of this section.

B. Visibility. Generally, the less visible or prominent a structure or facade the less stringent the standards/review.

C. Demolition or Removal. Demolition or removal of structures may be denied at the discretion of the Commission.

i. Contributing Structures. Demolition or removal from the District of a contributing structure is strongly discouraged. No such application should be approved until a detailed redevelopment plan for the site has been approved by the Commission and/or Planning Board, as appropriate.

ii. Noncontributing Structures. In many cases, demolition or relocation of a noncontributing structure is entirely appropriate, if

~~not desirable, depending upon how the site will be developed afterward.~~

~~D. Relocation within the District. Relocation of a contributing structure from its site is discouraged. The Commission may approve such a relocation if it determines that there are compelling reasons to do so after conducting a rigorous review of the request.~~

~~E. Noncontributing Buildings. Significantly less stringent review is in order for "noncontributing" buildings.~~

~~4. References. The Commission may also use the following as references (all of these documents are available in the Planning Department for public review):-~~

~~A. The Secretary of the Interior's "Guidelines for Historic Preservation". (website:<http://www.nps.gov/history/hps/TPS/tax/rhb/>)~~

~~B. The National Register Nomination form for the Rochester Commercial and Industrial Historic District~~

~~C. 1999 survey of Rochester conducted to assess impacts of the proposed Exit 10 project.~~

~~D. Rochester Times series on architecture of Rochester (2002-2003).~~

~~E. Any other appropriate general architectural manuals or manuals about Rochester.~~

3. Certificate of Approval. An application for a Certificate of Approval shall be submitted to the Rochester Historic District Commission through the Planning Department, no fewer than ten (10) days prior to a Commission meeting. However, upon an affirmative vote of at least four (4) members of the Commission this deadline may be reduced on a case by case basis for good cause.

a. Intent.

It is the intent of this Section to make the review process as simple and pleasant as practical. The applicant need only submit those materials which the Commission reasonably determines are necessary to conduct an appropriate review. On small or straightforward projects submission of the application, a letter of intent, a verbal description, and/or one or more sketches drawn by the applicant may suffice.

In the case of more elaborate proposals or those potentially having a significant impact upon sensitive properties any or all of the materials listed below may be required as the Commission sees fit. While the use of an architect is not required under this Section, there will be many situations where it will be difficult to provide appropriate drawings and to meet the objectives of this Section without the use of an architect, particularly where new construction or additions are involved.

Applicants are encouraged to speak with the Planning Department prior to preparing an application package to get a preliminary sense of which of the items below might not be needed.

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b. Application requirements.

The application package may include any or all of the items listed below as stipulated by the Historic District Commission:

1. A completed application form as provided by the City shall include:

a. the purpose of the proposed project

b. the nature and scope of the work to be performed

2. Site plans drawn to scale clearly depicting existing conditions and proposed work.

3. Elevation drawings to scale of each affected facade of the building clearly depicting existing conditions and proposed work.

4. Detail drawings of appropriate elements (such as the balustrade for a handicapped ramp).

5. Photographs of each impacted side of the building.

6. Sample, swatch, and/or manufacturer's cut sheet of materials to be used (such as a brick), as appropriate.

7. A written description of how the project meets the applicable design guidelines.

8. Any other items which the Commission may reasonably need to conduct its review.

9. No fees of any kind shall be charged for applications to the Commission or to cover any of the costs of reviewing the application.

c. Procedures for Review of the Application.

~~Application. An application for a Certificate of Approval shall be submitted to the Rochester Historic District Commission through the Planning Department, no fewer than nine (9) days (or 8 days if the deadline falls on a holiday) prior to a Commission meeting. However, at the discretion of the Chair this deadline may be reduced on a case by case basis for good cause. In no case shall the review be scheduled more than 30 days from the application filing date.~~

~~It is the intent of this Section to make the review process as simple and pleasant as~~

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practical. The applicant need only submit those materials which the Commission reasonably determines are necessary to conduct an appropriate review. On small or straightforward projects submission of the application, a letter of intent, a verbal description, and/or one or more sketches drawn by the applicant may suffice.

In the case of more elaborate proposals or those potentially having a significant impact upon sensitive properties any or all of the materials listed below may be required as the Commission sees fit. While the use of an architect is not required under this Section, there will be many situations where it will be difficult to provide appropriate drawings and to meet the objectives of this Section without the use of an architect, particularly where new construction or additions are involved.

Applicants are required to meet with the Chief Planner, or designee, prior to preparing an application package to get a preliminary sense of which of the items below will be needed. The application package may include any or all of the items listed below as stipulated by the Chief Planner and the Historic District Commission:

- A. A completed application form as provided by the City stating the purpose of the proposed project and identifying the nature and extent of the work to be performed.
- B. Site plans drawn to scale clearly depicting existing conditions and proposed work.
- C. Elevation drawings to scale of each affected facade of the building
Clearly depicting existing conditions and proposed work.
- D. Detail drawings of appropriate elements (such as the balustrade for a handicapped ramp).
- E. Photographs of each impacted side of the building.
- F. Sample, swatch, and/or manufacturer's cut sheet of materials to be used (such as a brick), as appropriate.
- G. Any other items which the Commission may reasonably need to conduct its review.
- H. There is no fee for the basic application review.

~~2. Review of the Application~~

~~A. Appropriateness. In deliberating whether to grant (with or without conditions) or deny a Certificate of Approval the Historic District Commission shall make a determination as to whether or not the proposal conforms with the provisions of this Section.~~

~~B. Scheduling and Completeness. The Historic District Commission will consider all applications that were received by the application deadline at its next scheduled meeting. At that time a determination shall be made whether the application under consideration is complete in terms of the list of required items, above, such that the Commission can adequately review the application.~~

~~C. Public Meetings. Meetings of the Historic District Commission are not public hearings and notice need be made only for public meetings in accordance with RSA Chapter 91-A. The Commission may hold a public hearing on any application if it deems appropriate. All regular meetings shall be posted on the City's website.~~

~~D. Professional Advice. The Commission may seek advice from such professional, educational, cultural, or other resources as is deemed necessary.~~

~~E. Recommendations:~~

~~i. Applicants are encouraged to meet with the Commission prior to developing projects for an informal discussion about proposed plans.~~

~~ii.) The Commission may make non-binding recommendations to the applicant on elements outside of its purview such as on parking lot layout or planting materials.~~

~~F. Architectural Regulations and Planning Board review. In cases where the Historic District Commission has purview, the Planning Board shall not have jurisdiction over architectural design, i.e. the Architectural Regulations under the Site Plan Regulations shall not apply. Nonetheless, the Planning Board shall review all other elements of a site otherwise subject to its review.~~

~~3. Action on an Application~~

~~A. Recognizing that a lengthy approval process can be costly to landowners, developers, and business owners, the Commission shall seek to take final action at its earliest reasonable opportunity, which in many cases will be at the first regular meeting of the Commission at which the application is presented. To the extent practicable and appropriate, as determined by City staff and the Commission, applicants may file applications for various permits—to the Planning Board, Zoning Board of Adjustment, Building Department, etc.—simultaneously, or in any appropriate order, in order to save time. This provision, however, shall not be construed in a manner which would prevent the Commission from conducting a through review, as it sees fit. Final approval of any permits from other City departments, for projects under the Commission's purview, cannot precede the Certificate of Approval from this Commission.~~

~~B. The Historic District Commission shall take action on—i.e. to approve, approve with conditions, or deny—all applications within forty five (45) days after the filing of a complete application for a certificate of approval. This time frame may be extended either by consent or request of the applicant or upon formal request from the Commission to, and written authorization from, the City Council for an additional period not to exceed forty five (45) calendar days.~~

~~C. The Commission shall notify the applicant of its decision within 72 hours. When an application is rejected as being incomplete or denied the reason(s) for the decision shall be conveyed to the applicant and clearly stated in the record of proceedings of the Commission.~~

~~D. Failure by the Commission to act within the period of time specified above (with or without extensions) shall be deemed to constitute approval of the application as submitted. A Certificate of Approval shall be effective for one year after the date of approval. The applicant must secure a building permit and substantially commence work within this one year timeframe or the Certificate shall lapse. Likewise, where no building permit is involved, the applicant must substantially commence work within this one year timeframe or the Certificate shall lapse. The Commission may grant extensions as it reasonably determines appropriate.~~

~~4. Hardship. Upon the request of an applicant, the Commission may approve an application, based upon hardship, even if it deems the proposed work does not meet the standards specified in this Section. Approval based on hardship requires, at a minimum, a determination by the Commission that all of the criteria below are met. The Commission may solicit any additional information necessary to make this determination.~~

~~A. Denial of the application or an element of the application would cause an undue hardship for the applicant as defined in this Section;~~

~~B. The hardship is unusual and peculiar to the applicant's property or situation;~~

~~C. The proposal would not have a significant adverse impact upon the Historic District;~~

~~D. Approval would not constitute a significant derogation of the intent and purpose of the ordinance;~~

~~E. There is no simple or inexpensive alternative approach which would be effective; and F. In the case of an application for demolition, severe deterioration of the property was not due to negligence or irresponsibility on the part of the owner.~~

~~5. Appeals. Any applicant, person, or organization aggrieved by a decision of the Historic District Commission may appeal the decision to the Rochester Zoning Board of Adjustment in accordance with RSA 674:33 and any appeal procedures specified in the City Ordinances. In its review of any appeals the Zoning Board shall be guided by the provisions of this Section and other applicable law.~~

~~6. Enforcement. This Section shall be enforced as provided for in the Rochester Zoning Ordinance.~~

~~7. Variances and Appeals. If any applications are submitted to the Zoning Board of Adjustment for variances or appeals under the Historic District Ordinance, the HDC shall be notified by the Planning Department of those applications at least ten days in advance of the meeting.~~

Recognizing that a lengthy approval process can be costly to landowners, developers, and business owners, the Commission shall seek to take final action at its earliest reasonable opportunity, which in many cases will be at the first regular meeting of the Commission at which the application is presented.

1. The Planning Director or designee shall review the application materials submitted for Certificate of appropriateness approval and request additional information as necessary.
2. Staff shall review the submittal material and prepare a report that analyzes the project's conformance with the design guidelines and other applicable Land Use Code sections. This report will be transmitted to the HDC with relevant information on the proposed project and a recommendation to continue, approve, disapprove or approve with conditions and the reasons for the recommendation. The HDC will review the application, the staff analysis report and the evidence presented at the hearing to determine the project's conformance with the design guidelines.
3. The Historic District Commission shall take action - i.e. to approve, approve with conditions, or deny - on all applications within sixty five (65) days of the meeting at which the Commission accepts the application as complete. This time frame may be extended either by consent or request of the applicant or upon formal request from the Commission to, and written authorization from, the City Manager for an additional period not to exceed sixty five (65) days.

Failure by the Commission to act within the period of time specified above (with or without extensions) shall be deemed to constitute approval of the application as submitted. A Certificate of Approval shall be effective for two years after the date of approval. If an applicant has not secured a building permit within that time frame, or has not substantially commenced work in cases where no building permit is required, the Certificate shall lapse. The Commission may grant extensions as it reasonably determines appropriate.

4. Meetings of the Historic District Commission are public meetings and may require notice to the public as specified in New Hampshire State

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Statute and the City of Rochester Municipal Code. The public is encouraged to attend. When notice is required the Planning Department shall process notices for public hearings.

5. The Commission may seek advice from such professional, educational, cultural, or other resources as is deemed necessary.

6. The HDC may approve, disapprove, approve with conditions or continue the application to obtain additional information necessary to make a decision to approve or deny. The Commission may make non-binding recommendations to the applicant on elements outside of its purview such as on paint color of wood, parking lot layout, or planting materials.

The Commission shall notify the applicant of its decision. When an application is rejected as being incomplete or denied the reason(s) for the decision shall be conveyed to the applicant and clearly stated in the record of proceedings of the Commission. Any steps recommended to remedy deficiencies or flaws in the proposal shall also be conveyed to the applicant.

7. A monitoring committee comprised of two representatives from the Commission shall be assigned to the approved project to oversee and approve amendments that may arise during construction.

4. Amendments. There are two processes for amending plans approved pursuant to a Certificate of appropriateness. All requests for amendments must be in writing and accompanied by drawing(s) and elevations as specified below.

a. Insubstantial amendments.

Insubstantial amendments are minor modifications to HDC approved plans that:

1. Address circumstances discovered in the course of construction that could not have been reasonably anticipated during the approval process, or;
2. Are necessary for conformance with building safety or accessibility codes and do not materially change the approved plans, or;

3. Approve specific building materials, finishes, design of ornamental trim and other such detail not provided in the HDC approved plans, or

4. Change the shape, location or material of a building element or feature but maintains the same quality and approximate appearance of that found in the approved plans.

The Planning Director or designee and the monitoring committee may authorize amendments to approved plans. Decisions of the Planning Director or designee or monitoring committee are binding.

b. Other amendments.

The Planning Director or designee or monitoring committee may determine that the proposed changes do not meet the design guidelines and remand the matter to the HDC for a decision by the Commission.

Approval of amendments by the Planning Director or designee and the monitoring committee shall be reported to the HDC at their regularly scheduled meetings.

K. Historic District Demolition Permit. It is the intent of this Chapter to preserve the historic and architectural resources that contribute to the history of Rochester. Consequently no demolition of any properties within the Historic Overlay District shall be permitted unless approved by the HDC in accordance with the standards set forth in this Section.

1. Exempt Activity.

a. Demolition of a single family or duplex building within the Historic Overlay District.

b. Demolition of structures which are not buildings as defined in this Section (such as light poles, street furniture, and fences)

c. Demolition work performed on the interior of buildings that does not effect the exterior appearance.

d. Demolition of elements which are appurtenant to a building but which are not integral to the building including antennas, satellite dishes, flagpoles, mailboxes, window air conditioning units, and similar non-historic elements.

2. Procedures for demolition of properties within the Historic Overlay District.

a. Application.

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An application for a historic district demolition permit for properties within a Historic District will be filed with or referred to the Planning Director or designee by the Director of Building, Zoning, Licensing, Services. The applicant will be provided a written response within fourteen (14) days of the request for a demolition permit describing the submittal materials needed for consideration. An application for demolition approval shall include:

1. Written documentation that the Director of Building, Zoning, Licensing, Services has determined the building an imminent hazard that cannot be repaired; or,
2. Narrative text, graphic illustrations or other exhibits that provide evidence that the building, structure or object is of no historic or architectural value or importance.
3. The staff shall review the submittal material and prepare a staff report that analyzes the request relative to the criteria for approval.

b. Review Procedures.

1. The HDC shall review the application, the staff report and hear evidence presented by the property owners and parties of interest to determine if the standards for demolition approval have been met. Demolition shall be approved if it is demonstrated that the application meets any one of the following criteria:

- a. The property has been determined by the City to be an imminent hazard to public safety and the owner/applicant is unable to make the needed repairs in a timely manner; or,
- b. The structure is not structurally sound despite evidence of the owner's efforts to properly maintain the structure; or,
- c. The structure cannot practically be moved to another appropriate location in Rochester; or,
- d. No documentation exists to support or demonstrate that the property has historic, architectural, archaeological, engineering or cultural significance.

Additionally, for approval to demolish and to grant a historic district demolition permit, all of the following criteria must be met:

- e. The structure does not contribute to the significance of the Historic Overlay District; and,
- f. The loss of the building, structure or object would not adversely affect the integrity of the Historic Overlay District or its historic, architectural or aesthetic relationship to adjacent historic properties; and,
- g. Demolition of the structure will be inconsequential to the historic preservation needs of the area.

2. The HDC shall approve, disapprove, approve with conditions or continue the application to obtain additional information necessary to consider the demolition request.

3. If the demolition request is denied because it does not meet the aforementioned standards, the applicant may request demolition approval based upon approval of a determination of hardship as set forth below.

4. Before a demolition permit will be issued, a Certificate of approval for the redevelopment as described above, must be approved. When a demolition permit must be issued because the building is an imminent hazard or because of the issuance of a determination of hardship, the permit may be received prior to the receipt of a Certificate of Approval.

L. Historic District Relocation Permit.

The intent of this Chapter is to preserve historic properties in their original locations within the Historic Overlay District. However, it is recognized that occasionally the relocation of a property may be appropriate as it provides an alternative to demolition or because it only has a limited impact on the attributes that make it significant. All properties within the Historic Overlay District are subject to this Section.

1. Exempt Activity.

a. Relocation of a single family or duplex building.

b. Relocation of structures which are not buildings as defined in this Section (such as light poles, street furniture, and fences).

c. Relocation of elements which are appurtenant to a building but which are not integral to the building including antennas, satellite dishes, flagpoles, mailboxes, window air conditioning units, and similar non-historic elements.

2. Application.

An application for relocation shall include:

a. A written description and/or graphic illustrations of the building, structure or object proposed for relocation.

b. A written explanation of the type of relocation requested (temporary, on-site or off-site) and justification for the need for relocation.

c. A written report from a licensed engineer or architect regarding the soundness of the building, structure or object, its ability to withstand the physical move and its rehabilitation needs, once relocated.

d. A conceptual plan for the receiving site providing preliminary information on the property boundaries, existing improvements and site characteristics and the associated planned improvements.

e. If the applicant does not own the receiving site, proof from the site's property owner of the willingness to accept the relocated building, structure or object.

f. Evidence that the applicant has or is seeking the necessary approvals to place the building on the identified receiving site.

g. Evidence of the financial ability to undertake the safe relocation, preservation and repair of the building, structure or object; site preparation and construction of necessary infrastructure through the posting of bonds or other financial measures deemed appropriate.

h. Supplementary materials to provide an understanding of the larger context for the relocated property and its impact on adjacent properties, the neighborhood or streetscape.

i. Additional information may be requested by the Historic District Commission as needed to complete the review.

2. Procedures for the review of historic district relocation permit.

a. The Planning Director or designee shall review the application materials submitted for relocation approval. Upon determination of a complete application, the project shall be scheduled before the HDC.

b. Staff shall review the submittal material and prepare a report that analyzes the project's conformance with the standards for relocation approval set forth below, the City Historic Preservation Design Guidelines and other applicable Land Use Code sections. This report will be transmitted to the HDC with relevant information on the proposed project and a recommendation to continue, approve, disapprove or approve with conditions and the reasons for the recommendation. The HDC will review the application, the report and the evidence presented at the hearing to determine if the standards for relocation have been met.

c. The HDC shall approve, disapprove, approve with conditions or continue the application to obtain additional information necessary to make a decision to approve or deny.

3. Standards for relocation.

Relocation for a building will be approved if it is determined that it meets any one of the following standards:

- a. It does not contribute to the overall character of the historic district or parcel on which it is located and its relocation will not have an adverse impact on the Historic District or property; or
- b. The owner has obtained a Determination of hardship; or
- c. The relocation activity is demonstrated to be an acceptable preservation method given the character and integrity of the building and its move will not adversely affect the integrity of the Historic District in which it was originally located or diminish the historic, architectural or aesthetic relationships of adjacent designated properties; and

Additionally, for approval to relocate and to grant a historic district relocation permit all of the following criteria must be met:

- d. It has been determined that the building, structure or object is capable of withstanding the physical impacts of relocation;
- e. An appropriate receiving site has been identified; and
- f. An acceptable plan has been submitted providing for the safe relocation, repair and preservation of the building, structure or object including the provision of the necessary financial security.

M. Determination of hardship.

It is the policy of the City to respect private property rights. The City recognizes, therefore, that there may be some circumstances in which the operation of this Chapter could create an undue economic hardship. This provision is created to provide property owners with a means of demonstrating that such a hardship may exist and that they should be allowed to demolish a property within the historic overlay district because of that hardship. It is the intent of this provision to insure that no private property is taken without just compensation.

1. *Standard of review.* The standard of review for a determination of economic hardship will be whether refusing to allow the property owner to demolish the property would result in a violation of the prohibitions of the U.S. and New Hampshire Constitutions against taking of private property for public use without just compensation as those prohibitions are interpreted by the courts of New Hampshire and the United States. In applying the standards, the economic benefits of financial, developmental and technical assistance from the City and the utilization of any federal and state rehabilitation tax credit programs may be considered.
2. *Application Requirements.*
 - a) Upon receiving a request for a certificate of economic hardship, the Planning Director or designee shall provide a written response within fourteen (14) days as to the submittal materials required.

b) Within five (5) days after receipt of an application for a certificate of economic hardship, the Planning Director or designee shall determine whether the application is complete. If he or she determines that the application is not complete, the Director shall notify the applicant in writing of the deficiencies. The Director shall take no further steps to process the application until the deficiencies have been remedied.

c) The application fee shall be set to defray all costs of the review process, including the fees of an independent hearing officer.

3. Review process.

a) When the application is complete, the Planning Director or designee will refer the application to the Historic District Staff member and the City Attorney for review. The Historic District Staff member and City Attorney shall jointly prepare a report setting forth the City's response.

b) In the event the City response concludes that the application does not demonstrate a case of economic hardship, the application can apply for an Administrative Appeal before Zoning Board of Adjustment.

c) The Zoning Board of Adjustment will be contracted by the City to conduct an impartial quasi-judicial hearing on the question of economic hardship. If deemed necessary, the ZBA may hire, at the applicant's expense, a consulting professional(s) with sufficient legal and technical experience to conduct a fair hearing on the matter. The application, all support materials and the consultants/City's report shall be provided to the ZBA in advance of the hearing. At the hearing, the applicant will be provided with an opportunity to present their application and may be represented by counsel. The City position will be presented by the City Attorney/consultant.

4. Appeal. An applicant may appeal the decision of the hearing officer to District Court.

N. Demolition by neglect.

It is the intent of this Section to address the range of circumstances that affect the preservation of the community's significant historic and architectural resources. It is further recognized that many historic buildings and structures are lost because of deterioration from lack of maintenance. Whether this occurs unintentionally or through deliberate decisions, the result is the same: the loss of community assets that cannot be replaced. Consequently, it is declared that the exterior features of any designated building or structure shall be preserved against decay and deterioration and kept free from structural defects. The designated structures shall receive reasonable care, maintenance and upkeep appropriate for their preservation, protection, perpetuation and use.

1. Standards for reasonable care and upkeep.

The owner or such other person who may have legal possession, custody and control thereof of a designated property shall, upon written request by the City, repair the following exterior features if they are found to be deteriorating or if their condition is contributing to deterioration such that it is likely to compromise the building's structural integrity or as to

Commented [MM6]: This was changed from hearing officer at the PB.

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create or permit the creation of any hazardous or unsafe condition to life, health or other property. These features include, but are not limited to:

- a. Deterioration of exterior walls, foundations or other vertical supports that causes leaning, sagging, splitting, listing or buckling.
- b. Deterioration of flooring or floor supports or other horizontal members that causes leaning, sagging, splitting, listing or buckling.
- c. Deterioration of external chimneys that cause leaning, sagging, splitting, listing or buckling.
- d. Deterioration or crumbling of exterior plasters or mortars.
- e. Ineffective waterproofing of exterior walls, roofs and foundations, including broken windows or doors.
- f. Defective protection or lack of weather protection for exterior wall and roof coverings, including lack of paint or weathering due to lack of paint or other protective covering.
- g. Rotting, holes and other forms of decay.
- h. Deterioration of exterior stairs, porches, handrails, window and door frames, cornices, entablatures, wall facings ornamental trim and other architectural details that cause delamination, instability, loss of shape and form or crumbling.

2. Enforcement procedures.

a. The HDC or Planning Director or designee may file a petition listing specific defects, in accordance with Section N.1 above, with the Director of Building, Zoning and Licensing, Services, requesting that the official act under the following procedures to require the correction of the defects or repairs to designated properties.

b. Whenever a petition is filed, Director of Building, Zoning, Licensing and Services shall attempt to make direct personal contact with the owner or other such persons having legal possession or custody and/or his representative. If personal contact cannot reasonably be accomplished, then written notification of the specific defects purported by the HDC and a request to inspect the property within ten (10) days will be mailed to the owner and other such persons having legal possession, custody and control and will be posted at a conspicuous location appropriate to the identified defects. In the written notification the Chief Building Official shall document the nature of the specific defects and the corrective action ordered.

c. After receiving agreement from the owner, his representatives or other such persons having legal possession, custody and control of the property for an inspection, the Chief Building Official and the HDC Officer shall within ten (10) working days conduct an investigation and prepare a written report determining whether the property requires work to address conditions set forth in Section N.1 above.

d. If the property is found to contain conditions needing correction, the owner, his representative or other such persons having legal possession, custody and control of the

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property will be served within fourteen (14) days with a complaint identifying the property deficiencies and providing notice that a hearing will be held the City Council within forty-five (45) days. The purpose of the hearing is to:

1. Receive evidence concerning the charge of deterioration and
2. Develop a plan and schedule for making the needed repairs in a timely fashion, such that the building is stabilized and the deterioration is arrested and
3. Ascertain whether the owner or other parties intend to make application for financial assistance from the City to correct the building defects.

e. Following such notice and hearing, City Council will make a determination if there are any corrections required pursuant to Section N.1 above and shall state in writing the findings of fact in support of that determination. If it is determined that the building or structure is undergoing deterioration or if its condition is contributing to deterioration, the owner or other parties of interest will be served an order to repair those defective elements of the structure within a reasonable specified time frame.

f. If the owner fails to make the necessary repairs within the identified time frame, the City may undertake the work to correct the deficiencies that create any hazardous and unsafe conditions to life, health and property. The expense of this work will be recorded as a lien on the property.

O. Appeals. Any applicant, person, or organization aggrieved by a decision of the Historic District Commission may appeal the decision to the Rochester Zoning Board of Adjustment in accordance with RSA 674:33 and any appeal procedures specified in the City Ordinances. In its review of any appeals the Zoning Board shall be guided by the provisions of this Section and other applicable law.

P. Enforcement. This Section shall be enforced as provided for in the Rochester Zoning Ordinance.

Amendments to take effect upon passage.

Amendment to Chapter 42 of the General Ordinances of the City of Rochester
Regarding Conservation Overlay Districts

THE CITY OF ROCHESTER ORDAINS:

That Chapter 42 of the General Ordinances of the City of Rochester and currently before the Rochester City Council, be amended as follows):

42.12 Conservation Overlay District

(d) Delineation Process.

The edge of wet of these wetlands shall be determined by the delineation process set forth in the *Corps of Engineers Wetlands Delineation Manual, 1987*, on file with this ordinance with the City Clerk. When there is a dispute in the boundary the landowner may appeal the decision to the Planning Board with written recommendations by the Conservation Commission.

Revised

(d) Delineation Process.

The edge of wet of these wetlands shall be determined by the delineation process set forth in the *Corps of Engineers Wetlands Delineation Manual, 1987* **and the most recent version of the Regional Supplement to the Corp of Engineers Wetland Delineation Manual: Northcentral and Northeast Region**, ~~on file with this ordinance with the City Clerk.~~ When there is a dispute in the boundary the landowner may appeal the decision to the Planning Board with written recommendations by the Conservation Commission.

(f) Definitions.

(1) The term "wetland" as defined by *National Food Security Act Manual (Soil Conservation Service, 1994)* and the *Corps of Engineers Wetlands Delineation Manual (Environment Laboratory, 1987)* as amended, will mean those areas that are surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for a life in saturated soil conditions. Wetlands include, but are not limited to, swamps, marshes, bogs and similar areas.

Revised

(1) The term "wetland" as defined by *National Food Security Act Manual (Soil Conservation Service, 1994)* and the *Corps of Engineers Wetlands Delineation Manual (Environment Laboratory, 1987)* **and the most recent version of the Regional**

Supplement to the Corp of Engineers Wetland Delineation Manual: Northcentral and Northeast Region ~~as amended~~, will mean those areas that are surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for a life in saturated soil conditions. Wetlands include, but are not limited to, swamps, marshes, bogs and similar areas.

The effective date of these amendments shall be upon passage.

22.10 Conflict of Interest. _____ [1]
~~No member of the Fire Department shall hold the office of Chief of Police, Deputy Chief of Police, Sergeant or regular Police Officer in the City.~~

22.11 Payrolls. _____ [1]
~~The secretary of the department shall make up the call force payroll semi-annually in June and December and turn into the Fire Chief for approval and after the action of the Fire Chief payments thereon shall be made immediately after.~~

22.12 Penalty. _____ [1]
~~Any person failing to comply with a lawful order of the Fire Chief or his/her designee shall be fined not more than \$100.00 for each offense and each 24 hours of maintenance of prohibited conditions shall constitute a separate offense.~~

Amendment to Chapter 42 of the General Ordinances of the City of Rochester Regarding the Location and Boundaries of Zoning Districts

THE CITY OF ROCHESTER ORDAINS:

WHEREAS, Chapter 42.1, Section J establishes that the location and boundaries of zoning districts within the City of Rochester are established as shown on a map titled, "City of Rochester Zoning Map."

WHEREAS, Chapter 42.1, Section J further declares that the City of Rochester Zoning Map is incorporated by reference as part of Chapter 42 of the General Ordinances of Rochester regarding zoning.

WHEREAS, the Mayor and City Council of Rochester desire to amend the City of Rochester Zoning Map to change the zoning for the property located at 287 Rochester Hill Road from Agricultural to Office/Commercial.

THEREFORE, the Mayor and City Council of Rochester ordain that the zoning of the property located at 287 Rochester Hill Road in the City of Rochester shall be changed in accordance with the Attached Exhibit. (Exhibit A).

FURTHER, the City of Rochester Zoning Map shall be amended and updated to reflect that the above shown property are included in the Office/Commercial Zone and are removed from the Agricultural Zone.

The effective date of these amendments shall be upon passage.

**An Ordinance to Revise and Consolidate, Amend, Supplement, and Codify
The Ordinances of the City of Rochester**

The City of Rochester ordains:

§ 1-3. Adoption of Code.

The ordinances of the City of Rochester of a general and permanent nature adopted by the City Council of the City of Rochester, as revised, codified and consolidated into chapters and sections by General Code, and consisting of Chapters 1 through 275, inclusive, are hereby approved, adopted, ordained and enacted as the "Code of the City of Rochester," hereinafter referred to as the "Code."

§ 1-4. Code supersedes prior ordinances.

This ordinance and the Code shall supersede the City Code adopted June 6, 1995, and all other general and permanent ordinances enacted prior to the enactment of this Code, except such ordinances as are hereinafter expressly saved from repeal or continued in force.

§ 1-5. Continuation of existing provisions.

The provisions of the Code, insofar as they are substantively the same as those of the ordinances in force immediately prior to the enactment of the Code by this ordinance, are intended as a continuation of such ordinances and not as new enactments, and the effectiveness of such provisions shall date from the date of adoption of the prior ordinances.

§ 1-6. Copy of Code on file.

A copy of the Code has been filed in the office of the City Clerk and shall remain there for use and examination by the public until final action is taken on this ordinance, and if this ordinance shall be adopted, such copy shall be certified to by the Clerk of the City of Rochester by impressing thereon the Seal of the City, as provided by law, and such certified copy shall remain on file in the office of the Clerk to be made available to persons desiring to examine the same during all times while said Code is in effect.

§ 1-7. Amendments to Code.

Any and all additions, deletions, amendments or supplements to the Code, when adopted in such form as to indicate the intention of the City Council to make them a part thereof, shall be deemed to be incorporated into such Code so that reference to the "Code of the City of Rochester" shall be understood and intended to include such additions, deletions, amendments or supplements. Whenever such additions, deletions, amendments or supplements to the Code shall be adopted, they shall thereafter be inserted in the Code as amendments and supplements thereto.

Code Adoption Ordinance

§ 1-8. Publication; filing.

The Clerk of the City of Rochester, pursuant to law, shall cause to be published, in the manner required by law, notice of the adoption of this ordinance. A copy of the Code of the City of Rochester shall be maintained in the office of the Clerk for inspection by the public at all times during regular office hours. The enactment and publication of this ordinance, coupled with the availability of a copy of the Code for inspection by the public, shall be deemed, held and considered to be due and legal publication of all provisions of the Code for all purposes.

§ 1-9. Code to be kept up-to-date.

It shall be the duty of the City Clerk, or someone authorized and directed by the Clerk, to keep up-to-date the certified copy of the Code required to be filed in the Clerk's office for use by the public. All changes in said Code and all ordinances adopted subsequent to the effective date of this codification which shall be adopted specifically as part of the Code shall, when finally adopted, be included therein by reference until such changes or new ordinances are included as supplements to said Code.

§ 1-10. Sale of Code.

Copies of the Code, or any chapter or portion of it, may be purchased from the Clerk or an authorized agent of the Clerk upon the payment of a fee to be set by the City Council. The Clerk may also arrange for procedures for the periodic supplementation of the Code.

§ 1-11. Altering or tampering with Code; penalties for violation.

It shall be unlawful for anyone to improperly change or amend, by additions or deletions, any part or portion of the Code or to alter or tamper with such Code in any manner whatsoever which will cause the law of the City of Rochester to be misrepresented thereby. Anyone violating this section or any part of this ordinance shall be subject, upon conviction, to a fine as provided in § 1-1 of the Code.

§ 1-12. Severability of Code provisions.

Each section of the Code and every part of each section is an independent section or part of a section, and the holding of any section or a part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other sections or parts thereof. If any provision of this Code or the application thereof to any person or circumstances is held invalid, the remainder of this Code and the application of such provision to other persons or circumstances shall not be affected thereby.

§ 1-13. Severability of ordinance provisions.

Each section of this ordinance is an independent section, and the holding of any section or part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other sections or parts thereof.

Code Adoption Ordinance

§ 1-14. Repealer.

All ordinances or parts of ordinances inconsistent with the provisions contained in the Code adopted by this ordinance are hereby repealed; provided, however, that such repeal shall only be to the extent of such inconsistency, and any valid legislation of the City of Rochester which is not in conflict with the provisions of the Code shall be deemed to remain in full force and effect.

§ 1-15. Ordinances saved from repeal.

The adoption of this Code and the repeal of ordinances provided for in § 1-14 of this ordinance shall not affect the following ordinances, rights and obligations, which are hereby expressly saved from repeal:

- A. Any ordinance adopted subsequent to September 4, 2018.
- B. Any right or liability established, accrued or incurred under any legislative provision prior to the effective date of this ordinance or any action or proceeding brought for the enforcement of such right or liability.
- C. Any offense or act committed or done before the effective date of this ordinance in violation of any legislative provision or any penalty, punishment or forfeiture which may result therefrom.
- D. Any prosecution, indictment, action, suit or other proceeding pending or any judgment rendered prior to the effective date of this ordinance brought pursuant to any legislative provision.
- E. Any franchise, license, right, easement or privilege heretofore granted or conferred.
- F. Any ordinance providing for the laying out, opening, altering, widening, relocating, straightening, establishing grade, changing name, improvement, acceptance or vacation of any right-of-way, easement, street, road, highway, park or other public place or any portion thereof.
- G. Any ordinance appropriating money or transferring funds, promising or guaranteeing the payment of money or authorizing the issuance and delivery of any bond or other instruments or evidence of the City's indebtedness.
- H. Ordinances authorizing the purchase, sale, lease or transfer of property or any lawful contract or obligation.
- I. The levy or imposition of taxes, assessments or charges.
- J. The annexation or dedication of property or approval of preliminary or final subdivision plats.
- K. Ordinances providing for local improvements or assessing taxes or special assessments therefor.
- L. All currently effective ordinances pertaining to the rate and manner of payment of salaries and compensation of officers and employees.

Code Adoption Ordinance

- M. Any legislation relating to or establishing a pension plan or pension fund for municipal employees.
- N. Any ordinances adopting or amending a zoning map or otherwise rezoning property.
- O. Any ordinance or portion of an ordinance establishing a specific fee amount for any license, permit or service obtained from the City.
- P. Any ordinance or portion of an ordinance establishing or amending sewer or water rates or charges.

§ 1-16. Changes in previously adopted ordinances.

- A. In compiling and preparing the ordinances for publication as the Code of the City of Rochester, no changes in the meaning or intent of such ordinances have been made, except as provided for in Subsection B hereof. Certain grammatical changes and other minor nonsubstantive changes were made in one or more of said pieces of legislation. It is the intention of the City Council that all such changes be adopted as part of the Code as if the ordinances had been previously formally amended to read as such.
- B. The amendments and/or additions as set forth in Schedule A attached hereto and made a part hereof are made herewith, to become effective upon the effective date of this ordinance. (Chapter and section number references are to the ordinances as they have been renumbered and appear in the Code.)

§ 1-17. When effective.

This ordinance shall take effect upon passage and publication as required by law.

§ 1-18. Incorporation of provisions into Code.

The provisions of this ordinance are hereby made part of Chapter 1 of the Code of the City of Rochester, to be titled "General Provisions, Article II, Adoption of Code."

Adopted this _____ day of _____ 2018

**City of Rochester
Code Adoption Ordinance**

**Schedule A
(As Referenced in § 1-16B)**

The following changes are made throughout the Code:

- "Director of Public Works" is amended to "Commissioner of Public Works."
- "Planning Director" is amended to "Planning and Development Director."
- "Planning Department" is amended to "Planning and Development Department."
- "Arena Department" and "Recreation, Parks and Youth Services Department" are amended to "Recreation and Arena Department."
- "Chairman" is amended to "Chairperson."
- **City Clerk Note 1:** *Additional request: "Finance Administrator and/or Business Administrator" is amended to **Finance Director**.*

Chapter 1, General Provisions.

Section 1-2 is added to read as follows:

§ 1-2. Definitions and word usage.

- A. Definitions. Unless the context requires other interpretations or otherwise noted, the following terms are defined:

CITY — The City of Rochester, New Hampshire.

CITY COUNCIL — The City Council of Rochester, New Hampshire.

CODE — The Code of **General Ordinances** of the City of Rochester, New Hampshire.
City Clerk Note 2: *Additional request: Add "General Ordinances" to the definition of "CODE" as shown above.*

COUNTY — Strafford County.

PERSON — Any natural individual, firm, trust, partnership, association or corporation in his/her or its own capacity as administrator, conservator, executor, trustee, receiver or other representative appointed by a court.

PUBLIC WAY — Any sidewalk, street, alley, highway or other public thoroughfare.

STATE — The State of New Hampshire.

B. Word usage.

- (1) Whenever any words in this Code denote the plural, the singular shall be deemed included, and whenever the singular number shall be used, it shall be deemed to include the plural.
- (2) ~~Wherever the masculine gender is used in this Code, females as well as males shall be deemed to be included.~~ **City Clerk Note 3:** *The City of Rochester does not wish to utilize the "masculine" gender reference, rather it wishes to replace all "masculine" references with "gender-neutral" references. Replace this section with the following disclaimer: **All gender references have been removed. Only gender-neutral references shall be used throughout the Code.***
- (3) Words in the present tense shall be deemed to include the future.
- (4) The word "shall" as used in this Code is mandatory.

Chapter 7, Administrative Code.

Section 7-2 is amended to delete "Administration – City Manager"; to delete the Arena Department and Arena Director; to add the Information Technology Department and Chief Information Officer; to change "Planning" to "Planning and Development"; and to change the Recreation, Parks and Youth Services Department and Director of Recreation, Parks and Youth Services to the Recreation and Arena Department and the Director of Recreation and Arena, respectively.

Original § 2.18, Arena Department, is repealed.

Section 7-8A is amended to change "two Deputy Assessors" to "three Deputy Assessors."

Section 7-18D(4) is amended as follows: ~~"Care for and maintain maintenance of all property assigned to the Sewage and Waste Treatment System Works."~~ **City Clerk Note 4:** *See updated recommendation for 7-18D(4): "Care ~~for~~ and maintain **maintenance** of all property assigned to the Sewage and Waste Treatment System **Works**."*

Section 7-21 is amended to read as follows:

§ 7-21. Recreation and Arena Department.

- A. The Recreation and Arena Department shall be under the supervision of the Director of Recreation and Arena and shall consist of such other personnel as may be provided for in the annual departmental budget appropriation. The Director of Recreation and Arena shall be appointed in the manner and for such term provided in Sections 15 and 18 of the Rochester City Charter.
- B. The Recreation and Arena Department shall perform the following functions:
 - (1) Develop a general recreation program for the City.
 - (2) Operate the recreational activities on all City parks, playground, swimming pools, tennis courts, and all other recreational facilities.
 - (3) Maintain, care for and operate all property assigned to the Recreation and Arena

Department, including the Rochester Ice Arena.

- (4) Prepare and maintain all records and books pertaining to the Recreation and Arena Department.
 - (5) Cooperate with private groups as well as with public officials in the development, promotional and recreational activities within the City.
 - (6) Perform all other related functions as required.
 - (7) Annually establish a fee schedule for the services provided by the Recreation and Arena Department, said fee schedule to be subject to approval by the City Council.
- C. All moneys received by the Recreation and Arena Department shall be held by the City of Rochester in a fund specifically established for the Recreation and Arena Department, and if at the end of any fiscal year the moneys received by the Recreation and Arena Department shall exceed the moneys expended for the benefit, maintenance and operation of the Recreation and Arena Department, then said moneys shall not revert to the general fund for the City of Rochester but shall be held in a separate fund exclusively for the future use and benefit of the Recreation and Arena Department.

Section 7-24A is amended to change "Recreation and Park Commission" to "Recreation and Arena Commission"; to delete "Arena Advisory Commission"; and to add "Arts and Culture Commission."

Section 7-26C(2) is amended as follows: "Advise the Health Officer on all public health matters."

Section 7-27 is amended to read as follows: "The composition, functions, powers and duties of the Board of Trustees of the Public Library shall be as provided in Section 22 of the Rochester City Charter, state statutes, and/or ordinance. Vacancies occurring in said Board shall be filled by the City Council for the unexpired term."

Section 7-29 is amended to delete the following wording (duplicates § 49-2):

The Old Cemetery by Willow Brook, the Old Town Farm Cemetery and the Cemetery on Haven's Hill shall be under the control of the of the City Manager acting pursuant to authority conferred upon such City Manager by the provisions of Section 36.1 of the General Ordinances of the City of Rochester, who shall have authority to dispose of vacant lots within said cemeteries, and the money received from any sales shall be of said lots shall be kept by the Board of Trustees of Trust Funds and shall be used for the improvement of said cemeteries by the City Manager acting pursuant to authority conferred upon such City Manager by the provisions of Section 36.1 of the General Ordinances of the City of Rochester.

~~Sections 7-40C and 7-52B are amended to change "Finance Director" to "Business Administrator."~~ **(See City Clerk Note 1)**

~~Section 7-44 is amended to read as follows: "Salaries of City officials shall be set by ordinance as provided in Section 69 of the City Charter. Salary ordinances are on file at the office of the City Clerk."~~ **City Clerk Note 5:** *Keep the actual salaries within Section 7-44 of the Code.*

Section 7-46A is amended as follows: "All citations of this ~~ordinance~~ Code may be designated ~~General Ordinances~~ the Code of the City of Rochester, adding to the citation when necessary the number of the chapter and section."

~~Section 7-54 is amended to change "Business Director" to "Business Administrator."~~ **(See City Clerk Note 1)**

Section 7-66E and I are amended to update "Department of Revenue" to "Department of Revenue Administration."

Original § 13.3, Election of Chairman of Board of Supervisors of the Checklist, is repealed.

Chapter 11, Adult-Oriented Establishments.

The definition of "adult entertainer" in § 11-2 is amended to "adult entertainment."

Chapter 16, Alarm Systems.

Section 16-8C is amended as follows: "If the false alarm is due to an alarm system malfunction that is in the process of being repaired or where immediate steps are taken to identify or correct the problem and notification has been made to the dispatch center as applicable, the Chief of the Police Department or Fire Department may waive the civil assessment."

Chapter 22, Amusements and Entertainment.

Section 22-2 is amended to update "New Hampshire State Athletic Commission" to "New Hampshire Boxing and Wrestling Commission."

Section 22-3 is amended to change "permit" to "license" in the last sentence.

The definition of "mechanical device" in § 22-5 is amended to "mechanical amusement device."

Sections 22-7, 22-13, 22-15 and 22-17 are amended to change "mechanical device" to "mechanical amusement device."

Chapter 28, Animals.

Section 28-4C is amended to change "dog" to "animal" and to change "such penalties as are provided for in the General Ordinances of the City of Rochester" to "such penalties as are provided for in this chapter."

Section 28-5 is amended to change "guard dog" to "guide dog."

Section 28-6 is added to read as follows: "Unless otherwise provided, any person who violates any provision of this chapter shall be punished by a fine of not more than \$50."

Chapter 40, Building Construction and Property Maintenance.

Section 40-8 is amended to change "Water or Sewer Department" to "Division of Water Supply Works or Division of Sewage and Waste Treatment Works."

Section 40-12A is amended to change "anything in violation of this code" to "anything in violation of any code adopted herein."

Section 40-13 is amended to change "those areas classified as Business 1 zones, Business 2 zones, and 1-3 zones" to "those areas classified as Downtown Commercial, Office Commercial and Highway Commercial Districts."

Section 40-15B(1) and (4) are amended to change "this code" to "this chapter."

Chapter 75, Fires and Fire Safety.

Section 75-1 is amended as follows: "The Fire Chief shall manage[,] the Fire Department and consult with and advise the City Manager on all matters pertaining to the equipment and control of the Fire Department." **City Clerk Note 6:** *Later in this paragraph the word "shall" had been added, please correct the sentence as follows: ...the Fire Chief shall make rules and regulations for the internal operation of the Fire Department as he/she ~~shall~~ deems necessary and shall keep the same posted in the Fire Station and other buildings of the Department."*

Section 75-9B(2) is amended to change "the appropriate police, fire and emergency medical department services" to "the appropriate emergency services department."

~~Section 75-9C(1) is amended as follows: "A minimum average in-building field strength of 2.25 microvolts (-100 dbm) for analog and five microvolts (-93 dbm) for digital systems shall be provided throughout 85% of the area of each floor of the building when transmitted from the City's police dispatch center and the appropriate emergency service dispatch centers which are providing fire and emergency medical protection services to the building."~~ **City Clerk Note 7:** *The Codes and Ordinances Committee did not recommend this change go forward to the City Council for adoption.*

~~Section 75-9D(1) is amended as follows: "A minimum average signal strength of 112 microvolts (-6 dbm) for analog and five microvolts (+1 dbm) for digital systems shall be provided as received by the City's police dispatch center and the appropriate emergency service dispatch centers which are providing fire and emergency medical protection services~~

~~to the building."~~ **City Clerk Note 8:** *The Codes and Ordinances Committee did not recommend this change go forward to the City Council for adoption.*

Section 75-9E(3) is amended as follows: "The area where the amplification equipment is located ~~almost~~ must be free of hazardous materials such as fuels, asbestos, etc."

Section 75-10 is amended as follows: "The authority having jurisdiction for the administration and enforcement of this article shall be ~~Fire Prevention~~ the Fire Chief of the City of Rochester."

Section 75-16D(6) is amended as follows: "Anyone using permissible fireworks shall be responsible for removing any debris accumulated due to the discharge of fireworks that fall onto the public way, public property, and any private property within 24 hours."

Chapter 80, Food and Food Service.

Section 80-1 is amended as follows: "The City of Rochester hereby adopts the provisions of the ~~Sanitary~~ Food Code of the State of New Hampshire, Department of Health and ~~Welfare~~ Human Services, Division of Public Health Services, as presently enacted and as may be amended from time to time."

The definition of "Sanitary Food Code" in § 80-2 is amended to "Food Code" and as follows: "The State of New Hampshire, State Department of Health and ~~Welfare~~ Human Services, ~~Sanitary~~ Food Code as adopted by § 80-1 above, and as the same shall be amended from time to time by the Department of Health and ~~Welfare~~ Human Services."

Section 80-4 is amended to delete the following wording (duplicates Subsection C): "All applications for food establishment licenses shall be filed with the Board on or before June 20 of any year."

Section 80-7 is amended to change "health authority" to "Board of Health."

Section 80-26C is amended as follows: "~~For those outdoor dining establishments serving alcohol,~~ Seating shall be appurtenant and contiguous to a doorway accessing the main restaurant facility with service provided within the area approved by the City Manager.

Chapter 94, Health and Sanitation.

The definition of "owner" in § 94-2B is amended to change "Strafford County of Probate" to "Strafford County Probate Court."

Section 94-2C is amended to change "the Building, Zoning, and Licensing Services" to "the Department of Building, Zoning, and Licensing Services."

Section 94-11 is amended as follows:

In Subsections A and B to update the reference to Chapter Env-Ws 800 to Chapter Env-Wq 800, Sludge Management.

In Subsection C(1) to update the reference to Chapter Env-Ws 801 to Chapter Env-Wq 801.

In Subsection C(6) to update the reference to Section Env-Ws 1014.02 to Section Env-Wq 1014.02.

In Subsection C(7) to update the reference to Section Env-Ws 806.01 to Section Env-Wq 806.01.

In Subsections C(7) and E to change "the Building, Zoning, and Licensing Services" to "the Department of Building, Zoning, and Licensing Services."

In Subsection D as follows: "Any sludge used within the City of Rochester and subject to the terms of this section shall be subject to random collection and/or testing for the presence of fecal coliform at the discretion and under the direction of the Director of Building, Zoning, and Licensing Services."

In Subsection F(1) to update the reference to Chapters Env-Wm 100 through Env-Wm 3500 to Chapters Env-Hw 100 to 1100, Env-Sw 200 to 1800 and Env-Or 300 to 700.

In Subsection F(2)(b) to change "Class A pathage and reduction requirements" to "Class A pathogen reduction requirements."

Chapter 110, Junk and Secondhand Dealers.

Section 110-3A(3) is amended as follows: "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 \$50 a year, payable in advance." **City Clerk Note 9:** *See additional change to the beginning of the same paragraph: 110-3A "Payment of Fees. **The application shall ~~Be-be~~** accompanied by the full amount of fees chargeable to such license..."*

Section 110-4A is amended to change "to avoid such order" to "to void such order."

Chapter 135, Mobile Home Parks.

The definition of "manufactured housing" in § 135-3 is amended to read as follows:

Any structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width and 40 body feet or more in length, or when erected on site, is 320 square feet or more, and which is built on a permanent chassis and designed to be used as a

dwelling with or without a permanent foundation when connected to required utilities, which include plumbing, heating and electrical heating systems contained therein (in conformance with the definition in RSA 674:31, as amended).

Section 135-5 is amended to update "Water Supply and Pollution Control Commission" to "Department of Environmental Services" and to revise Subsection E(1) as follows: "A water supply meeting ~~the requirements of the 1983 State of New Hampshire Water Supply and Pollution Control Commission Drinking Water Regulations~~ current New Hampshire Department of Environmental Services drinking water standards shall be provided to each mobile home lot in a mobile home park."

Sections 135-7A(3)(e)[6] and 135-8B are amended to change "Zoning Officer" to "Zoning Administrator."

Section 135-8C(2) is amended as follows: "This provision shall be in effect even should an appeal be taken from the ~~Building Inspector's~~ Director's revocation order."

Chapter 158, Parks, Recreation and Arena.

The definition of "Commission" in § 158-1 is amended to read as follows: "The Rochester Recreation and Arena Commission. See § 158-3." **City Clerk Note 10:** *See additional change to 158-2 Conduct Prohibited in Parks and Arena "...displayed by sign, notice, bulletin, card, ~~or~~ poster, or when notified..."*

The definition of "Director" in § 158-1 is amended to read as follows: "The Recreation and Arena Director. See § 158-4."

The definition of "park" in § 158-1 and § 158-2E are amended to change "Recreation Director" to "Director."

Section 158-2K is amended to change "Commons" to "Common."

Section 158-3A is added to read as follows:

This Commission shall consist of 13 members to be nominated by the Mayor and elected by the Council, in accordance with the provisions of Section 74 of the Rochester City Charter, as follows: one member from the City Council, one member from the School Board, and 11 interested citizens. Up to two members of the Commission may be a nonresident of the City of Rochester, provided that at the time of election of such individual to the Commission such individual is associated with communities or organizations utilizing the Rochester Arena facilities or has other specialized skills related to the provision of recreational services.

Section 158-4 is amended to read as follows:

The City Manager, in accordance with the provisions of Sections 15 and 18 of the Rochester City Charter, shall appoint the Recreation and Arena Director for the City of Rochester, who shall be the department head of the Rochester Recreation and Arena Department. The Director shall be responsible for the direction of all phases of the City's recreation programs and parks owned or controlled by the City subject to the supervision of the City Manager. The Director shall be responsible for hiring and supervising all personnel as may be required to carry out Recreation and Arena Department programs. The Director, with the consent of the Commission, shall have the power to promulgate reasonable written rules and regulations to govern the use of the City's parks and equipment and to issue permits for the use thereof as set forth in this chapter.

Section 158-7 is amended as follows: "Any violation of this chapter or of the rules and regulations as provided for hereunder shall be considered to be a violation and subject to a penalty as provided in § 1-1 of this Code."

Chapter 176, Planning Board.

Section 176-2C is amended to update the reference to RSA 31:89-d to RSA 674:46-a.

Section 176-10 is amended to update the reference to RSA 31 to RSA 674.

Chapter 200, Sewers.

The definition of "Director" in § 260-2 is amended to "Commissioner" and to read as follows: "The Commissioner of Public Works or his/her designee. See § 7-18A of the City Code."

The definition of "floatable oil" in § 200-1 is amended to change "free of floatable fat" to "free of floatable oil."

Section 200-3C is amended to add the following sentence: "When a private wastewater disposal system is found to be in failure, it is the duty of the owner and/or his agent to contact the City to determine if the property falls within the sewer service area."

Section 200-5F is amended as follows: "~~Interest~~ Late payments shall accrue interest at the same rate charged by the City for overdue property tax bills."

~~Section 200-6B is amended as follows: "The property owner is responsible for the costs incurred for the repair and maintenance of all existing sewer services from the property line public sewer main to the building or structure."~~

Section 200-6D is amended to delete the last sentence: "For any applicant who holds a valid license, the fee shall be prorated from the date such license expires."

Section 200-7B is amended as follows: "There shall be two classes of sewer permits: for residential ~~and commercial~~ service and for service to establishments producing commercial and/or industrial wastes."

Section 200-7C is amended as follows: "In addition to the permit requirements of Subsection B above, any new construction or use other than a single-family home which exceeds 500 gallons per day of discharge, as estimated by New Hampshire Administrative Rules Section Env-Wq 1008.03, Table 1008-1, shall be required to also obtain a wastewater discharge permit and pay the reserve capacity assessment."

Section 200-7D is amended as follows: "All costs and expenses incidental to the installation and connection of ~~the~~ a new sewer service shall be borne by the owner(s). The owner(s) shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the sewer service. If installation and connection is accomplished at a location where the City has previously installed a sewer stub, ~~the property owner will also be assessed a sewer stub fee equal to~~ Sewer Enterprise Fund will bear the cost of installation of the sewer stub."

Section 200-7J is amended to update the reference to the Water Pollution Control Federation to the Water Environment Federation.

Section 200-7K is amended to delete "or licensed plumber" after "licensed contractor."

Section 200-7S is amended to change "private sewer" to "sewer service."

Section 200-7T(1)(a) is amended as follows: "All applicants discharging over 500 gallons per day, as determined by New Hampshire Administrative Rules Section Env-Wq 1008.03, Table 1008-1, are required to file for a wastewater discharge permit."

Sections 200-8 through 200-15 are added to read as shown at the end of this schedule.

Section 200-16B is amended as follows: "Stormwater and unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers ~~or combined sewers~~ or a natural outlet approved by the Commissioner."

Section 200-16Q is added to read as follows: "A dental practice or any other similar practice or business that handles or manages dental amalgams shall install and maintain an amalgam separator and institute a management program in accordance with federal and state regulations."

Section 200-17C is amended to delete "(revised in 2003; approved April 11, 2005; and revised in 2008, approved February 28, 2008)" after the references to Schedule A (this information has been included in Schedule A).

Section 200-17I is amended to change "40 CFR(o)" to "40 CFR 2."

Section 200-23A is amended to change "Wastewater Division" to "Division of Sewage and Waste Treatment Works."

Section 200-27 is amended to change "Finance Director" to "Business Administrator."

Section 200-30 is amended as follows:

In Subsection A: "The Utility Advisory Board shall rule on appeals of user and other charges and fees and perform other such duties that may be assigned by City Council."

To delete original Subsection (b), Membership, Subsection (c), Term, Subsection (d), Vacancies, and Subsection (e), Administrative Actions, and add the following: "The membership and terms of the Utility Advisory Board shall be as provided in § 260-28 of the City Code."

Section 200-33 is amended as follows:

In Subsection A(4): "High-volume customers (i.e., customers using more than 5,000 units** monthly): \$6.08 per 100 cubic feet of water use. **Note: for purposes of this section the word "unit" shall mean 100 cubic feet or 748 gallons of water use."

In Subsection G: to delete "Sewer stub fee: actual cost of installation" and to add "Meter repair or testing: minimum charge of \$30 for the first half hour per visit plus cost of transportation of meter to testing facility and cost of testing" and "Meter damage: \$50."

To delete "Minimum service charge: \$30 per visit."

Chapter 210, Solid Waste.

The definition of "acceptable construction and demolition debris" in § 210-1 is amended as follows: "Letters of authorization on the owner's behalf brought to the dropoff by nonresidents will not be accepted, unless approved by the ~~City and Waste Management~~ City's contracted solid waste management company (the City's waste collection contractor)."

The definition of "bags" in § 210-1 is amended as follows: "Bags (stickers) shall be sold by the City for waste that will not fit into the cart provided by ~~Waste Management~~ the City's waste collection contractor for residential solid waste."

The definition of "hazardous waste and unacceptable waste" in § 210-1 is amended to change "Waste Management" and "the Company" to "the City's waste collection contractor."

The definition of "residential recycling bin" in § 210-1 is replaced with the following:

RESIDENTIAL RECYCLING CART – A specifically designated wheeled container or cart distributed by the City's waste collection contractor to be used for the storage of acceptable recyclables in the automated collection process. No other receptacles will be permitted for collection by the City's waste collection contractor.

The definition of "rubbish and waste receptacle" in § 210-1 is replaced with the following:

RESIDENTIAL WASTE RECEPTACLE – The specifically provided or designated container distributed by the City's waste collection contractor. No other receptacles will be permitted.

The definition of "special waste" in § 210-1 is added to read as follows: "As defined in 40 CFR 240.101(z)."

Section 210-3 is amended to change "the Public Works Director and Waste Management" to "the Commissioner of Public Works or his/her designee and the City's waste collection contractor."
City Clerk Note II: Replace all references to "rubbish" with "**Residential Waste Collection**".

Section 210-6 is amended as follows:

All residential solid waste shall be placed in suitable receptacles, as defined under § 210-1. ~~Common paper shopping bags are prohibited and wooden crates are not suitable rubbish containers.~~ Residential solid waste that does not fit in the ~~ear~~ approved receptacle shall not be collected unless such waste is recyclable materials as defined in § 210-1 and placed at curbside as described in § 210-17.

Section 210-11 is amended as follows:

Acceptable construction and demolition debris as defined in § 210-1 may be brought to ~~the~~ an approved residential dropoff center at no cost. Debris generated at apartment or condominium units not used as the primary personal residence of the taxpayer shall be charged ~~such~~ the same fees as any other commercial user.

Section 210-13 is amended to change "determined by Public Works" to "determined by the Department of Public Works."

Section 210-14 is amended as follows: "Hazardous waste and unacceptable wastes, as defined in § 210-1, the definition of 'hazardous waste and unacceptable wastes,' will not be accepted for roadside pickup by the City. **City Clerk Note 12:** "... *for roadside pickup by the ~~City~~ Contractor.*"

Section 210-16 is amended to change "a fine up to \$3,000" to "a civil penalty up to \$3,000."

Section 210-17 is amended as follows:

Recyclable material must be placed in the approved residential recycling ~~bins~~ receptacles (as defined by § 210-1). ~~Bins~~ The approved residential recycling receptacles must be placed at the ~~curb~~ roadside on the evening before or by 7:00 a.m. on the scheduled pickup day. Unacceptable material found in the approved residential recycling ~~bins~~ receptacles will not be collected. **City Clerk Note 13:** Replace all references to "curbside" to "**roadside**".

Section 210-18 is amended as follows: "Rochester residents may purchase ~~City-approved~~ the City's approved bags (stickers) for residential solid waste to be brought to ~~the~~ an authorized residential dropoff center."

Original § 19.22, Savings clause, is repealed.

Chapter 218, Stormwater Management and Erosion Control

Section 218-2A(1) is amended as follows: "The City Council pursuant to RSA 47:13, 47:17, ~~VII, VIII and XVIII~~, 38:26, 149-I:3 and 149:1:6."

Sections 218-2A(3), 218-6A(5) and 218-10E are amended to change "Office of Building, Zoning, and Licensing Services Department" to "Building, Zoning, and Licensing Services Department."

Section 218-6 is amended as follows:

In the first sentence: "This chapter shall apply to any action that will hinder, interfere with, alter, or modify the existing stormwater flow, drainage, or infrastructure constructed for such purpose ~~unless and until this chapter has been complied with.~~"

In Subsection A to change "stormwater management permit (SMP)" to "stormwater permit (SWP)."

In Subsection B: to change "construction stormwater management and erosion control plan" to "stormwater management and erosion control plan."

The definition of "City Engineer" in § 218-7 is amended as follows: "Intended to refer to and identify the City Engineer or his/her designee or any qualified engineering consultant which the City Council, City ~~Administrator~~ Manager, Planning Board, Building, Zoning, and Licensing Services Department, Commissioner of Public Works, or their designee(s) engage(s) for the purpose of reviewing any application or plan submitted in accordance with this chapter or determining compliance herewith."

The definition of "City Inspector" in § 218-7 is amended as follows: "A City representative from the Department of Public Works, Department of Building, Zoning, and Licensing Services Department, ~~Department~~, or ~~Community Development~~ Department of Planning and Development, or their designee."

Section 218-8C(2)(n) is amended to add "(now the Natural Resources Conservation Service)" after "Soil Conservation Service."

Section 218-9B(1)(z)[1] is amended as follows:

For common drainage that serves an area with 10 or more acres disturbed at one time, a temporary (or permanent) sediment basin ~~must provide~~ providing storage for a calculated volume of runoff from a drainage area from a two-year, twenty-four-hour storm, or equivalent control measures, must be provided, where attainable, until final stabilization of the site.

Section 218-11B is amended as follows:

In the first sentence: "The following provisions shall pertain and be applicable only to those plans which do not come under the jurisdictional purview of the Planning Board (site plan/subdivision review)."

To change "Building, Zoning, and Licensing Services Department Officer" to "Building, Zoning, and Licensing Services Department Director" in Subsection B(1), (2) and (3).

Section 218-15A is amended to change "Building, Zoning, and Licensing Services Department Officer" to "Building, Zoning, and Licensing Services Department Director."

Chapter 223, Streets and Sidewalks.

Section 223-1 is amended as follows:

To replace the definition of "Commissioner of Public Works" with the following: "COMMISSIONER – The Commissioner of Public Works or his/her designee. See § 7-18A of the City Code."

To revise the definition of "Committee" as follows:

The subcommittee of the City Council (Public Works and Building Committee) having responsibility for overseeing expenditures, maintenance and control of public buildings, streetlights, public parks, sewerage, streets and highways and rubbish/recycle disposal. The Committee members shall be designated by the Mayor and shall enjoy membership according to rules and regulations as established by the City Council. The responsibilities of this Committee shall be enumerated by the City Council and shall further be as set forth within this article, and this Committee shall be referred to throughout this article as "Committee."

Section 223-5A is amended as follows:

Whenever any street, lane, alley, sidewalk, or other public place in the City shall, under any license granted, be dug up, obstructed or encumbered, and thereby rendered unsafe or

inconvenient for travelers, the person so digging up, obstructing or encumbering shall put, and at all times keep up, a suitable railing or fence around the section or parts of any street, lane, alley, or sidewalk or other public place so dug up, obstructed or encumbered, so long as the same shall be, or remain, unsafe or inconvenient as aforesaid, and shall also keep ~~one or more lighted lanterns fixed to~~ such fence, ~~or in some proper place,~~ adequately illuminated every night from ~~twilight~~ dusk until dawn ~~in the evening and throughout the whole night~~ so long as such railing or fence shall be kept standing. **City Clerk Note 13:** *Change reference in Section 223-5 (title) "License" to "**Permit**".*

Section 223-7 is amended as follows:

In Subsection A: "No person shall move, or assist in moving, any house, shop or other building through any street, lane, or alley without first obtaining a written license ~~therefor~~ from the Licensing Board."

In Subsection B: "~~In addition to the requirements of Subsection A hereof, no person shall move, or assist in moving, any house, shop or other building through any street, lane, or alley without first obtaining a written license therefor from the Licensing Board.~~ The fee for such license shall be \$25."

Section 223-8D is amended as follows: "No theatrical or dramatic representation shall be performed or exhibited, and no parade or procession upon any public street or way, unless a special license ~~therefor~~ shall first be obtained from the ~~City Manager~~ Licensing Board."

Section 223-9A(1)(e) is amended to correct the reference to RSA 252:9-18 to RSA 80:88 to 80:91.

Section 223-11A is amended to correct the reference to RSA 231:133 in the first sentence to RSA 231:133-a and to revise Subsection A(10) as follows: "Such numbers shall be a minimum of ~~3.5 inches~~ as to meet current Fire Code requirements in height."

Section 223-14 is amended to change "telephone poles" to "utility poles."

The definition of "newspaper" in § 223-20 is amended to change "teacher articles" to "feature articles."

The definition of "street" in § 223-20 is amended as follows: "All that area dedicated to public use or public street purposes and shall include, but not be limited to, roadways, parkways, alleys, sidewalks, garages, parking lots, parks and playgrounds."

Section 223-21C is amended as follows: "Within 60 days of the passage of this article every person or other entity shall comply with the provisions of this article with respect to each newsrack and/or public way obstruction owned by it within the City."

Section 223-25 is amended to change "bodily or person or property damage" to "bodily injury or damage to private or public property."

Chapter 254, Vehicles and Traffic.

The definition of "police officer" in § 254-1 is amended as follows: "An officer of the Municipal Police Department or any person authorized to direct or regulate traffic or to make arrests for violations of traffic regulations."

Section 254-39 is amended as follows: "Except as otherwise provided herein, a person violating any provision of Articles I through VIII of this chapter shall be punished by a fine of not more than \$250 for each offense, except that the optional procedures set forth in § 254-42 may be used in lieu of court proceedings for violations of Article III."

Section 254-49D is amended as follows: "The Licensing Board may establish taxicab stands on such public streets and in such places and in such numbers as shall be determined to be of greatest benefit and convenience to the ~~public, business~~ public and businesses, and every such taxicab stand shall be designated by appropriate markings."

Section 254-49E(2) is amended as follows: "In ~~no~~ any case pick up any adults when children under the age of 16 years are alone in the cab, unless said juvenile is seated adjacent to the driver."

Section 254-50B is amended as follows:

Any taxicab driver who shall be convicted of any violation of these rules and regulations, or of any law of the State of New Hampshire, shall forthwith return his/her taxicab driver's license to the Director of the Building, Zoning, and Licensing Services Department who shall retain said license until such time as ~~a permit~~ an application has been filed in the same manner as for an original taxicab driver's license and a determination as to its issuance or denial shall have been made by the Chief of Police and/or the Licensing Board.

Section 254-57C is amended to update the reference to RSA 31:1102 to RSA 31:102 and to update the reference to RSA 262:40-1 to 262:40-a.

Chapter 260, Water.

~~The definition of "Business Office" in § 260-2 and §§ 260-19A and B and 260-20A are amended to change "Finance Director" to "Business Administrator."~~ (See City Clerk Note I)

The definition of "Director" in § 260-2 is amended to "Commissioner" and to read as follows: "The Commissioner of Public Works or his/her designee. See § 7-18A of the City Code."

The definition of "water rates and charges" in § 260-2 is repealed.

Section 260-4B is amended as follows: "An estimate of the cost of work to install the service will be prepared by the applicant and verified by the Department of Public Works."

Section 260-4F is amended as follows: "Interest shall accrue on late payments at the same rate charged by the City for overdue property tax bills."

Section 260-5 is amended to change "American Water Association" to "American Water Works Association."

Sections 260-7A and 260-25A are amended to change "Water Department" to "Division of Water Supply Works." Section 260-7A is further amended to update "firemen" to "firefighters."

Original § 17.17, Rates, charges and fees, is repealed.

Section 260-17 is amended to update "Water Division" to "Division of Water Supply Works."

Section 260-19B is amended as follows: "The decision of the Utility Advisory Board shall be final, except that the City Manager shall have the authority to veto or modify any action of the Utility Advisory Board."

Section 260-21 is amended as follows: "If such bills are not paid within 30 days or a payment agreement made with the Business Office, the water will be shut off or the charges will become a lien on the property, or both."

Section 260-22 is amended as follows: "~~Twenty-four~~ Forty-eight hours' advance notice is normally required for turning on and shutting off water."

Section 260-28A is amended as follows: "The Utility Advisory Board shall rule on appeals of user and other charges and fees and perform such other duties that may be assigned by City Council."

Sections 260-34A and 260-43C are amended to update the reference to New Hampshire Administrative Rules Part Env-Ws 364 to Part Env-Dw 505.

The definition of "approved source" in § 260-35 is amended to update the references to the State Water Supply Division to "Water Division."

The definition of "auxiliary water supply" in § 260-35 is amended as follows: "Any water supply on, or available to, a premises other than the ~~Town's~~ City's approved public potable water supply."

The definition of "hose bib vacuum breaker" in § 260-35 is amended as follows: ~~"A device which is attached to a hose bib and which acts as an atmospherically permanently vacuum breaker."~~ **City Clerk Note 14:** *Correct as shown here: A device which is attached to a hose bib* and which acts as an *atmospheric vacuum breaker.*" **City Clerk Note 15:** *Correct spelling of "bib" to "bibb".*

The definition of "potable water" in § 260-35 is amended to change ~~"Division for Human Consumption"~~ to ~~"Water Division."~~ **City Clerk Note 16:** *Correct reference from "Division for Human Consumption" to **New Hampshire Department of Environmental Services**".*

The definition of "premises" in § 260-35 is amended as follows: "The industrial, commercial or residential facility or dwelling ~~subject~~ connected to the public water supply."

The definition of "water service entrance" in § 260-35 is amended to add "any" before "unprotected branch."

Section 260-36 is amended to read as follows: "The authority for this article is derived from the New Hampshire Administrative Rules Part Env-Dw 505, Backflow Prevention, and the City of Rochester public water system rules and regulations, as adopted."

Section 260-38L is amended as follows: "All new single-family residential water services will be required to install a residential No. 7 dual check device immediately downstream of the water meter."

Section 260-39 is amended to delete the following note which appeared at the beginning of the section: "Note: Homeowners are permitted to work on their own residential plumbing. A licensed plumber with a valid New Hampshire license is required for work on all industrial, commercial, and rental properties."

Section 260-40 is amended to delete the following wording: "The Department will operate a cross-connection control program, to include keeping of necessary records, which fulfills the requirements of the Division's Backflow Prevention Regulations and is approved by the Division."

Section 260-42 is amended to delete the following wording from Subsection A: "Install an approved reduced pressure zone (RPZ) device at the public water supply service connection" and to replace Subsection B with the following:

B. The Department shall not permit a cross-connection within the public water supply system unless it is considered necessary and that it cannot be eliminated.

- (1) The customer shall install an approved reduced pressure zone (RPZ) device at the public water supply service connection.

- (2) The customer shall provide the water supplier with backflow prevention device test results per required schedule or the customer's water service from the water provider will be shut off until the data is supplied to the water supplier.

Section 260-43 is amended to delete the following wording: "The Department shall not permit a cross-connection within the public water supply system unless it is considered necessary and that it cannot be eliminated."

Section 260-44 is amended as follows: "Where the degree of hazard has increased, as in the case of a residential installation converting to a business establishment, an existing backflow preventer must be upgraded to ~~a reduced pressure zone principle~~ an approved device, or ~~a reduced pressure zone principle~~ an approved device must be installed in the event that no backflow device is present.

Section 260-45 is amended as follows:

In Subsection A as follows: "Initial installations, replacements and upgrades shall be performed by ~~a plumber licensed in the State of New Hampshire~~ an individual with a current Backflow Prevention Device Inspector/Tester Certification from the New England Water Works Association (NEWWA)."

In Subsection B(4) and (5) to change "Water Department or its designee" to "Department of Public Works or its designee."

In Subsection B(6) as follows: "~~If~~ A drain is to be provided for a relief valve port[,], There must be an approved air gap separation between the port and the drain line."

To add Subsection B(7) as follows: "Backflow prevention devices are not allowed to be installed below grade or other location that may be prone to unit inundation and/or submergence."

In Subsection C(4) and (5) to change "Water Treatment Department Chief Operator or his designee" to "Department of Public Works or its designee."

To delete the following wording from the end of the section: "Pit installations shall be approved only as, but not limited to the requirements provided in Section 6.4 below" and "Pit installations. No backflow prevention device shall be installed in pits."

Section 260-46 is amended as follows:

In Subsection B: "Testing and inspection of all devices to include reduced pressure principle backflow devices, testable double check valve assemblies, and testable pressure vacuum breakers shall be performed by ~~a New Hampshire~~ an individual with a current Backflow Prevention Device Inspector/Tester Certification from the New England Water Works Association (NEWWA)."

~~In Subsection C: "Parallel installation of two devices of the same size is an effective means of ensuring that uninterrupted water service during testing and repair of devices is maintained and is strongly recommended when the owner desires such continuity."~~

City Clerk Note 17: *Proposed correction is not needed.*

In Subsection E: "Failure to test a backflow prevention device as required, or failure to repair a device when needed, shall result in immediate termination of the water service."

Original § 18.16, Records, and § 18.17, Reports, are repealed.

Chapter 275, Zoning.

Section 275-1.6 is amended as follows: "If a court or any other body with appropriate jurisdiction finds that any ~~chapter article~~, section, subsection, or provision of this chapter is invalid, that finding shall not invalidate any other provision of this chapter."

Section 275-1.8 is amended to change the "Class" of the Neighborhood Mixed-Use District in Table 1-A from "Commercial District" to "Residential District."

Section 275-2.1E is replaced with the following (to reflect the new numbering system in this chapter):

For the purposes of this chapter, the words "this chapter" refer to this entire Zoning Ordinance, Chapter 275 of the City of Rochester General Ordinances. The words "this article" refer to a specific portion of this chapter, as designated by an article number (such as "Article 1" or "Article 2"). The words "this section" refer to a specific portion of an article designated by a section number (such as "§ 275-1.1" or "§ 275-3.2"). The words "this subsection" refer to a specific portion of a section as designated by a letter or number [such as "A" or "(1)" or "(a)"].

In § 275-2.2, Definitions:

The definition of "apartments or apartment buildings" is amended as follows:

See "dwelling, apartment building," "dwelling, mixed-use," "dwelling, multifamily," and "security apartment."

The definition of "earth excavation" is amended to correct the reference to RSA 155 to RSA 155-E.

The definition of "lounge" under "eating and drinking establishments" is amended to delete "(or TAVERN)" after "LOUNGE."

The definition of "hazardous substance/waste" is amended to change "Division of Environmental Services" to "Department of Environmental Services."

In the definition of "junkyard" Subsection B is amended to correct the reference to RSA 236:12 to RSA 236:112.

Under "retail establishments" Subsection F, Retail services, is amended as follows:

"Retail services" does not include retail sales except for incidental items related to the service, as an accessory use, ~~not~~ or the leasing/rental of equipment or goods if stored on the premises.

Under "retail establishments" Subsection H, Service establishment, is amended to change "by Building, Zoning, and Licensing Services" to "by the Director of Building, Zoning, and Licensing Services."

A definition of "retail services" is added to read "See 'retail establishments.'"

A definition of "setback, special" is added to read as follows: "In addition to the setbacks listed in the Tables of Dimensional Standards there are several use-specific and situational-specific setbacks noted throughout this chapter. The more restrictive setback will apply."

The definition of "sight triangle" is amended to delete "(For additional information see Article 27.)"

The definition of "single-unit dwelling" is repealed.

In the definition of "solid waste facility" Subsections A and B are amended to update the reference to Chapters Env-Wm 100 to 1100 of the New Hampshire Administrative Rules to Chapters Env-Hw 100 to 1100.

The definition of "temporary wireless communication facility" is amended as follows:

TEMPORARY WIRELESS COMMUNICATIONS FACILITY – Any wireless communications facility designed for short-term use only for a special event or while a permanent wireless communications facility is under construction.

The definition of "townhouse" is repealed.

The definition of "wireless communications facility" is repealed.

The definition of "wireless communications systems (or WFC)" is amended to "wireless communications facilities (or WCF)" and to add the following sentence: "See 'alternate tower structure,' 'antenna' and 'tower.'"

Section 275-2.3 is amended to change "Division of Environmental Services" to "Department of Environmental Services."

Section 275-3.2 is amended to delete the following wording (covered by § 275-1.7):

It is emphasized that the requirements of this chapter constitute minimum requirements. Unless otherwise stated, clearly implied, or stipulated by other applicable law, compliance with all provisions of this chapter does not necessarily ensure approval of applications. In most cases, the applicant will need to comply with, or obtain approval under, other regulations, including Site Plan Regulations; Subdivision Regulations; the City of Rochester Building Code; State of New Hampshire statutes; other City of Rochester General Ordinances, codes, standards, and policies; and state and federal statutes and regulations.

Section 275-3.3A is amended to change "building or occupancy permit" to "building permit or certificate of occupancy."

Section 275-5.3A is amended to delete the following sentence: "All development in the Residential Districts should follow the principles of Traditional Neighborhood Development (see definition in Article 2)."

Section 275-5.4 is amended to change "town water or sewer services" to "City water or sewer services."

Section 275-6.3C(2)(b)[1] is amended to add the following sentence: "Also see special setbacks in Note 1 on Table 19-B."

Section 275-6.3C(4) is amended to change "Building Safety Department" to "Building, Zoning, and Licensing Services Department."

Section 275-6.5F is amended to delete the following sentence: "Refer to Appendix D annexed hereto and entitled 'GRD Service Road Cross-Section - Figure 1' for configuration details."

Section 275-8.6 is amended to delete the following sentence: " Refer to Appendix D annexed hereto and entitled 'GRD Service Road Cross-Section - Figure 1' for configuration details."

The definition of "regulated substance" in § 275-10.3 is amended to change "department-approved facilities" to "facilities approved by the Department of Environmental Services."

Section 275-10.9C(2) is amended as follows: "The Planning Board may, at its discretion, require a performance guarantee or bond in an amount and with conditions satisfactory to the Board, to be posted to ensure completion of construction of any facilities required for compliance with the performance standards."

Section 275-10.11A is amended to change "performance measures" to "performance standards."

Section 275-10.11H is amended to update the reference to the New Hampshire Administrative Rules from "Env-Wm" to "Env-Hw."

The definitions of "poorly drained soil" and "very poorly drained soil" in § 275-12.6 are amended to change "As defined High Intensity Soil Maps for New Hampshire Standards" to "As defined by high-intensity soil maps for New Hampshire."

The definition of "wetland" in § 275-12.6 is amended as follows: "those areas that are ~~surface~~ inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for a life in saturated soil conditions.

Section 275-12.8B(7) is amended as follows: "but not within 25 feet of the edge of ~~wet~~ of the adjacent wetland."

Section 275-13.4F is amended to delete the following wording: "If the structure has been floodproofed, the as-built elevation (in relation to mean sea level) to which the structure was floodproofed."

Section 275-14.5C(1) is amended to change "Building Department" to "Building, Zoning, and Licensing Services Department."

Section 275-19.2I is amended to delete the following: "The width of a lot bordering on and providing access to a Class I through Class V public street, but excluding limited access highways, as defined by RSA 230:44, such as the Spaulding Turnpike, Route 16 and associated access ways to the Milton Town Line."

Section 275-20.2M(2) is amended to change "Rural Residential zone" to "Agricultural District."

Section 275-20.2N(7)(a) is amended to change "certified mail" to "verified mail, as defined in RSA 451-C:1."

Section 275-20.2N(8)(h)[4] is amended as follows: "If lighting is required, the applicant shall provide a copy of the FAA regulations for determination to establish the required markings and/or lights for the small wind energy system."

Section 275-22.3N is amended to delete the following sentence: "In addition, all of the standards articulated in Article 20, Standards for Specific Permitted Uses, under Wireless Communications Facilities and Table 20-A, Commercial Wireless Facilities Standards, shall also apply to facilities allowed by special exception."

Section 275-23.2A(1)(e) is amended as follows: "It may be either part of the single-family dwelling or in a separate building, such as above a garage; if it is part of the single-family ~~house~~

dwelling, an interior door shall be provided between the principal dwelling unit and the accessory dwelling unit."

Section 275-23.2A(10)(g) is amended as follows: "Fences must conform to sight triangle requirements at corner lots (~~see Article 27, Miscellaneous Provisions~~)."

Section 275-27.3G(2) is amended as follows: "Prior to granting such a waiver, the Planning Board must find that the proposed construction is entitled to the ~~four-year~~ five-year exemption provided by RSA 674:39, pursuant to that statute."

Section 275-28.4I(2) is amended to update the reference to the New Hampshire State Radiological Control Agency to the New Hampshire Department of Health and Human Services.

Section 275-28.4K(3) is amended to update the reference to the Division of Water Supply and Pollution Control to the Division of Water and to update the reference to the Department of Public Health to the Department of Health and Human Services.

Section 275-28.4L is amended to update the reference to the New Hampshire Water Supply and Pollution Control Commission to the New Hampshire Department of Environmental Services.

Section 275-29.3 is amended as follows: "A sign which was lawfully established prior to the adoption or amendment of this article but which does not meet the requirements of this article is considered a nonconforming sign."

Section 275-29.4 is amended to change "zoning permit" to "sign permit."

Section 275-29.6 is amended as follows: "Before any permit is granted for the erection of a sign or sign structure requiring such permit, construction documents shall be filed with the Building, Zoning, and Licensing Services Department ~~official~~ showing the dimensions, materials and required details of construction, including loads, stresses, anchorage and any other pertinent data."

Section 275-29.9E is amended as follows: "Vehicles and trailers used primarily as static displays, advertising a product or service, ~~not~~ or utilized as storage, shelter or distribution points for commercial products or services for the general public."

In § 275-29.11, Definitions:

The definition of "canopy" is amended to "canopy (attached)."

The definition of "development of complex sign" is amended to "development complex sign."

The definition of "marquee sign" is amended to "marquee."

The definition of "nonconforming sign" is amended as follows: "Any sign that existed lawfully prior to the adoption or amendment of this article which now does not conform to the provisions of this article."

The definition of "premises sign" is repealed.

The definition of "projecting sign" is amended to delete the following sentence: "For visual reference, see Section 1003."

The definition of "wall sign" is amended to "wall or fascia sign."

The definition of "window sign" is amended as follows: "A sign within one foot of a window ~~message~~ intended to be visible to and readable from the public way or from adjacent property."

Section 275-29.12F is amended to change "code official" and "Building, Zoning, Licensing, Services official" to "Director of Building, Zoning, and Licensing Services."

Section 275-29.12G is amended as follows: "All landlord or single-owner controlled multiple-occupancy development complexes, such as shopping centers or planned industrial parks, shall submit to the Building, Zoning, and Licensing Services Department a master sign plan prior to issuance of new sign permits."

Section 275-29.13D is amended to delete the following: "Not more than 25% of the area of any directional sign shall be permitted to be devoted to business identification or logo, which area shall not be assessed as identification sign area."

Section 275-29.13F(1)(c) is amended as follows: "Development and construction signs may not be displayed until after the issuance of ~~construction~~ building permits by the ~~Building Official~~ Building, Zoning, and Licensing Services Department and must be removed not later than 24 hours following issuance of ~~an occupancy permit~~ a certificate of occupancy for any or all portions of the project."

Section 275-29.13I is replaced with the following: "Home occupation signs. See Article 24, Home Occupations."

Section 275-29.13L(6) is replaced with the following: "Political signs shall not require a sign permit."

Section 275-29.14B(3) is amended as follows: "No wall sign shall exceed 10% of the area of the building frontage as measured by the width of the wall containing the main public entrance by the height (measured from the floor level to the top of the first floor cornice area, or to one foot below secondary story window) of the building to which it is attached."

Section 275-29.14B(4) is amended as follows: "Permits are required for these signs with a fee ~~of \$10~~ set by the City Council."

Section 275-33.1A is amended to change "Land Use Plan" to "Master Plan."

Section 275-33.2A is amended to change "Land Use Master Plan" to "Master Plan."

Section 275-33.7 is amended as follows: "Two-family, three-family, and four-family dwellings and townhouses are permitted in conservation subdivisions provided:"

Table 18-A, Residential Uses, is amended to delete the row beginning "Dwelling, three and four family" and to change "outdoor wood-fired hydronic boiler" to "outdoor wood-fired hydronic heater."

Table 19-A, Dimensional Standards – Residential Districts, is amended to change "Multifamily" under Residential-2 (R2) to "Five- or more family."

Table 19-B, Dimensional Standards – Commercial Districts, is amended to add the following to ~~Note 2:~~ as **Note 3** "For multifamily dwellings/developments within the DC Zone, the minimum lot area per dwelling unit shall be 500 square feet." **City Clerk Note 18:** *Recommendation is not to add language to existing Note 2, but to add the recommended language as **Note 3**.*

Sections added to Chapter 200, Sewers:

§ 200-8. Sewer only meters.

- A. Sewer only properties may be metered via the private water supply line. A common meter will be provided for rented units or lots. All meters will be maintained by the Department of Public Works, but the customer will be charged for any damage to meters caused by abnormal conditions, i.e., freezing, fire, tampering, etc. The Department of Public Works will set only one meter for any one service and the owner of the premises shall be liable for the entire amount of wastewater generated on the premises irrespective of leases of individual customers.
- B. Meters are installed for measurement of all water used by the consumer. Customers shall provide a clean, dry, warm, safe, and accessible place (always free from debris) for installation of a meter. The location shall be easily accessible by a person in the upright position for reading, maintaining, and changing.
- C. All customers billed for wastewater must keep their own fixtures, and service pipes within their property lines, in good repair and fully protected from injury by frost, and all such pipes and connections shall conform to the Rochester Plumbing Code.

§ 200-9. Sewer deduct meter.

Upon application and approval by the Department of Public Works, a customer may install a meter to measure water that will not be disposed of in the City's sewer system. The purpose of the meter would be to meter uses including, but not limited to, in-ground sprinkler systems, outside spigots, and commercial air-conditioning systems. The cost of the meter, inspection, and

installation by the City is entirely the responsibility of the customer. The meter will fully meet the requirements of § 200-8 of this article.

§ 200-10. Meter repairs.

- A. All meters shall be kept in repair by the Department of Public Works except when damaged by the customer or by his/her negligence, including freezing. In case of any such damage, the cost of repairs shall be charged to the owner of the premises.
- B. If the reader is out of repair or fails to register, the customer will be charged at the average daily consumption as shown by the reader when in order or the flat rate structure, whichever is less. Subsequently, if the actual amount of water metered is determined to be different than the amount previously estimated, the charge will be on the subsequent billing by the difference between the two.
- C. If a customer, after being so notified, does not allow the Department of Public Works access in order to test and/or correct a faulty meter or reader, the customer's subsequent bill will be 1.5 times the average daily consumption as historically shown on the meter.
- D. No person, except the duly authorized agent of the Department of Public Works, shall be allowed to reset, take off, or repair a meter.

§ 200-11. Meter testing.

- A. Only the Department of Public Works shall replace or remove and test all meters. No meter shall be placed in service or permitted to remain in service if the error of registration exceeds 2% or as established by the latest American Water Works Association (AWWA) meter standards, whichever is less.
- B. The Department of Public Works may test a meter for accuracy in registration upon complaint of the sewer consumer. There shall be a minimum service charge for any complaint-driven service call. The minimum service charge shall be as listed in § 200-33, Wastewater Rate and Fee Schedule. Any meter found to be accurate in accordance with this article will not be replaced by the Department of Public Works due to a complaint.
- C. Should the meter in question be found to be within the accuracy limits established by the latest AWWA meter standards, all applicable fees associated with testing shall be paid by the customer. If the meter in question is found to be inaccurate, all fees will be waived.
- D. The percent of error of registration shall be taken as the average of the error at the intermediate and maximum rates of test flow. Any determination of charges shall be based on this average error.

§ 200-12. Sealing of meter.

Upon completion of adjustment and test of any meter under the provisions of these rules, the Department of Public Works shall affix thereto a suitable seal in such a manner that the adjustment of registration of the meter cannot be tampered with without breaking the seal. Disruption of the seal will be cause for discontinuance of service.

§ 200-13. Tampering with meter.

- A. No customer or his/her agent shall perform a tampering event with regard to a meter without having first received written consent and authorization of the Commissioner of Public Works or his/her designee to take such action. In the event that the Commissioner of Public Works and/or his/her designee shall determine that a customer and/or his/her agent has performed a tampering event with respect to a meter, such customer shall be subject to the following charges:
- (1) A charge in an amount based upon the actual metered usage to such meter prior to the tampering event, if determinable.
 - (2) A charge in an amount based upon twice the estimated usage for the premises serviced by the meter in question during the preceding billing period(s) or the corresponding billing period(s) during the year immediately preceding such tampering event, whichever is greater.
 - (3) A charge for all costs associated with the repair and/or replacement of such meter.
 - (4) A reconnection fee as listed in § 200-33, Wastewater Rate and Fee Schedule.
- B. Anything in Subsection A above to the contrary notwithstanding, should a customer or his/her agent, as a result of an emergency or other circumstances beyond his/her control, perform a tampering event with respect to a meter, without having received the prior written consent and authorization of the Commissioner of Public Works or his/her designee, such customer may, upon appeal to the Utility Advisory Board in accordance with the provisions of § 200-30 and within its discretion, be relieved of any and all of the charges listed in Subsection A(1) through (4) above, provided that such customer shall have notified the Department of Public Works, in writing, of the tampering event in question within three business days of the occurrence of such event.

§ 200-14. Outside reader.

All customers shall be required to have an outside reader with radio read capability for their meter. The outside reader shall be installed at a place on the premises acceptable to the City and according to the specifications available at the Department of Public Works. The customer shall be responsible for repairs or replacement of damaged outside readers and associated wiring when damage is due to abuse, neglect, and/or negligence of the customer. The City shall render a bill for labor, equipment, and materials for all such repairs or replacement. The outside reader and appurtenances shall be the property of the City. The customer shall be responsible for providing safe access to City personnel for reading. The customer shall remove potential hazards and nuisances such as snow, ice, vegetation, and dogs from the outside reader's access. Exceptions may be granted by the Commissioner of Public Works, in which case reasonable access shall be granted to Department of Public Works personnel for the purposes of reading and maintenance. If satisfactory access is not provided, the City reserves the right to produce an estimated bill.

§ 200-15. Inspections.

The Department of Public Works employees or its agents shall be allowed access to the customer's premises between the hours of 8:00 a.m. and 6:00 p.m. for examination of pipes, fixtures, connections, the quality of water used, and manner of use.