

**Regular City Council Meeting
March 7, 2023
Council Chambers
6:00 PM**

COUNCILORS PRESENT

Councilor Beaudoin
Councilor Berlin
Councilor de Geofroy
Councilor Desrochers
Councilor Fontneau
Councilor Gilman
Councilor Gray
Councilor Hainey
Councilor Hamann
Councilor Malone
Councilor Larochelle
Deputy Mayor Lachapelle
Mayor Callaghan

OTHERS PRESENT

Katie Ambrose, Deputy City Manager
Terence O'Rourke, City Attorney
Peter Nourse, Director of City Services
Michael Scala, Director of Economic
Development

Minutes

1. Call to Order

Mayor Callaghan called the meeting to order at 6:00 PM.

2. Opening Prayer

Mayor Callaghan called for a moment of silence.

3. Pledge of Allegiance

Mayor Callaghan asked Councilor Beaudoin to lead the Pledge of Allegiance.

4. Roll Call

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

5. Acceptance of Minutes

5.1 Regular City Council Meeting: February 7, 2023

consideration for approval

Councilor Lachapelle **MOVED** to **ACCEPT** the February 7, 2023, Regular City Council meeting minutes. Councilor Malone seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Beaudoin questioned why the workshop minutes were not included in the packet. City Clerk Walters confirmed that the Council Workshop minutes are not included in the City Council packet materials.

6. Communications from the City Manager**6.1 City Manager's Report**

Deputy City Manager Ambrose said the Community Development division has released a Community Development survey to gather public input on potential funding activities for Rochester's Community Development Block Grant Program. The survey is available at several City Departments as well as accessible online at rochesternh.gov/news. She said additionally, there will be a City Council Public Hearing to be held prior to the March 21, 2023, City Council Workshop, to seek public input.

The City Manager's Report is as follows:

Contracts and documents executed since last month:

- **Department of Public Works**
 - Estimate, Water Main Rehab project – S.U.R.
 - Task Order Salmon Fall Booster Pump Station– Wright-Pierce
 - Estimate, temporary water to Howard Brook Rd – S.U.R.
- **Economic Development**
 - FY22-FY23 CAP Weatherization – Royal Crest
 - FY22-FY23 CAP Weatherization – Fuchsia Drive
 - FY22-FY23 CAP Weatherization – Cattail Place
 - FY22-FY23 CAP Weatherization – Cherokee Way
 - FY22-FY23 CAP Weatherization – Jamey Drive
- **IT**
 - Vendor Setup - Provantage
- **Finance**
 - ARPA Grant subrecipient agreement – Gonic Dam
 - ARPA Consultant selection justification form – Gonic Dam

The following standard report has been enclosed:

- **Personnel Action Report Summary**

7. Communications from the Mayor

Mayor Callaghan announced that the Tri-Chambers Legislative Reception is meeting on March 13, 2023, from 5:00 PM to 7:00 PM, at the Frisbie Memorial Hospital Community Education & Conference Center. He said attendance to this event is at no cost; however, advanced registration is required.

7.1. Announcement: Tri-Centennial Celebration

Mayor Callaghan said the year 2028 shall mark the 300th anniversary of the City of Rochester's settlement date: 1728. He announced that there will be an appointed Mayoral Ad-Hoc Committee in order to formalize this great event.

8. Presentation of Petitions and Council Correspondence

No discussion.

9. Nominations, Appointments, Resignations, and Elections

No discussion.

10. Reports of Committees**10.1 Community Development**

Councilor Hainey reported that the Community Development Committee has been meeting with different organizations relative to the CDBG Block Grant funding requests.

Councilor Hainey said the Committee recommended that the "My Friends Place" funding request be funded through Municipal Funding rather than through the CDBG Block Grant. She said this change would show a long-term support/commitment for the organization, which saves the City money each year. She listed other organizations, which are funded through Municipal Funding: COAST Bus, Cornerstone VNA, the East Rochester Public Library, Easter Seals of Rochester, the Historical Society, SOS Recovery, Strafford CAP, and the Rochester Museum of Fine Arts. She briefed the City Council about the adjustments being proposed.

Mayor Callaghan asked about the Heart & Soul organization. Councilor Hainey deferred to Councilor Malone. Councilor Malone said the

Heart & Soul Program was reviewed by the Committee. She said it is a non-profit organization that is driven to engage the entire population into a broader discussion about the Community's outreach programs. She confirmed that there has not been any commitment on the City's part; however, the Community Development Committee is hoping to meet with a representative of the Heart & Soul organization at the next meeting in April. Councilor Hainey added that this organization focuses on training in order to enhance the effectiveness of the leaders responsible for listening and working with residents to provide the best match of services needed for the community.

10.2 Finance Committee

10.2.1 Resolution Authorizing Supplemental Appropriation in the amount of \$450,000.00 for City Hall and Opera House Life Safety Building Upgrades *first reading and refer to Public Hearing 3/21/23*

Mayor Callaghan read the resolution by title only and referred the matter to a Public Hearing:

Resolution Authorizing Supplemental Appropriation in the amount of \$450,000.00 for City Hall and Opera House Life Safety Building Upgrades

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

That the Mayor and City Council of the City of Rochester hereby authorized a supplemental appropriation in the amount of Four Hundred Fifty Thousand Dollars (\$450,000.00) to cover the costs associated with the City Hall and Opera House life safety building upgrades project. The supplemental appropriation will be derived in its entirety from the General Fund Unassigned Fund Balance.

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

10.3 Planning Board

No discussion.

10.4 Public Safety

10.4.1 Committee Recommendation: To extend the driveway culvert and shoulder at 119 Oak Street at the technical discretion of the DPW consideration for approval

Councilor Lachapelle **MOVED** to **APPROVE** the Committee's recommendation to extend the driveway culvert and shoulder at 119 Oak Street, at the technical discretion of DPW. Councilor Larochelle seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

10.4.2 Committee Recommendation: To install two noise abatement signs (ride quietly) on Salmon Falls Road, one on each end consideration for approval

Councilor Lachapelle **MOVED** to **APPROVE** the Committee's recommendation to install two noise abatement signs (ride quietly) on Salmon Falls Road, one on each end. Councilor Desrochers seconded the motion.

Councilor Lachapelle said the vote taken at the Committee meeting resulted in a tie vote of two to two. Councilor Lachapelle said Councilor Gilman brought this request forward; however, he (Councilor Lachapelle) is opposed to the request because it would cause too many signs on the road (sign pollution) and he gave reasons why he felt the signs would be ineffective.

Mayor Callaghan asked where the signs would be erected. Councilor Lachapelle replied that the signs would be erected on Salmon Falls Road, in the general area of the flashing light of the intersection of Portland Street/Salmon Falls Road, heading towards Maine.

Councilor Lachapelle said recently, two speed limit signs (flashing) were installed by the City in order to notify drivers of the 25 mph speed limit; however, these flashing signs flashing were placed near a resident's driveway and the homeowner is now complaining about the flashing lights, which glare on their home all night long. He said that complaint would be addressed by the Committee soon.

Councilor Gilman said he has had numerous complaints about the noise in this particular area of the city, especially with motorcycles and the large trucks (jake brakes). He said the signs might not be 100% effective; however, it may reduce some of the noise in that area.

Councilor Hamann questioned why one street in the city would be treated differently than the rest. He said there is no State Law which prevents motorcyclist from riding with no muffler. Councilor Hamann said it seems like this is a practical request for a hospital zone but not in this area. He stated there are other noisy streets in the City as well.

Councilor Beaudoin wished to confirm that the City has only posted the regular speed limit signs along with the flashing speed limit signs on Salmon Falls Road. Councilor Lachapelle said that is correct.

Councilor Malone stated that the residents of Salmon Falls Road requested this change. She said the Salmon Falls Road community is also split on their opinion as to how to correct the problem. Councilor Malone suggested holding a public hearing as the next step in moving forward, which would give the residents another opportunity to state their issues/solutions.

Councilor Fontneau stated that he lives off Salmon Falls Road and does have concerns about the sign that is being proposed. He said the sign shall read "ride quietly". He said, in his opinion, the word "ride" would only apply to motorcycles but not apply to a truck of any kind. He shared that it seems there is a lot of noise on Highland Street as well. He said pick-up trucks in general are very loud these days.

Councilor Fontneau said most of the noise complaints in past discussions were geared toward the location further down the road between Route 202 and Portland Street. At that time, the complaints were mostly related to motorcycles. He said it is almost like alerting residents that it is okay to be loud on one section of the road but not on the other.

The City Council briefly discussed the noise ordinance and the possibility of erecting signs at the major entrances to Rochester relative to riding quietly.

Councilor Larochelle said it seems that the signs may have the opposite effect on riders (making them even louder). He suggested having the signs erected at the entrance roads of the City, which state that the noise ordinance would be strictly enforced.

Councilor Desrochers said she has received complaints of noise on Washington Street/Route 202. She said the sign itself is not written clearly and may cause confusion.

Councilor Gilman attested that the newly erected flashing speed limit signs have seemed to work. He hoped that a sign about noise may be useful as well. Councilor Lachapelle retorted that the Public Safety Committee is in receipt of another petition relative to removing the flashing speed limit signs.

Councilor Beaudoin questioned how long the flashing speed limit sign had been placed. Councilor Lachapelle replied that it has been less than six months. Councilor Beaudoin said if too many signs are posted it will make all of them ineffective, he suggested waiting a longer period of time to allow the first signs (speed limit) to have a positive impact.

Councilor Hamann spoke about the effectiveness of the flashing signs (speed limit).

Mayor Callaghan called for a vote on the motion. Councilor Lachapelle requested a roll call vote. Councilor Desrochers seconded the request. The **MOTION FAILED** by a 3 to 10 roll call vote. Councilors Malone, Hailey, and Gilman voted in favor of the motion. Councilors de Geofroy, Beaudoin, Hamann, Desrochers, Lachapelle, Berlin, Laroche, Gray, Fontneau, and Mayor Callaghan voted against the motion.

Councilor Lachapelle asked the City Clerk to notify the Public Works Department about a correction to the Public Safety Minutes. He said the word "black out" should be corrected to "back out".

Councilor Gray questioned if a sense of council should be taken in order to post noise abatement signs at the entrance roads of the City. Councilor Lachapelle believed it could be discussed at the Codes and Ordinances Committee. Mayor Callaghan concurred.

10.5 Public Works

Councilor Hamann said the Committee discussed Phase IV of Colonial Pines and the Gonic dams.

Mayor Callaghan asked if the Colonial Pines Project Phase IV would be split up into two phases. Peter Nourse, Director of Public Works, confirmed that Phase IV would be broken down into two sections: Phase

IV and V. He said Phase V would be geared toward the newest homes in the development, which have the newest septic systems and do not have any known septic distress at this time. He added that a new map is ready to be distributed, which clearly shows the divide of two phases. He said there will be a CIP request (FY 24) for construction funds to complete the first part, which is now known as Phase IV. The second part of Phase IV, which is now known as Phase V, could be postponed for a number of years.

11. Old Business

11.1. Amendment to Chapter 275-21 of the General Ordinances of the City of Rochester Regarding Conditional Uses in the Granite Ridge District *second reading and consideration for adoption*

Mayor Callaghan read the resolution by title only as follows:

Amendment to Chapter 275 of the General Ordinances of the City of Rochester Regarding Conditional Uses in the Granite Ridge District

THE CITY OF ROCHESTER ORDAINS:

That Chapter 275 of the General Ordinances of the City of Rochester and currently before the Rochester City Council, be amended as follows (additions in red):

§275-21.4 Conditions for particular uses.

- *
- *
- *

R. Granite Ridge District Residential Housing-§275.8

The Commercial footprint of fifty-five percent (55%), and Residential footprint of forty-five percent (45%) may be adjusted to increase the residential footprint percentage. The applicant shall demonstrate that a residential need exists which current market conditions are not adequately serving, or that commercial market conditions have changed which makes the 55% commercial footprint requirement economically unfeasible.

The completion and occupancy allocations of fifty percent (50%) of the residential development that may be occupied prior to the completion

of between twenty-five to fifty percent (25%-50%) of the non-residential structures may be adjusted to increase the residential percentage. The applicant shall demonstrate that either residential or commercial market conditions are impacting the ability to comply with the allocation.

The effective date of these amendments shall be upon passage.

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

Councilor Beaudoin spoke against the motion. He felt that it would be a "game changer" for the district. He believed that theoretically, a developer could make a case for construction of apartments without the commercial aspect, which would impact 650 acres of land. He said these developers could potentially construct thousands of apartments and receive a tax break because of being located in the TIF District. He felt that the City Council would lose control over the development and it would become the purview of the Planning Board to approve any future adjustments to said developments.

Councilor Hamann said it has already been determined that the any residential units to be constructed within the TIF District must have a commercial aspect. He said there are restrictions and standards that must be followed.

Councilor Fontneau spoke against the motion. He gave details of how the language is misleading and it could have the effect that Councilor Beaudoin is referring to. He said it seems, according to the ordinance language that a landowner within that district could potentially construct residential apartments without any commercial component:

R. Granite Ridge District Residential Housing-§275.8

The Commercial footprint of fifty-five percent (55%), and Residential footprint of forty-five percent (45%) may be adjusted to increase the residential footprint percentage. The applicant shall demonstrate that a residential need exists which current market conditions are not adequately serving, or that commercial market conditions have changed which makes the 55% commercial footprint requirement economically unfeasible."

Councilor Fontneau shared a similar experience he had while serving on the Planning Board in Rochester back in the early 2000's. He said, at that time, the Planning Board approved four Planned Unit Development(s), intended to be residential/commercial split, which all turned out to be solely residential units with no commercial use. He said at that time, each developer came back to the Planning Board demonstrating that it was not economically feasible to move forward with the commercial aspect of the project, and exceptions were granted. He said this resulted in all the developers being permitted to develop entirely residential apartment buildings in zones in which residential apartment buildings (solely) were prohibited. He reiterated that the proposed ordinance could allow the same situation to occur.

Mayor Callaghan said that residential apartment buildings are already permitted in the Granite Ridge District with the 55/45 split, with a little wiggle room on the percentages. He added that this developer in particular has a good track record of success in attracting the clientele desired for that type of district and has followed through on the commercial aspect of all previous projects.

Michael Scala, Director of Economic Development, addressed the City Council. He said this amendment being voted upon this evening is referencing what is already in the current ordinance. He said any residential construction in the Granite Ridge district is by conditional use. He said this is the section of the ordinance that fills the gap between what the conditional use refers to. He added that all developments must have a commercial/residential split. He said the Planning Board can review any request that deviates from those specific percentages; however, the Planning Board is not obligated to approve any such request. He said it is meant to give a little flexibility in the percentages of commercial vs residential. He gave some scenarios of how the layouts may work; he said some commercial units would be on the bottom level, with residential units layered on top of the building or perhaps the apartments would be located behind the commercial building.

Mayor Callaghan questioned if it would be possible to service (water/sewer) to over 600 new apartment units in that area. Mr. Scala said there is a utility study being conducted to gather more information about the number of units that could be served. Mr. Scala confirmed that there are approximately 240 units being proposed to date.

Councilor Malone said, the way the amendment is worded, it seems that the applicant only has to demonstrate that a need for residential housing exists in order to approach the Planning Board with an alternate plan. She said that would be easy criteria to meet since the State is in a housing shortage. She questioned if the wording should be adjusted to include that the developer must prove that the need for residential housing exists, **and** consideration must be taken upon the impact the adjustment would have on the rest of the community.

City Attorney O'Rourke confirmed that any residential use in the Granite Ridge District is by conditional use only, which requires a Planning Board vote. He said the base criteria for any conditional use still applies, e.g. compatibility, traffic, resources, and public facilities. He said the vote taken this evening is going beyond the base criteria which must be met, and adding the additional criteria being proposed in **§275-21.4 Conditions for particular uses. R. Granite Ridge District Residential Housing-§275.8** as listed above.

Councilor Beaudoin asked if there was a height requirement in the Granite Ridge District. Mr. Scala did not recall the exact height restriction; however, Councilor Hamann recalled that a 100 foot height restriction is set for conditional use.

Councilor Fontneau reiterated his concerns about the wording of the proposed amendment. He felt strongly that the verbiage does not allow the Planning Board to deny such a request for residential only, if the developer can demonstrate the need. He suggested re-wording the proposed amendment with caps on the percentages. Attorney O'Rourke reiterated that the base criteria of §275-21.3 still need to be met first.

Councilor Beaudoin gave reasons why developers would be quick to act on these applications because the base criteria could be met by a developer in the near future. Councilor Berlin agreed and suggested that the verbiage should be amended to include a cap/max adjustment. He added that it should not matter who the potential developer is going to be.

Mayor Callaghan called for a roll call vote on the motion. The **MOTION CARRIED** by a 7 to 6 roll call vote as follows: Councilors de Geofroy, Desrochers, Lachapelle, Hamann, Larochelle, Malone, and Mayor Callaghan voted in favor of the motion. Councilors Gilman, Berlin, Fontneau, Beaudoin, Hainey, and Gray voted against the motion.

Councilor Fontneau questioned if the Planning Board voted on this proposed amendment or if a two-thirds vote is required. Attorney O'Rourke confirmed that the Planning Board already approved this amendment and that a majority vote is all that is needed.

11.2. Codes and Ordinances Committee Recommendation: To adopt the Code of Ethics, as further amended, and to review biannually along with the City Council Rules of Order, and to authorize distribution to all candidates filing for office or for City Boards/Commissions consideration for adoption

Councilor Lachapelle **MOVED** to **ADOPT** the Code of Ethics Policy, as further amended, and to review biannually along with the City Council Rules of Order, and to Authorize distribution to all candidates filing for office or for City Boards/Commissions. Councilor Desrochers seconded the motion. *Addendum A – Adopted Policy with one minor correction mentioned below.*

Councilor Beaudoin stated that he has devoted hours of work to adjusting the proposed policy; he said although the document being voted upon this evening is a huge improvement, he did not feel it was ready to be adopted. He gave reasons why he still opposes the final version and felt it is not a legal document. He added that it extends too much authority to the mayor. Councilor Beaudoin spoke in favor of forming an ethics committee and re-writing this document based on utilizing a formal Ethics Committee.

Councilor de Geofroy suggested a typo be corrected: Paragraph nine has a redundant word "take" to be removed.

Councilor de Geofroy supported the document and disagreed with arguments against approving the document this evening. He said if the City Council decides to form an ethics committee in the future then this document could be adjusted at that time. Councilor Lachapelle agreed with voting on the policy now and forming an ethics committee in the future.

Councilor Lachapelle requested a roll call vote. Councilor Desrochers seconded the request.

Councilor Fontneau agreed with formalizing an ethics committee; however, he said he would support the policy as written this evening. He said there may need to be future amendments made to the policy;

however, the City Council shall have an opportunity to review the policy each new term.

The **MOTION CARRIED** by a roll call vote of 11 to 2. Councilors Malone, Gilman, de Geofroy, Desrochers, Lachapelle, Berlin, Hamann, Hainey, Larochelle, Fontneau, and Mayor Callaghan voted in favor of the motion. Councilors Gray and Beaudoin voted against the motion.

12. Consent Calendar

No discussion.

13. New Business

13.1. Resolution in Support of Increased Funding for Public Transit and for the Statewide Public Transportation Coalition *first reading and consideration for adoption*

Mayor Callaghan read the resolution by title only as follows:

Resolution In Support of Increased Funding For Public Transit and for the Statewide Public Transportation Coalition

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

WHEREAS: The City of Rochester fully supports and promotes public transit in our community; and

WHEREAS: The Cooperative Alliance for Seacoast Transportation (COAST) is leading an effort to start a meaningful dialogue on increasing financial support for public transportation operations throughout the State of New Hampshire; and

WHEREAS: A statewide coalition of public transit and community-based transportation providers and the communities, businesses, and other organizations they serve is being formed and is known as the Statewide Public Transportation Coalition; and

WHEREAS: The initial policy objective of this coalition is to increase the State's share of the operating costs of public transit, as the State's per capita contribution to public transit operations according to AASHTO is by far the lowest in New England and nearly the lowest in the nation;

and

WHEREAS: With Federal emergency relief funding currently provided to public transit system operators expected to be fully expended by 2024, and operating costs having increased significantly due to workforce shortages and inflation, additional State support is urgently needed to avoid deep cuts in the services provided by the State's public transit agencies; and

WHEREAS: There are recently approved Federal funds that will be unavailable to public transit systems in New Hampshire if matching funds are not available from the State. Without increased State support to unlock these new Federal funds, the State's public transit agencies, and the services provided, will need to be significantly reduced by 2024/2025; and

WHEREAS: Cuts in services will create adverse impacts to vulnerable members of the Rochester community who rely on public transit, and will hinder the realization of City Council's goals of resilience in energy and infrastructure policy; and

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND ROCHESTER CITY COUNCIL THAT:

The Mayor and City Council support the policy objective of significantly increased financial support from the State of New Hampshire and strongly urge that these increased funds be included in the State Fiscal Year 2024/2025 biennial budget. Also, the Mayor and City Council vigorously support the City of Rochester joining the Statewide Public Transportation Coalition and will work with the other coalition members to advocate for reasonable State funding levels so that public transit agencies across the State will be able to continue operations into the foreseeable future.

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

13.2 RSA 79-E Extension for property located at 22 South Main Street *Motion to Approve*

Mayor Callaghan read Agenda item 13.2 and invited Norm Vetter, Developer, to address the City Council.

Mr. Vetter gave an overview of the challenges he has faced with meeting the initial deadline for the 79-E Property. He thanked the City Council for any consideration of an extension they would grant him this evening.

Mayor Callaghan asked Mr. Vetter where the project would be in six more months. Mr. Vetter replied that the entire project should be completed within the next eight months.

Councilor Lachapelle **MOVED** to **ADOPT** the resolution. Councilor Desrochers seconded the motion. Councilor Beaudoin **MOVED** to **AMEND** the motion to grant a conditional six month extension. Councilor Malone seconded the motion. Councilor Beaudoin shared his experience with visiting the project site, which is close to a complete demolition at this point. He said this project should move forward very quickly now. He said the conditional extension can be granted if enough work has been completed in that timeframe.

Councilor Berlin questioned why this project has taken so long. He said this project started the same time as another downtown project started and the other project is already completed. He supported the amendment to the motion.

Councilor Fontneau listed many reasons why developers are having a hard time to meet their deadlines.

Councilor Beaudoin gave reasons why the Scenic/Salinger building was completed in a timely manner compared to Mr. Vetter's project.

Councilor de Geofroy stated that he would support the amendment if it was necessary to approve an extension; however, he questioned who would determine what "substantial" progress would mean after six months. Attorney O'Rourke said there is a description of the standard completion in the covenant/agreement, which is ultimately decided by the Assessing Department. Councilor de Geofroy said that it seems that it would be best to be detailed about what exactly needs to be accomplished prior to the deadline.

Councilor Gray asked for Mr. Vetter to respond to the amendment of the six months timeframe. Mr. Vetter confirmed that he would have a substantial amount of work completed within six months and that he appreciates whatever extension is adopted this evening. He said it is not

the financial piece that has caused difficulties with meeting the deadline; it has been difficult getting folks to show up for the contracted work.

Councilor Larochele asked Councilor Beaudoin why he made a motion to shorten the extension from one year down to six months. Councilor Beaudoin said that progress has been made on Vetter's project, however, he has not seen the same progress being made on the North Main Street project. He said the amendment is being made because both projects should be treated the same.

Councilor Beaudoin **WITHDREW** his motion to amend the motion, in order to clarify the amendment. Councilor Malone **WITHDREW** her second to the motion.

Councilor Beaudoin **MOVED** to **AMEND** the **MOTION** to grant the 79-E extension for a period of six months on the condition that the developer has fifty percent of the project completed within that time. *(The Developer is to report back in 5 months. If the Developer has reached 50%, the Council will consider another six month extension)*. Councilor Malone seconded the motion. The **MOTION CARRIED** to amend the motion by a unanimous roll call vote of 13 to 0: Councilors Gray, Malone, de Geofroy, Desrochers, Fontneau, Gilman, Beaudoin, Hamann, Hailey, Larochele, Berlin, Lachapelle, and Mayor Callaghan voted in favor of the motion. Mayor Callaghan called for a vote on the main motion as amended. The **MOTION CARRIED** by a unanimous voice vote.

13.3 RSA 79-E Extension for property located at 73 – 77 North Main Street *Motion to Approve*

Councilor Lachapelle **MOVED** to **APPROVE** the Extension for property located at 72-77 North Main Street, under RSA 79-E. Councilor Desrochers seconded the motion. Councilor Beaudoin **MOVED** to **AMEND** the **MOTION** to grant the 79-E extension for a period of six months on the condition that the developer has fifty percent of the project completed within that time. *(The Developer is to report back in 5 months. If the Developer has reached 50%, the Council will consider another six month extension)*. Councilor Malone seconded the motion.

Justin Gargiulo, Great North Property Management, addressed the City Council. He said he has been faced with some of the same challenges Mr. Vetter pointed out earlier this evening. He said additionally, he was subject to replacing a waterline, which was not

anticipated. He said his plans were delayed in late August last year, when he attempted to file his basic demolition plans but was told that a major building permit would be required, which further delayed the project.

Mayor Callaghan asked when the waterline had been installed. Mr. Gargiulo said the new waterline was installed mid-July/early August. He gave details about installing the new waterline, which was replaced because the old waterline was not sufficient for the new sprinkler systems to be installed. Mayor Callaghan asked about the work completed prior to installing the waterline. Mr. Gargiulo confirmed that the waterline installation needed to be completed prior to any other work being started. He said at this point, it is a matter of the City signing-off on the major building permit. He confirmed that the project is ready to begin. Mayor Callaghan asked Mr. Gargiulo what the project could be anticipated to look like after six months. Mr. Gargiulo hoped to have the entire project completed by the end of the calendar year.

Mr. Gargiulo informed the City Council that a brewery may be potentially interested in filling the commercial space. A brief discussion ensued.

Councilor Berlin wished to clarify that upon Mr. Gargiulo purchasing the property, work could not begin because of the property's historical designation. Mr. Gargiulo confirmed that is true. He gave details about what is involved in seeking federal historical tax credits, from the Department of Interior, which caused delays due to hiring a third party contractor to review the project. Councilor Berlin asked when that process was completed. Mr. Gargiulo said it started sometime in 2019 possibly and the final sign-off had been delayed until approximately 2021, but he did not have the exact date of completion. The **MOTION CARRIED** by a unanimous voice vote. Mayor Callaghan called for a vote on the motion as amended. The **MOTION CARRIED** by a unanimous voice vote.

13.4 Resolution Approving Cost Items Associated with Proposed City of Rochester Multi-Year Collective Bargaining Agreement with Rochester Municipal Employees Association SEIU Local 1984 (Support

Personnel All City Departments) *First reading and consideration for adoption*

Mayor Callaghan read the resolution by title only as follows:

**RESOLUTION APPROVING COST ITEMS ASSOCIATED WITH
PROPOSED CITY OF ROCHESTER
MULTI-YEAR COLLECTIVE BARGAINING AGREEMENT WITH
ROCHESTER MUNICIPAL EMPLOYEES ASSOCIATION
SEIU LOCAL 1984
(Support Personnel All City Departments)**

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

That pursuant to, and in accordance with, the provisions of Chapter 273-A of the New Hampshire Revised Statutes Annotated, the cost items associated with the multi-year year collective bargaining agreement between the City of Rochester and the ROCHESTER MUNICIPAL EMPLOYEES ASSOCIATION (RMEA) Local 1984 Bargaining Unit, covering the period July 1, 2023 to June 30, 2027, as set forth in the proposed contract, and as more particularly detailed on the attached "**EXHIBIT A: RMEA LOCAL 1984 – JULY 2023,**" which includes a summary financial analysis of the annual costs of the contract to the City provided by the Rochester Director of Finance, is hereby approved. The provision of funds necessary to fund the aforementioned, and hereby approved, collective bargaining agreement "cost items" in the first year of the agreement will be contained in the Fiscal Year 2024 operating budget of the City. (*Exhibit A -See Addendum B*)

Councilor Lachapelle **MOVED** to **ADOPT** the resolution. Councilor Desrochers seconded the motion. Councilor Beaudoin gave details of the paid time-off that employees would receive, which he argues is more than what the private sector receives. He calculated the total cost of increases to salaries, which he felt was too high. The **MOTION CARRIED** by a majority voice vote.

13.5 Resolution Approving Cost Items Associated with Proposed City of Rochester Multi-Year Collective Bargaining Agreement with Rochester Communications NEPBA Local 123 *first reading and consideration for adoption*

Mayor Callaghan read the resolution by title only as follows:

**RESOLUTION APPROVING COST ITEMS ASSOCIATED WITH
PROPOSED CITY OF ROCHESTER MULTI-YEAR COLLECTIVE
BARGAINING AGREEMENT WITH ROCHESTER
COMMUNICATIONS NEPBA LOCAL 123**

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

That pursuant to, and in accordance with, the provisions of Chapter 273-A of the New Hampshire Revised Statutes Annotated, the cost items associated with the multi-year year collective bargaining agreement between the City of Rochester and the ROCHESTER COMMUNICATIONS NEPBA Local 123 Bargaining Unit, covering the period July 1, 2023 to June 30, 2026, as set forth in the proposed contract, and as more particularly detailed on the attached "**EXHIBIT A: COMMUNICATIONS NEPBA LOCAL 123 – JULY 2023**," which includes a summary financial analysis of the annual costs of the contract to the City provided by the Rochester Director of Finance, is hereby approved. The provision of funds necessary to fund the aforementioned, and hereby approved, collective bargaining agreement "cost items" in the first year of the agreement will be contained in the Fiscal Year 2024 operating budget of the City. *(Exhibit A – See Addendum C)*

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

13.6 Amendment to Chapter 260 of the General Ordinances of the City of Rochester regarding Water *first reading and consideration for adoption*

Mayor Callaghan read the Amendment by title only. *(See addendum D, which includes one additional amendment as outlined below, as well as a City Councilor's non-substantial edits received prior to this meeting.)*

Councilor Beaudoin **MOVED** to **ADOPT** the Amendment. Councilor Malone seconded the motion. Councilor Beaudoin said he previously asked the Director of City Services many questions regarding this amendment to the ordinances; however, Director Nourse answered all his questions. He supported the motion to adopt this amendment. The **MOTION CARRIED** by a unanimous voice vote.

14. Non-Meeting/Non-Public Session

No discussion.

15. Adjournment

Mayor Callaghan **ADJOURNED** the Regular City Council Meeting at 7:11 PM.

Respectfully Submitted,

Kelly Walters, CMC
City Clerk



City of Rochester, NH

**Code of Ethics and Conduct
For
Elected and Appointed Officials**

Adopted March 7, 2023

A. ETHICS

The citizens and businesses of the City of Rochester are entitled to have fair, ethical and accountable local government. To this end, the public should have full confidence that their elected and appointed officials:

- Comply with both the letter and spirit of the laws and policies affecting the operations of government.
- Are independent, impartial, and fair in their judgment and actions.
- Use their public office for the public good, not for personal gain; and
- Conduct public deliberations and processes openly, unless required by law to be confidential, in an atmosphere of respect and civility.

Therefore, members of the City Council, all Boards, and Committees and Commissions shall conduct themselves in accordance with the following ethical standards:

1. **Act in the Public Interest.** Recognizing that stewardship of the public interest must be their primary concern, members will work for the common good of the people of Rochester and not for any private or personal interest, and they will assure fair and equal treatment of all persons, claims and transactions coming before them.
2. **Comply with both the spirit and the letter of the Law and City Policy.** Members shall comply with the laws of the nation, the State of New Hampshire, and the City of Rochester in the performance of their public duties.
3. **Conduct of Members.** The professional and personal conduct of members while exercising their office must be above reproach and avoid even the appearance of impropriety. Members shall refrain from abusive conduct, personal charges or verbal attacks upon the character or motives of other members of Council, Boards, Committees and Commissions, the staff or public.
4. **Respect for Process.** Members shall perform their duties in accordance with the processes and rules of order established by the City Council.
5. **Conduct at Public Meetings.** Members shall prepare themselves for public issues; listen courteously and attentively to all public discussions before the body; and focus on the business at hand.
6. **Decisions Based on Merit.** Members shall base their decisions on the merits and substance of the matter at hand, rather than on unrelated considerations. When making adjudicative decisions (those decisions where the member is called upon to determine and apply facts particular to an individual case), members shall maintain an open mind until the conclusion of the hearing on the matter and shall base their decisions on the facts presented at the hearing and on the personal knowledge of a Member on the issue presented to the rest of the City Council at said hearing.
7. **Communication.** Council Members shall avoid posting to social media in regards to any adjudicative matters pending before the body. Outside of adjudicative matters pending before the body, members of the Council/Commission/Board/Committee are advised not to participate in discrimination or harassment, even if the identified behaviors are not targeting a protected class, consisting of unwelcome conduct, sexual or otherwise, whether verbal, physical, or visual. Harassing conduct includes, but is not limited to: slurs or negative stereotyping; bullying, threatening, intimidating or other hostile acts; degrading jokes and displays or circulation of graphic material that degrades or shows hostility; and physical touching. Members are also advised to never demean or personally attack an employee regarding the employee's job performance in public.

8. **Conflict of Interest.** See Rochester City Charter, Section 72
9. **Gifts and Favors.** Members shall not engage in quid pro quo by taking any special advantage of services or opportunities for personal gain, by virtue of their public office that is not available to the public in general. They shall refrain from accepting any gifts, favors or promises of future benefits which might compromise their independence of judgment or action or give the appearance of being compromised.
10. **Confidential Information.** Members must maintain the confidentiality of all written materials and verbal information provided to members which is confidential or privileged. Members shall neither disclose confidential information without proper legal authorization, nor use such information to advance their personal, financial, or other private interests.
11. **Use of Public Resources.** Members shall not use public resources which are not available to the public in general (e.g., City staff time, equipment, supplies or facilities) for private gain or for personal purposes not otherwise authorized by law.
12. **Representation of Private Interests.** In keeping with their role as stewards of the public interest, members of Council shall not appear on behalf of the private interests of third parties before the Council or any Board, Committee, Commission or proceeding of the City, nor shall members of Boards, Committees and Commissions appear before their own bodies or before the Council on behalf of the private interests of third parties on matters related to the areas of service of their bodies.
13. **Advocacy.** Members shall represent the official policies or positions of the City Council, Board, Committee or Commission to the best of their ability when designated as delegates for this purpose. When presenting their individual opinions and positions, members shall explicitly state they do not represent their body or the City of Rochester, nor will they allow the inference that they do. Councilmembers and Board, Committee and Commission members have the right to endorse candidates for all Council seats or other elected offices. It is inappropriate to mention or display endorsements during Council meetings, or Board, Committee and Commission meetings, or other official City meetings.
14. **Policy Role of Members.** Members shall respect and adhere to the council-manager structure of the Rochester City government. In this structure, the City Council determines the policies of the City with the advice, information and analysis provided by City staff, Boards, Committees and Commissions, and the public. Except as provided by the City Charter and Code, members shall not interfere with the administrative functions of the City or the professional duties of City staff; nor shall they impair the ability of staff to implement Council policy decisions.
15. **Independence of Boards, Committees and Commissions.** Because of the value of the independent advice of Boards, Committees and Commissions to the public decision-making process, members of Council shall refrain from using their position to unduly influence the deliberations or outcomes of Board, Committee and Commission proceedings.
16. **Positive Workplace Environment.** Members shall support the maintenance of a positive and constructive workplace environment for City employees and for citizens and businesses dealing with the City. Members shall recognize their special role in dealings with City employees to in no way create the perception of inappropriate direction to staff.

B. CONDUCT GUIDELINES

The Conduct Guidelines are designed to describe the manner in which elected and appointed officials should

treat one another, City staff, constituents, and others they come into contact with while representing the City of Rochester.

1. Elected and Appointed Officials' Conduct with Each Other in Public Meetings

Elected and appointed officials are individuals with a wide variety of backgrounds, personalities, values, opinions, and goals. Despite this diversity, all have chosen to serve in public office in order to preserve and protect the present and the future of the community. In all cases, this common goal should be acknowledged even though individuals may not agree on every issue.

- a) *Honor the role of the chair in maintaining order*
It is the responsibility of the Mayor, as chair to keep the comments of members on track during public meetings. Members should honor efforts by the chair to focus discussion on current agenda items. If there is disagreement about the agenda or the chair's actions, those objections should be voiced politely and with reason, following procedures outlined in parliamentary procedure.
- b) *Practice civility and decorum in discussions and debate*
Difficult questions, tough challenges to a particular point of view, and criticism of ideas and information are legitimate elements of debate by a free democracy in action. Free debate does not require nor justify, however, public officials to make belligerent, personal, impertinent, slanderous, threatening, abusive, or disparaging comments.
- c) *Avoid personal comments that could offend other members*
If a member is personally offended by the remarks of another member, the offended member should make notes of the actual words used and call for a "point of personal privilege" that challenges the other member to justify or apologize for the language used. The chair will maintain control of this discussion.
- d) *Demonstrate effective problem-solving approaches*
Members have a public stage and have the responsibility to show how individuals with disparate points of view can find common ground and seek a compromise that benefits the community as a whole.

2. Elected and Appointed Officials' Conduct with the Public in Public Meetings

Making the public feel welcome is an important part of the democratic process. No signs of partiality, prejudice or disrespect should be evident on the part of individual members toward an individual participating in a public forum. Every effort should be made to be fair and impartial in listening to public testimony.

- a) *Be welcoming to speakers and treat them with care and gentleness.*
While questions of clarification may be asked, the official's primary role during public testimony is to listen.
- b) *Be fair and equitable in allocating public hearing time to individual speakers.*
The chair will determine and announce limits on speakers at the start of the public hearing process.
- c) *Practice active listening*
It is disconcerting to speakers to have members not look at them when they are speaking. It is fine to look down at documents or to make notes but reading for a long period of time or gazing around the room gives the appearance of disinterest. While you cannot be required to listen to public speakers in a certain way, it is advised that all members remain conscious of their actions during such time as member of the public might be speaking. To the best of your ability, remain focused on the speaker and avoid noise and

distractions.

Members shall be cognizant of non-verbal body language and facial expressions that could be interpreted as disbelief, anger, or boredom.

Members shall make attempts to listen actively and respectfully to City staff, members of the public and other Members whenever possible.

d) Maintain an open mind

Members of the public deserve an opportunity to influence the thinking of elected and appointed officials.

e) Ask for clarification, but avoid debate and argument with the public

Only the chair – not individual members – can interrupt a speaker during a presentation. However, a member can ask the chair for a point of order if the speaker is off the topic or exhibiting behavior or language the member finds disturbing.

3. Elected and Appointed Officials' Conduct with City Staff

Governance of a City relies on the cooperative efforts of elected officials, who set policy, appointed officials who advise the elected, and City staff who implement and administer the Council's policies. Therefore, every effort should be made to be cooperative and show mutual respect for the contributions made by everyone for the good of the community. The council is committed to providing an environment that is free from discrimination and harassment, even if the identified behavior is not targeting a protected class.

Harassment consists of unwelcome conduct, sexual or otherwise, whether verbal, physical, or visual. Harassing conduct includes, but is not limited to slurs or negative stereotyping; bullying, threatening, intimidating or other hostile acts; degrading jokes and display or circulation of graphic material that degrades or shows hostility; and physical touching

a) Treat all staff as professionals

Clear, honest communication that respects the abilities, experience, and dignity of each individual is expected. Poor behavior towards staff is not acceptable.

b) Do not disrupt City staff from their jobs

Elected and appointed officials should not disrupt City staff while they are in meetings, on the phone, or engrossed in performing their job functions in order to have their individual needs met. Do not attend City staff meetings unless requested by staff – even if the elected or appointed official does not say anything, his or her presence implies support, shows partiality, may intimidate staff, and hampers staff's ability to do their job objectively.

c) Never publicly criticize an individual employee

Elected and appointed officials should never express concerns about the performance of a City employee in public, to the employee directly, or to the employee's manager. Comments about staff performance should only be made to the City Manager through private correspondence or conversation. Appointed officials should make their comments regarding staff to the City Manager or the Mayor.

d) Do not get involved in administrative functions

Elected and appointed officials acting in their individual capacity must not attempt to influence City staff on the making of appointments, awarding of contracts, selecting of consultants, processing of development applications, or granting of City licenses and permits.

e) *Do not solicit political support from staff*

Elected and appointed officials should not solicit any type of political support (financial contributions, display of posters or lawn signs, name on support list, etc.) from City staff. City staff may, as private citizens with constitutional rights, support political candidates but all such activities must be done away from the workplace.

f) *No Attorney-Client Relationship*

Members shall not seek to establish an attorney-client relationship with the City Attorney, including his or her staff and attorneys contracted to work on behalf of the City. The City Attorney represents the City and not individual members. Members who consult with the City Attorney cannot enjoy or establish an attorney-client relationship with the attorney.

4. Council Conduct with Boards, Committees and Commissions

The City has established several Boards, Committees and Commissions as a means of gathering more community input. Citizens who serve on Boards, Committees and Commissions become more involved in government and serve as advisors to the City Council. They are a valuable resource to the City's leadership and should be treated with appreciation and respect.

a) *If attending a Board, Committee or Commission meeting, be careful to only express personal opinions*

Councilmembers may attend any Board, Committee or Commission meeting, which are always open to any member of the public. However, they should be sensitive to the way their participation – especially if it is on behalf of an individual, business or developer – could be viewed as unfairly affecting the process. Any public comments by a Councilmember at a Board, Committee or Commission meeting should be clearly made as individual opinion and not a representation of the feelings of the entire City Council.

b) *Limit contact with Board, Committee and Commission members to questions of clarification*

It is inappropriate for a Councilmember to contact a Board, Committee or Commission member to lobby on behalf of an individual, business, or developer, and vice versa. It is acceptable for Councilmembers to contact Board, Committee or Commission members in order to clarify a position taken by the Board, Committee or Commission.

c) *Respect that Boards, Committees and Commissions serve the community, not individual Councilmembers*

The City Council appoints individuals to serve on Boards, Committees and Commissions, and it is the responsibility of Boards, Committees and Commissions to follow policy established by the Council. But Board, Committee and Commission members do not report to individual Councilmembers, nor should Councilmembers feel they have the power or right to threaten Board, Committee and Commission members with removal if they disagree about an issue.

Appointment and re-appointment to a Board, Committee or Commission should be based on such criteria as expertise, ability to work with staff and the public, and commitment to fulfilling official duties. A Board, Committee or Commission appointment should not be used as a political "reward."

d) *Be respectful of diverse opinions*

A primary role of Boards, Committees and Commissions is to represent many points of view in the community and to provide the Council with advice based on a full spectrum of concerns and perspectives. Councilmembers may have a closer working relationship with some individuals serving on Boards, Committees and Commissions, but must be fair and respectful of all citizens serving on Boards, Committees and Commissions.

e) *Keep political support away from public forums*

Board, Committee and Commission members may offer political support to a Councilmember, but not in a public forum while conducting official duties. Conversely, Councilmembers may support Board, Committee and Commission members who are running for office, but not in an official forum in their capacity as a Councilmember.

C. SANCTIONS

- a) *Acknowledgement of Code of Ethics and Conduct*
Councilmembers who do not sign an acknowledgement that they have read and understand the Code of Ethics and Conduct shall not be assigned intergovernmental assignments or Council subcommittees by the Mayor. Members of committees appointed by the Mayor and/or the City Council who do not sign an acknowledgement that they have read and understand the Code of Ethics and Conduct are not eligible to hold appointed positions.¹
- b) *Ethics Training for Local Officials*
Councilmembers, Board, Committee and Commission Members who are out of compliance with State or City mandated requirements for ethics training as determined by City Council shall not represent the City on intergovernmental assignments or Council subcommittees, and may be subject to sanctions.
- c) *Behavior and Conduct*
The City of Rochester's Code of Ethics and Conduct expresses standards of ethical conduct expected for members of the City of Rochester Council, Boards, Committees and Commissions. Members themselves have the primary responsibility to assure that ethical standards are understood and met, and that the public can continue to have full confidence in the integrity of government. The chairs of Boards, Committees and Commissions and the Mayor and Council have the additional responsibility to intervene when actions of members that appear to be in violation of the Code of Ethics and Conduct are brought to their attention.
- d) *Councilmembers*
Councilmembers who intentionally and repeatedly do not follow proper conduct may be reprimanded by the Mayor or formally censured by the Council, lose committee assignments (both within the City of Rochester and with intergovernmental agencies) or other privileges afforded by the Council.

Further, any Councilmember found in violation of this Code or any other misconduct in office may also be subject to the following sanctions imposed by the Council:

1. Required to attend and successfully complete training related to the nature of the violation.
2. Required to issue a formal, sincere apology.
3. Removed from office in accordance with Section 70 of the City Charter.

Failure to comply with any sanctions imposed by the Council will be considered a violation of this Code and an act of misconduct in office.

Individual Councilmembers should point out to the offending Councilmember perceived infractions of the Code of Ethics and Conduct. If the offenses continue, then the matter should be referred to the Mayor in private. If the Mayor is the individual whose actions are being questioned, then the matter should be referred to the Deputy Mayor. It is the responsibility of the Mayor (Deputy Mayor) to initiate action if a Councilmember's behavior may warrant sanction. If no action is taken by the Mayor (or Deputy Mayor), then the alleged violation(s) can be brought up with the full Council.

¹ This section does not apply to Council members or Committee members currently serving at the time of adoption.

e) *Board, Committee and Commission Members:*

Counseling, verbal reprimands and written warnings may be administered by the Mayor to Board, Committee and Commission members failing to comply with City policy. These lower levels of sanctions shall be kept private to the degree allowed by law. Copies of all written reprimands administered by the Mayor shall be distributed in memo format to the chair of the respective Board, Committee or Commission, the City Clerk, the City Attorney, the City Manager, and the City Council.

The City Council may impose sanctions on Board, Committee and Commission members whose conduct does not comply with the City's policies, up to and including removal from office. Any form of discipline, short of removal imposed by Council shall be determined by a majority vote of elected members of the Council at a noticed public meeting and such action shall be preceded by a Report to Council with supporting documentation.

When deemed warranted, the Mayor or majority of Council may call for an investigation of Board, Committee or Commission member conduct. Also, should the City Manager or City Attorney believe an investigation is warranted, they shall confer with the Mayor or Council. The Mayor or Council shall ask the City Manager or the City Attorney to investigate the allegation and report the findings.

These sanctions are in addition to any other remedy that might otherwise be available to remedy conduct that violates this code or state or federal law. In order to protect and preserve good government, any individual including the City Manager and the City Attorney after complying with the State of New Hampshire Bar Rules of Professional Conduct, who knows or reasonably believes a member acts or intends or refuses to act in a manner that is or may be a violation of law reasonably imputable to the organization, or in a manner which is likely to result in substantial injury to the organization, may report the violation to the appropriate governmental authorities.

D. IMPLEMENTATION

The Code of Ethics and Conduct is intended to be self-enforcing and is an expression of the standards of conduct for members expected by the City. It therefore becomes most effective when members are thoroughly familiar with it and embrace its provisions.

For this reason, this document shall be included in the regular orientations for candidates for City Council, applicants to Board, Committee and Commissions, and newly elected and appointed officials. Members entering office shall sign the below acknowledging they have read and understand the Code of Ethics and Conduct. In addition, the Code of Ethics and Conduct shall be periodically reviewed by the City Council, Boards, Committees and Commissions, and updated it, as necessary.

I affirm that I have read and understand the City of Rochester Code of Ethics and Conduct for Elected and Appointed Officials

Signature

Date

EXHIBIT A: RMEA LOCAL 1984 – JULY 2023

Rochester Municipal Employees Association

City Health Contribution	80/20	80/20	80/20	80/20	80/20
Health Plan	ABSOS 20/40 RX 10/20/45 DED \$1000/\$3000				
Projected Health Increase		7.60%	6.00%	6.00%	6.00%
	Current FY23	FY24	FY25	FY26	FY27
Wages					
Base Wage	\$1,883,677.90	\$2,040,521.34	\$2,157,972.44	\$2,275,016.12	\$2,369,882.06
Longevity	\$7,975.00	\$8,575.00	\$9,200.00	\$10,925.00	\$12,750.00
Total Wages	\$1,891,652.90	\$2,049,096.34	\$2,167,172.44	\$2,285,941.12	\$2,382,632.06
Dollar Change		\$157,443.44	\$118,076.10	\$118,768.68	\$96,690.94
% Change		8.32%	5.76%	5.48%	4.23%
Benefits					
Medicare	\$27,428.97	\$29,711.90	\$31,424.00	\$33,146.15	\$34,548.16
Social Security	\$117,282.48	\$127,043.97	\$134,364.69	\$141,728.35	\$147,723.19
Health Insurance	\$384,745.25	\$413,782.49	\$438,447.44	\$464,592.28	\$492,305.82
Opt Out	\$7,200.00	\$7,200.00	\$7,200.00	\$7,200.00	\$7,200.00
Dental	\$8,600.00	\$8,600.00	\$8,600.00	\$8,600.00	\$8,600.00
Life Insurance	\$4,068.74	\$4,407.53	\$4,661.22	\$4,914.03	\$5,118.95
STD Disability Insurance	\$10,171.86	\$11,018.82	\$11,653.05	\$12,285.09	\$12,797.36
LTD Disability Insurance	\$14,692.69	\$15,916.07	\$16,832.19	\$17,745.13	\$18,485.08
Total Benefits & Rollups	\$574,189.99	\$617,680.77	\$653,182.59	\$690,211.03	\$726,778.56
Dollar Change		\$43,490.78	\$35,501.82	\$37,028.44	\$36,567.53
% Change		7.57%	5.75%	5.67%	5.30%
Totals					
Total Wages, Benefits & Rollups	\$2,465,842.89	\$2,666,777.11	\$2,820,355.03	\$2,976,152.15	\$3,109,410.62
Dollar Change		\$200,934.22	\$153,577.92	\$155,797.12	\$133,258.47
% Change		8.15%	5.76%	5.52%	4.48%

40 Total Employees - 80% FT

EXHIBIT A: COMMUNICATIONS NEPBA LOCAL 123 – JULY 2023

Rochester Communications, NEPBA Local 123

City Health Contribution	80/20	80/20	80/20	80/20
	ABSOS 20/40 RX 10/20/45 DED \$1000/\$3000			
Health Plan				
Projected Health Increase		7.60%	6.00%	6.00%
	Current FY23	FY24	FY25	FY26
Wages				
Base Wage	\$489,756.80	\$530,566.40	\$558,188.80	\$587,308.80
Holiday Pay	\$20,720.48	\$22,447.04	\$23,615.68	\$24,847.68
Longevity	\$975.00	\$1,225.00	\$1,225.00	\$1,600.00
Total Wages	\$511,452.28	\$554,238.44	\$583,029.48	\$613,756.48
Dollar Change		\$42,786.16	\$28,791.04	\$30,727.00
% Change		8.37%	5.19%	5.27%
Benefits				
Medicare	\$7,416.06	\$8,036.46	\$8,453.93	\$8,899.47
Social Security	\$31,710.04	\$34,362.78	\$36,147.83	\$38,052.90
Health Insurance	\$126,733.30	\$136,308.82	\$144,442.34	\$153,063.89
Opt Out	\$1,000.00	\$1,000.00	\$1,000.00	\$1,000.00
Dental	\$3,050.00	\$3,050.00	\$3,050.00	\$3,050.00
Life Insurance	\$1,057.87	\$1,146.02	\$1,205.69	\$1,268.59
STD Disability Insurance	\$2,644.69	\$2,865.06	\$3,014.22	\$3,171.47
LTD Disability Insurance	\$3,820.10	\$4,138.42	\$4,353.87	\$4,581.01
Total Benefits & Rollups	\$177,432.06	\$190,907.56	\$201,667.88	\$213,087.32
Dollar Change		\$13,475.50	\$10,760.32	\$11,419.44
% Change		7.59%	5.64%	5.66%
Totals				
Total Wages, Benefits & Rollups	\$688,884.34	\$745,146.00	\$784,697.36	\$826,843.80
Dollar Change		\$56,261.66	\$39,551.36	\$42,146.44
% Change		8.17%	5.31%	5.37%

11 Total Employees - 100% FT

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Chapter 260 Water

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

GENERAL REFERENCES

Building construction and property maintenance — See Ch. 40.

Health and sanitation — See Ch. 94.

Sewers — See Ch. 200.

Article I

Use Regulations and Rates

[Adopted 6-6-1995 as Ch. 17 of the 1995 Code]

§ 260-1 Agreement.

[Amended 5-5-1998]

The following rules and regulations, and such regulations as may be hereafter established by the Rochester Department of Public Works, shall be considered a part of the contract with every customer who uses water supplied by the Rochester Department of Public Works and such customer by taking water shall be considered as expressing ~~their~~^{his/her} assent to be bound thereby.

§ 260-2 Definitions.

As used in this article, the following words and terms shall have the meaning set forth below:

AIR GAP

~~AIR GAP (approved for both high and low hazard protection)~~

An unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture, or other device and the flood level rim of the receptacle. Physically defined as a distance equal to twice the diameter of the supply side pipe but never less than one inch.

AMERICAN WATER WORKS ASSOCIATION (AWWA)

The American Water Works Association (AWWA) is an international, nonprofit, scientific and educational society dedicated to providing total water solutions assuring the effective management of water. Founded in 1881, the AWWA has developed the industry standards that govern the operations of community tap water providers and is the largest organization of water supply professionals in the world.

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APPLICATION FOR WATER SERVICE

The form signed by the Customer owner or his/her designated representative to obtain water service at the Premises and/or dwelling unit from the City distribution water mains which will become the contract between the Department of Public Works and the Customer applicant.

APPROVED BACKFLOW PREVENTION DEVICE

A backflow prevention device that ~~has been~~:

- A. Has been Manufactured-manufactured to allow for accurate testing and inspection so as to allow verification of performance; and,
- B. Has been Tested-tested and certified by the University of Southern California, Foundation for Cross-Connection Control and Hydraulic Research; and,
- C. -Has a test procedure approved by the New England Water Works Association; and,;
- D. -Has been reviewed and approved by the Department.

APPROVED SOURCE

A source of water utilized by a public water system for distribution to the public for consumption purposes and which is approved by the New Hampshire Department of Environmental Services, Water Division, for said use following a required and/or approved treatment process.

[Amended 3-5-2019]

ATMOSPHERIC VACUUM BREAKER

A device which prevents backsiphonage by creating an atmospheric vent when there is either a negative pressure or sub-atmospheric pressure in a water system.

AUXILIARY WATER SUPPLY

Any water supply on, or available to, a premises other than the City's approved public potable water supply.

[Amended 3-5-2019]

BACKFLOW

The flow of water or other liquids, mixtures, or substances into the distribution pipes of a potable water supply from any source or sources other than the intended source.

BACKFLOW ENCLOSURE

An above-ground structure used to shelter, isolate, and protect a backflow prevention device from the environment for those connections and devices installed to protect against a high degree of hazard. Per law, such high hazard devices cannot be installed below ground level.

BACKFLOW PREVENTER WITH INTERMEDIATE ATMOSPHERIC VENT

A device having two independently operating check valves separated by an intermediate chamber with a means for automatically venting it to the atmosphere. The check valves are force loaded to a normally closed

position and the venting means is force loaded to abnormally open position.

BACKFLOW PREVENTION DEVICE

A device or means designed to prevent backflow or backsiphonage¹. Most commonly categorized as [including](#) air gap, reduced pressure principle device, double check valve assembly, pressure vacuum breaker, atmospheric vacuum breaker, hose bib vacuum breaker, residential dual check, double check with intermediate atmospheric vent, and barometric loop.

BACKFLOW PREVENTION DEVICE INSPECTOR, CERTIFIED

A person who has proven [his/her/their](#) competency to inspect and test backflow prevention devices by the possession of a valid backflow prevention device certification issued by the New England Water Works Association or other equivalent certification approved by New Hampshire Department of Environmental Services.

BACK PRESSURE

Pressure created by mechanical means or other means causing water, liquids, or other substances to flow or move in a direction opposite of what is intended.

BACKSIPHONAGE

The flow of water or other liquids, mixtures, or substances into the distribution pipes of a potable water system from any source other than its intended source, that is caused by negative or reduced pressure in the potable water system.

BAROMETRIC LOOP

A section of pipe rising at least 35 feet at its topmost point above the highest fixture it supplies. It is utilized in water supply systems to protect against backsiphonage (only).

BUSINESS OFFICE

The Business Office of the City of Rochester, New Hampshire, as represented by its Finance Director, or duly authorized employee.

CHECK VALVE

A self-closing device which is designed to permit the flow of fluids in one direction and to close if there is a reversal of flow.

CITY

The City of Rochester, New Hampshire.

COMMISSIONER

¹ [As defined by Env-Dw 103.06 and consistent with Env-Dw 505.03.](#)

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~~The~~ CONDEX

A condex is a condominium, where two (2) different individuals own each side and have shared rights to common areas.

~~Commissioner of Public Works or his/her designee. See § 7-18A of the City Code. [Amended 3-5-2019]~~

CONSECUTIVE WATER SYSTEM

A public water system that buys or otherwise receives some or all of its finished water from one or more wholesale systems. Delivery may be through a direct connection or through the distribution system of one or more consecutive systems.

CONTAINMENT PHILOSOPHY

The method and philosophy of backflow prevention which requires a backflow preventer at the service entrance which isolates the customer's facility from the public water supply.

CONTAMINANT

As defined in RSA 485:1-a, II, any physical, chemical, biological or radiological substance or matter in water.

CROSS-CONNECTION

Any actual or potential physical connection or arrangement between two otherwise separate systems, one of which contains potable water and the other of which contains water of unknown or questionable safety and/or steam, chemicals, gases, or other contaminants whereby there may be a flow of an unapproved water or other substance to a potable water system.

CURB STOP

The shutoff valve located on the water service line that operates the connection of the water service from the water main to the Premises structure. Curb stops are accessible for operation from outdoors and generally located near the municipal-private property line or right of way. Curb stops are considered by the Department to be the point of sanitary control between the Premises and the Public Water System.

CUSTOMER

The owner or duly authorized representative of the owner~~party~~, who ~~has~~ made an application for a water service for a Premises and/or dwelling unit described in the application, or the subdivision supplied with water service by the City of Rochester. This includes any private person, commercial business, corporation, industry or governmental division.

CUSTOMER (OWNER) – CROSS CONNECTION

For the purposes of cross-connection compliance, any Owner~~owner~~ or Person with legal right to ~~operate~~ or reside in a Premises at which a cross-connection inspection is to be made or at which a cross-connection is present.

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DEPARTMENT OF PUBLIC WORKS ~~OR (DEPARTMENT)~~

The Department of Public Works (“Department”) of the City of Rochester, New Hampshire, as represented by its Commissioner of Public Works or duly authorized employee or agents, including the Water Division.

DEPARTMENT

The City of Rochester Department of Public Works.

DETECTOR ASSEMBLY

A backflow prevention device primarily utilized in fire line installations. Its purpose is to protect the potable water supply line from possible contamination, back pressure or pollution from the fire system. It may also detect any water use in the fire line due to fire line leakage or deliberate water theft.

DEVICE UPGRADE

The replacement of an existing backflow prevention device with another appropriate device designed for a higher-hazard duty when the degree of hazard is increased.

DISTRIBUTION WATER MAIN

Water mains which are installed or presently located on roadway layouts, rights-of-way, or easements which provide the water for fire protection or domestic water services, including the individual shutoff.

DIVISION

Division of Water, New Hampshire Department of Environmental Services.

DOMESTIC WATER

A potable water which is suitable for uses, including but not limited to, drinking, gardening and other household uses, municipal uses and farmstead uses, including water used in the washing or hydro-cooling of farm products destined for human consumption on the farm, for sale on the fresh food market or for delivery to a processing plant for canning, freezing or other type of preparation prior to marketing.

DOUBLE CHECK VALVE ASSEMBLY ~~or (DCA) (approved for low hazard protection only)~~

An assembly of two independently operating spring-loaded check valves with tightly closing shutoff valves on each side of the check valves, plus properly located test cocks for the testing of each check valve.

DUPLEX/CONDEX

A duplex is a two (2) family dwelling owned by one person typically having two separate entrances. A ~~condex is a condominium, where two (2) different individuals own each side and have shared rights to common areas.~~

DWELLING UNIT STRUCTURE

A building including a single-family home unit, cottage, mobile home, apartment, condominium or townhouse or other structure containing one or more residential units located on a Premises served by public water from the City. This definition applies to multiple dwelling units and mixed-use residential units that

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[may exist in larger structures.](#)

FIRE PROTECTION ENGINEER (FPE)

[A professional fire protection engineer registered in the state of New Hampshire.](#)

FIRE WATER SERVICE

[A water service pipe that is used to convey public water to be used for firefighting and/or fire suppression.](#)

FIXTURE ISOLATION PHILOSOPHY

An ~~more complex~~ isolation approach whereby protective devices are placed at individual fixtures within a facility as well as where cross-connections exist at the last free-flowing outlet to ensure occupants of a facility are protected within.

FRANCHISE

[The right to conduct business as a utility pursuant to RSA 374:22 and RSA 374:26.](#)

HIGH DEGREE OF HAZARD

A condition where, if a backflow were to occur, the resulting effect on the water supply could cause injury, illness or death if consumed by humans. The foreign substance may be hazardous to humans from a chemical, biological, physical, or radiological standpoint. The effects of the contaminant may result from short-~~term~~ or long-term exposure.

HOSE BIBB VACUUM BREAKER

A device which is attached to a hose bibb, and which acts as an atmospheric vacuum breaker.
[Amended 3-5-2019]

LOW DEGREE OF HAZARD

A condition where, if a backflow were to occur, the resulting effect on the water supply would be a change in aesthetic qualities. The foreign substance must be non-toxic and non-hazardous to humans.

MASTER METER / COMMON METER

[A meter device used for billing purposes to measure consumption of water serving more than one structure or a group of structures.](#)

METER PIT

[See the definition of Vault below.](#)

MULTI-FAMILY DWELLING

[A building or portion thereof containing three or more residential units with separate cooking and toilet](#)

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facilities for each dwelling on one individual lot. -See City of Rochester Zoning Code §275-2.2.

NATIONAL FIRE PROTECTION ASSOCIATION AGENCY (NFPA)

The National Fire Protection Association is a non-profit organization that establishes codes and standards designed to minimize the risk and effects of fire by establishing criteria for building, processing, design, service, and installations.

NEW ENGLAND WATER WORKS ASSOCIATION (NEWWA)

The New England Water Works Association (NEWWA) is a nonprofit member organization incorporated in Massachusetts serving drinking water professionals throughout New England dedicated to serving those professionals working in the water in drinking water profession. Founded in 1882, NEWWA is an affiliated organization of the New England Water Works Association, Inc. and New England Section of the American Water Works Association (AWWA).

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NON-DWELLING UNIT STRUCTURE

A physical building unit that receives public water in which occupants are present to receive such public water but not for dwelling or residential purposes. Such structures typically include commercial, industrial, institutional, or mixed purposes and may have multiple spaces for mixed purposes (non-residential).

OWNER

A Person who holds legal title or rights to real property or a Premises.

PERMIT

A document issued by the Department that authorizes a use or action impacting the water distribution system; including, but not limited to, the use of backflow prevention devices, cross-connections, service connections and/or water use exemptions allows the use of a backflow preventer.

PERSON

As defined in RSA 485:1-a, XIII, any individual, partnership, company, public or private corporation, political subdivision or agency of the state, department, agency or instrumentality of the United States, or any other legal entity.

POST INDICATOR VALVE (PIV)

Post indicator valves (PIV) provide a means to operate a buried or otherwise inaccessible non-rising stem (NRS) gate valve including NRS Gate Valve; NRS Gate Valve with post flange; outside stem and yoke (OS&Y) Gate Valves; Vertical Post Indicator; Wall Post Indicator; Supervisory Switches and Flange Packs.

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POTABLE WATER

Water meant for human consumption from a source that has been approved by the New Hampshire Department of Environmental Services. All municipal water is produced and conveyed to premises as potable water.

[Amended 3-5-2019]

PROFESSIONAL ENGINEER (PE)

A registered professional engineer in the state of New Hampshire. Such an engineer shall have professional competency in civil or mechanical specialties as they pertain to this ordinance.

PREMISES

A parcel of real estate or portion of land which may include multiple parcels located within the City, including any improvements or structures therein (including Dwelling Unit Structures, Non-Dwelling Unit Structures and/or other improvements), which is determined by the City to be a single user for the purposes of receiving, using and paying for water from a water service connected to the public water supply. ~~The industrial, commercial or residential facility or dwelling connected to the public water supply.~~
[Amended 3-5-2019]

PRESSURE VACUUM BREAKER ~~or (PVB) (approved for low hazard protection only)~~

A device containing one or two independently operating spring-loaded check valves and an independently operating spring-loaded air inlet valve located on the discharge side of the check or checks. The device includes tightly closing shutoff valves on each side of the check valves plus properly located test cocks for the testing of each of the check valve(s).

PRIVATE DISTRIBUTION SYSTEM

~~Shall mean a~~ water piping system and appurtenances such as hydrants and valves that may convey Public Water but is owned and maintained by a private entity and is on the Customer's side of the point of sanitary control, commonly delineated by the Curb Stop or other control device.

PRIVATE HYDRANT

Any fire hydrant located outside the public right-of-way and/or located on property ~~other than that is not owned~~ by the City, but which is connected to the public water system and installed and maintained by an Owner(s) for the purpose of providing private fire protection/suppression.

PRIVATE WATER MAIN

~~Shall mean a~~ water main that is not owned or maintained by the City but that conveys Public Water to customers through private service lines and is owned and maintained by a private entity.

PRIVATE WATER SERVICE

The portion of the water service line providing domestic and, in some cases, both domestic and fire water service to the Customer running either from: (a) the connection to the public service line at the curb stop on public ways to the termination with the plumbing system within the Premises; or (b) from the connection to the public water main on private ways or through private property, which is the responsibility of the Customer to maintain.

PUBLIC WATER

Potable water or water provided for public fire protection supplied by the City's public water system and made available to its Customers through the City's distribution system, the distribution system of any City franchises, private distribution systems, community water systems, or other source of potable water produced by any consecutive public water systems under the City's drinking water regulatory responsibility, ~~through such systems' distribution systems, or the City's system.~~

PUBLIC WATER MAIN

~~Shall mean~~ The water main owned or maintained by the City, any of its franchises or consecutive water systems, under its drinking water regulatory responsibility that and qualifies as part of the public water system. The water main must supply water to one or more Customers for water consumption and/or public fire protection. A public water main includes a water main ~~which are~~ installed in a public way, publicly-owned easements (whether recorded or by prescription), ~~or~~ installed in private ways open to public travel, or mains that that may cross private properties, ~~for the purpose of supplying water to one or more Customers potable water consumption or for public fire protection.~~

PUBLIC WATER SERVICE

The portion of the water service line providing domestic and, in some cases, both domestic and fire water service to the Premises running from the connection at the City distribution main to and including the curb stop on public ways or to and including a curb stop or other containment valve for ~~the a~~ private water service connection on private ways or private property, which is the responsibility of the City to maintain.

PUBLIC WATER SYSTEM

As defined by RSA 485:1-a, XV, a system for the provision to the public of piped water for human consumption; if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year. Such term includes any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system, and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. Any water system which meets all of the following conditions is not a public water system:

- A. Consists only of distribution and storage facilities (and does not have any collection and treatment facilities); and
- B. Obtains all of its water from, but is not owned or operated by, a public water system; and
- C. Does not sell water to any person.

READER

A device installed by the Department of Public Works for remote reading of the quantity of water consumed and measured by the water meter.

REDUCED PRESSURE ZONE PRINCIPLE BACKFLOW PREVENTION DEVICE ~~OR (RPZ)~~ (~~approved for both high and low hazard protection~~)

An assembly consisting of two independently operating approved check valves together with a hydraulically operating, mechanically independent pressure differential relief valve located between the two check valves and below the first check valve. These units are located between two tightly closing, resilient-seated shutoff

valves as an assembly and equipped with properly located resilient-seated test cocks for the testing of the check valves and the relief valve.

REPLACEMENT COSTS

Expenditures for obtaining and installing equipment, accessories, or appurtenances which are necessary during the operational life of the treatment works to maintain the capacity and performance for which such works were designed and constructed. The term "operation and maintenance" includes replacement costs.

[Amended 5-5-1998]

RESIDENTIAL ~~NO-7~~ DUAL CHECK VALVE

A device, designed for backpressure and back-siphonage protection for residential dwellings only, which incorporates ~~a~~ an assembly of two independently operating, spring-loaded check valves without tightly closing shutoff valves and test cocks, ~~generally~~ Generally employed immediately downstream of the water meter to act as a containment device. This is a non-testable device which meets or exceeds the ANSI/ASSE Standard 1024 for dual check valve-type backflow preventers.

SEWER DEDUCT METER

A device installed and owned by the Department of Public Works for the measurement of water that will not be disposed of in the City sewer system.

SERVICE VALVE / SHUT OFF VALVE

A gate or valve located on a water main, or water service line used to isolate flows to and from a device such as a meter, backflow device, fire protection or structure. Service or shut off valves may be located on service lines to Premises located on private property and must be accessible for access and operation by the Department.

SINGLE-FAMILY DWELLING

A detached dwelling which contains exactly one residential unit (except for accessory apartments, where permitted); is not attached to any other dwelling or residential unit; and occupies its own individual lot on which there is no other dwelling or principal use. See City of Rochester Zoning Code §275-2.2.

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SITE SURVEYS

Initial site surveys of existing commercial and industrial properties are required to determine degree of compliance with the regulations herein. Such activities shall be executed by the Department either using its own resources or contracted resources. Activities shall include on-site surveys of commercial and industrial users of the public water supply which in the judgment of the Department may present risk of cross contamination.

SUB-METER

A privately owned and read water meter used for measuring water consumption for dwelling units connected after a meter pit or public meter. ~~The City will only read individual sub-metered customers directly for those Premises complying with RSA 205 A:6; otherwise, the Owner will be responsible for reading, maintaining,~~

and/or repairing the meters.

SUPPLIER

Any person who controls, owns, or generally manages a public water supply system.

TAMPER/TAMPERING

Tamper or tampering shall mean any unauthorized action which disables, disconnects, bypasses, or otherwise inhibits or prevents the water meter from operating or registering, to affect, in any way, the ability of such meter to accurately measure the water being supplied to a Customer. Tampering shall also mean to affect any unauthorized use or modification to City water infrastructure.

TWO-FAMILY DWELLING

A building which contains exactly two residential units; is not attached to any other dwelling or dwelling unit; and occupies its own individual lot on which there is no other dwelling or principal use. -See City of Rochester Zoning Code §275-2.2.

UTILITY ADVISORY BOARD

The Utility Advisory Board of the City of Rochester, New Hampshire.

VAULT

An underground, water-proofed chamber or structure used to house or protect meters, backflow devices, valves, and or pumps connected to a public or private water system. -This definition shall apply to and include the term meter pits which are structures defined above to protect, control, and access the meter device.

WATER MAIN

The water main shall mean the piping and associated valves, hydrants, and appurtenances for the purpose of supplying water to one or more customers or Premises for ~~portable-potable~~ water consumption or for public fire protection.

WATER METER

A device installed by the Department of Public Works for the measurement of water quantities to be used as a basis for determining charges for water services.

WATER SERVICE

The water pipe extending from ~~the City distribution water main from the City, a franchise or consecutive system distribution water main~~ to the building or structure located on the customer's-Customer's Premises. Such water service is further delineated by a Public Water Service and a Private Water Service.

WATER SERVICE ENTRANCE

The point in the customer's water system beyond the sanitary control of the Department; generally considered

to be the outlet end of the water meter and always before any unprotected branch.
[Amended 3-5-2019]

WATER SYSTEM SUPERINTENDENT~~SYSTEM SUPERINTENDENT~~~~TREATMENT CHIEF OPERATOR~~

The Water ~~System Superintendent~~~~Treatment Chief Operator~~ of the City of Rochester, New Hampshire, Water ~~System~~ Treatment Facility, Department of Public Works, or ~~his/her/their~~ designated representative, who is vested with the authority and responsibility for implementation of a cross-connection control program and for enforcement of the provisions of Article I of this chapter and these regulations.

WATER SUPPLY SHORTAGE

A situation when the City's water supply is in jeopardy as evidenced by a state or federal government agency declaring a drought in the area or the water system being unable to, or within 60 days of such written determination becomes unable to, supply the full commercial, domestic, and residential needs of the users of the City's water system, including needs for adequate fire protection. A water supply shortage usually occurs due to drought or a major infrastructure failure.

WATER UTILITY

The suppliers of water.

§ 260-3 Policy statement.

- A. In its administration of its drinking water program, the City will implement the best practices of the American Water Works Association (AWWA), other drinking water trade organizations, and the standards of the State of New Hampshire and US Environmental Protection Agency to the fullest extent.
- B. To the largest extent possible, the City of Rochester intends to have a fully metered system with outside and/or remote readers; all residential, commercial, institutional and industrial customers shall be metered on a per-premises basis, unless it is determined by the Department not practical to do so or unless otherwise required by RSA 205-A:6. -In general, the City requires a single water meter for a Premises with one structure served by a single service pipe and requires a master meter on a single service line that serves a Premises with multiple dwellings and/or non-dwelling structures. -In general, a separate service and water meter shall be required for each Premises of different ownership which abuts a public way. See 260-4 (I) for requirements for services and meters for premises on private ways or drives. The City shall determine the water service pipe connections for duplexes, condexes, and/or condominiums. However, there shall be no separate services for vertical condominiums, that is, condominiums substantially within the same footprint.
- C. All school buildings, non-City community facilities, hospitals, etc., shall be considered separate services, metered, and billed as commercial customers.

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- D. All Customers shall be billed in accordance with the provisions of § **260-18** of this article.
- E. In agreement with any like provision in Chapter **200**, Sewers, an elderly exemption, based on existing property tax requirements for such exemptions, shall be instituted.
- F. ~~For All~~ All Customers that are ~~For all commercial and industrial customers~~ not presently metered, the installation of a water meter ~~will shall~~ be required, unless determined by the Department Business Office as not practical to do so. The customer shall pay any costs associated with such initial installation of the water meter, including all necessary fittings and appurtenances thereto.
- G. In the event of a meter or reader failure or when in the opinion of the Department Business Office or Commissioner a flat rate billing is necessary, ~~T, the Owner, each unit of a multi unit dwelling or mobile home park shall be considered a residential customer. The property Owner or Customer or Customer~~ shall be billed for the sum of each dwelling unit even if the property has only one service (e.g., the owner of a ten-unit apartment building shall be billed the residential flat rate times 10).

§ 260-4 **Application for service.**

- A. All applications for water service or expansions or fire sprinklers ~~shall must~~ be made at the Department of Public Works ~~office, or via or via on~~ an application form, at the City's website, stating fully and truly the uses to which the water is to be applied. The ~~customer Customer~~ or ~~his/her their~~ duly authorized representative ~~shall shall must~~ sign such application. The Department shall have final authority and approval for all water service and infrastructure connections.
- B. An estimate of the cost of work to install the service will be prepared by the applicant and reviewed ~~by verified by~~ the Department of Public Works. -Any costs incurred by the Applicant prior to submission of the application or in preparation of the application shall be borne solely by the Applicant. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]
- C. A deposit equal to the estimated cost or a payment agreement shall be made by the Applicant with the Department before Business Office before the work is begun. This regulation also applies to repairs ~~of or~~ service piping, the installation of new meters, including outside reader, radio read equipment and appurtenances, or the repair of meters already installed if damaged due to the negligence of the owner Owner, setting. ~~All financial obligations involved in such transactions shall be adjusted immediately upon the completion of the work in the interests of all parties involved. [Amended 3-6-2007]~~
- D. Installation charges and other fees on all new services shall be paid by the Applicant or a payment agreement made with the Department before the water is turned on. This regulation also applies to repairs on service piping, the- installation of new meters, including outside reader, radio read equipment and appurtenances, or the repair of meters already installed if damaged due to the negligence of the owner. All financial obligations involved in such transactions shall be adjusted immediately upon the completion of the work in the interests of all parties involved. [Amended 3-6-2007]
- ~~D. Installation charges and other fees on all new services must be paid or a payment agreement made with~~

~~Business Office before the water is turned on. This regulation also applies to repairs on service piping, the setting/installation of new meters, including outside reader, radio read equipment and appurtenances, or the repair of meters already installed if damaged due to the negligence of the owner. All financial obligations involved in such transactions shall be adjusted immediately upon the completion of the work in the interests of all parties involved.~~ **[Amended 3-6-2007]** The Applicant must also pay Water Development Connection Fees, if applicable, as set forth in Chapter 260A ~~260 A, Article III.~~

- E. The ~~Department-Commissioner~~ may waive the deposit for emergency repair purposes.
- F. The City may allow applicants to enter into agreements with the City to pay all costs in equal installments over a period of time. Interest shall accrue on late payments at the same rate charged by the City for overdue property tax bills. Such agreements shall be recorded with the Strafford County Register of Deeds at the expense of the applicant. In the event property is conveyed, all monies owed to the City shall be remitted in full. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II]**
- G. Applications for service shall be furnished with existing and projected water flow and pressure requirements data. Such data shall be furnished for all domestic and fire needs as applicable. Applicants are responsible for any field verifications such as flow and pressure tests. Such tests shall be under the direction of a registered professional engineer and/or a registered professional fire protection engineer. Department of Public Works forces may be available to assist in such investigations by operating City infrastructure under the direction of a professional engineer and/or fire protection engineer, however, the applicant's registered professional shall be responsible for the gathering, preparation, interpretation, or presentation of any data.
- H. A fire protection engineer may be required to design fire suppression systems, per the most current best practices of the National Fire Protection Association. Supporting plans and calculations shall be submitted to the Rochester Fire Department and the Department of Public Works.
- I. Premises with multiple dwelling structures and/or non-dwelling structures of differing ownership which are located on private roads or private drives shall receive public water via a singular, shared private service. All piping and infrastructure on the Owner'(s)/Customer'(s) side of the curb stop shall be the responsibility of the Owner(s)/Customer(s). -In certain cases, the Department may approve the installation of multiple individual water meters in lieu of a master meter in a singular vault or backflow enclosure.

§ 260-5 Size of service and meter required.

[Amended 11-14-2006; at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

The minimum size of service connections and meter installation permitted shall conform to the recommendations of the American Water Works Association.

§ 260-6 Water Service Requirements, Installation and Repair.

~~A. The Department of Public Works or its agent shall or developer's or property owner's contractor shall~~

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~~install all new water services.~~

- ~~B.—The Department of Public Works or its agent shall make necessary repairs to existing services up to the customer's side of the curb stop. The cost incurred for the repair and maintenance of all existing water services from the distribution main up to the customer's side of the curb stop, or to the customer's property line, whichever is further from the distribution main, shall be the responsibility of the Department of Public Works. The cost incurred for the repair and maintenance of existing water services from the customer's side of the curb stop, or from the customer's property line, whichever is closer to the customer's building, shall be the responsibility of the customer, except that the customer shall not be responsible for the cost of the sidewalk or roadway excavation and repair.~~
- ~~C.—If new services are installed by a developer or property owner, the Department of Public Works must approve all materials, inspect the installation, provide and install the meter, perform the installation of the remote reader, install all wiring and perform testing and sealing of meters. All charges incurred during the work are the responsibility of the developer or property owner.~~
- ~~D.—If a developer's or property owner's contractor's installation is found to be incorrect it shall be the developer's or property owner's responsibility to have it corrected.~~
- ~~E.—Annually, before any contractor or company shall install or repair any portion of a water system within the City of Rochester, such contractor or company shall obtain a license from the Department of Public Works authorizing such contractor or company to perform installations of or repairs to such water system. Licenses shall be valid from January 1 through December 31 for any given year, except that in the first year after adoption, said existing licenses shall be prorated. The Commissioner of Public Works shall issue such license only to contractors or companies which demonstrate the ability to perform water installations and repairs in a workmanlike manner, consistent with the standards maintained by the Department of Public Works. All applicants shall be required to submit evidence of general liability insurance. The City Manager shall establish an annual fee for such water installation and repair license that shall be listed in § 260-33, Water Rate and Fee Schedule.~~
- ~~F.—Any contractor or company installing or repairing any portion of the public water system must receive written authorization from the Department of Public Works and provide a performance bond or escrow account in the name of the City for the total (100%) of the estimated cost of the work.~~
- ~~G.—The Department of Public Works and its agents shall have an easement 10 feet on each side of the water service for its entire length for the installation or repair of the service.~~
- ~~H.—The customer shall be charged for all materials and labor associated with the initial installation or subsequent repairs due to negligence of the customer. The Department of Public Works shall do its best to return the easement to its prior condition as a result of installation or repair; however, it will be the customer's responsibility to repair and replace any damaged property within the aforementioned easement.~~
- ~~I.—When it becomes necessary to thaw a frozen service pipe and it cannot be determined where it is frozen,~~

~~1/2 of the cost thereof shall be paid by the customer. The entire cost of thawing a frozen service pipe between the curb stop and the dwelling unit or other structure being served shall be the responsibility of the customer.~~

~~J. Ordinarily, no new service pipes or extensions of mains will be installed between December 1 and March 31 unless the customer shall defray all extra expenses incurred. An additional minimum charge as listed in § 260 33, Water Rate and Fee Schedule, shall be applied to the customer for road maintenance during these winter conditions if service or extension is allowed. [Amended 11-14-2006]~~

A. –All new water services may only be installed by the Department of Public Works, or by an Owner's agent or contractor approved by the Department, or with its approval by an Owner's agent or contractor. All new water services shall be installed per the specifications of Department.– There shall be established a singular, private water service and account for each Premises for which public water is supplied. Exceptions are subject to the approval of the Department. -All piping, vaults or meter pits, enclosures, valves, backflow prevention devices and individual services lines in sum from the curb stop to customer's plumbing shall be considered a private water service, and the maintenance and operation of which ~~subject to the~~ are the responsibility of the customer.

B. –Premises with structures such as dwelling unit structures and/or non-dwelling unit structures:

Shall have the curb stop or other approved containment valve in a location as determined by the Department. A vault or meter pit may be required by the Department. If required, such vault or meter pit shall be generally located on the customer's property in the immediate vicinity of the property line closest to the curb stop or other approved containment valve in a location approved by the Department. Such vault or meter pit shall contain the meter, shutoff valve and if determined by the Department, a backflow prevention device whereupon the type of backflow prevention device may require a backflow enclosure in lieu of a vault. Per law such high-hazard devices cannot be installed below ground level.–Meter reading equipment shall be immediately appurtenant adjacent to such vault or meter pit or enclosure. Vaults or meter pits and enclosures and their contents shall be subject to the specifications of the Department. Cost of vaults or meter pits, enclosures and any contents are the responsibility of the customer. Vaults or meter pits and enclosures shall be maintained by the customer in adequate operating condition to protect contents and their operation– and shall be free of standing water. -Depending upon facility use, water needs and application of metering, and as determined by the City, City meters may be required internally. Costs to provide and maintain non-City sub-sub-meters if desired by a customer-Customer are at the customer's-Customer's cost. Each structure on each premises which receives public water shall have an individual, exterior, accessible service with an approved shutoff or valve which may be operated by the City in emergency situations to completely isolate individual structures or piping systems from the public water supply or otherwise from other discreet structures or piping systems. In cases where a dwelling unit structure or non-dwelling unit structure may contain individual, unique customer accounts or piping systems, the same is required. -This requirement is in addition to local plumbing requirements for individual, interior isolation valves for individual dwelling, commercial, industrial, or institutional units within such structures.

C. –Premises with one single family dwelling unit structure and duplexes or condexes with a water service length less than one hundred and fifty feet:

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Shall have the curb stop in a location determined by the Department. A residential ~~No. 7~~-dual check backflow prevention device and meter shall be installed within the dwelling unit in accordance with the Plumbing Code. In cases where there is or may be a potential backflow of high degree of hazard, a testable backflow device for such high hazard applications shall be installed in the dwelling unit. The separate living quarters of duplexes and condexes shall generally be serviced and metered separately. Exceptions will be considered at the Department's discretion.

D. —Premises with one single family dwelling unit structure and duplexes or condexes with a water service length greater than one hundred and fifty feet:

Shall have the curb stop in a location determined by the Department. An approved vault or meter pit which shall contain the meter, shutoff valve and required residential ~~No. 7~~-dual check backflow prevention device shall be generally located on the customer's property in the immediate vicinity of the property line closest to the curb stop in a location approved by the Department. —In cases where there is or may be a potential backflow of low degree of hazard, a testable backflow device for such low hazard applications shall be installed in the vault. In cases where there is or may be a potential backflow of high degree of hazard, a testable backflow device for such high hazard applications shall be installed in the dwelling unit. Meter reading equipment shall be immediately ~~appurtenant-adjacent~~ to such vault. Vaults or meter pits and their contents shall be subject to the specifications of the Department. Cost of vaults and any contents is the responsibility of the ~~customer~~Customer. Vaults or meter pits shall be maintained by the customer in adequate operating condition to protect contents and their operation— and shall be free of standing water. If approved by the Department, such vaults or meter pits may be designed to service multiple single-family dwellings with water service lengths greater than one hundred and fifty feet. The separate living quarters of duplexes and condexes shall generally be serviced and metered separately. Exceptions will be considered at the Department's discretion.

E. —Premises with multiple manufactured homes:

Shall have the curb stop in a location as determined by the Department. A vault or meter pit may be required by the Department. If required, such vault or meter pit shall be generally located on the customer's property in the immediate vicinity of the property line closest to the curb stop in a location approved by the Department. Such vault or meter pit shall contain the meter, shutoff valve and if determined by the Department, a backflow prevention device whereupon the type of backflow prevention device may require a backflow enclosure in lieu of a vault. Meter reading equipment shall be immediately ~~appurtenant-adjacent~~ to such vault or meter pit or enclosure. Vaults and enclosures and their contents shall be subject to the specifications of the Department. Cost of vaults or meter pits, enclosures and any contents are the responsibility of the ~~customer~~Customer. Vaults or meter pits and enclosures shall be maintained by the ~~customer~~Customer in adequate operating condition to protect contents and their operation— and shall be free of standing water—. Only those manufactured homes complying with the requirements of RSA 205-A:6 shall be read separately by the City, and costs to install, maintain, and upgrade such ~~sub-sub-meters~~ shall be borne by the ~~customer~~Customer. All others will be read at the master/~~common meter~~ in the vault or meter pit.

F. –Fire Water Services Requirements:

In general, fire water services shall be services from the water main to the premises which are separate from private water services from the water main. In some cases, such as long service runs, vaulted or meter pit services and a singular private water service may supply both domestic and fire water, ultimately at the discretion of the Department, a singular private water service may supply both domestic and fire water. In such cases domestic water and fire water shall be separated on premises by individual, exterior service/shutoff valves. The best practices of AWWA and NFPA shall be implemented to ensure simultaneous drinking water quality and fire protection supply. A testable backflow prevention device is required for fire suppression systems. Detector assemblies and/or post indicator valves may be required on fire water services.

G. –Exceptions:

Requirements in A. through G. provide a consistent, uniform approach to establish water service with best management practices. It is recognized that modifications of or exceptions to the above requirements may be considered by the Department in unique circumstances. Such considerations and determinations are solely the right of the Department.

H. The Department of Public Works or its agent will make necessary repairs to public water service lines. The cost incurred for the repair and maintenance of private water service lines, including leaking service lines, shall be the responsibility of the Owner or Customer, except that the Owner or Customer shall not be responsible for the cost of the sidewalk or roadway excavation and repair.

I. If new services are installed by an Owner, its agent, developer or contractor, the Department of Public Works must approve all materials, inspect the installation, provide and install the meter (including necessary fittings and appurtenances thereto), perform the installation of the remote meter reader, install all wiring, and perform testing and sealing of meters. All charges incurred by the Department during this work are the responsibility of the Owner, its agent, developer, or contractor. The installation cost for new service lines, to include all components including public and private services as defined, shall be borne by the customer Owner or Customer.

J. If an ~~Owner's, its agent's, developer's, or contractor's~~ installation performed by an Owner/Customer, their agent, developer, or contractor is found to be incorrect it shall be ~~their~~ the Owner's/Customer's responsibility to have it corrected.

K. Annually, before any contractor shall install, tie-into or repair any portion of a water system within the City, such contractor shall obtain a license from the Department of Public Works authorizing such contractor to perform installations of or repairs to such water system. Licenses shall be valid from January 1 through December 31 for any given year.. The Department of Public Works shall issue such license only to qualified contractors which demonstrate the ability to perform water installations and repairs in a workmanlike manner, consistent with the standards maintained by the Department of Public Works and possessing ~~for use~~ proper equipment. All applicants shall be required to submit evidence of general liability insurance. Developers and companies which are not

qualified contractors shall not be eligible to obtain licensing--. The City Manager shall establish an annual fee for such water installation and repair license that shall be listed in § 260-33, Water Rate and Fee Schedule.

- L. Any contractor or company installing, tying-into or repairing any portion of the public water system shall receive written authorization from the Department of Public Works and if determined by the Department, provide a performance bond or escrow account in the name of the City for the total (100%) of the estimated cost of the work.
- M. The Department may revoke the license of any contractor which has performed work below the Department's standards. Time period of revocation is solely at the discretion of the Department and may be permanent.
- N. The Department of Public Works and its agents shall have a perpetual easement 10 feet on each side of the water service for its entire length for the installation or repair of the service. This easement is contiguous along all public and private portions to include exterior service and isolation valves, and interior isolation valves to multi-family and commercial, industrial, and institutional structures.
- O. The Customer shall be charged for all materials and labor associated with the initial installation or subsequent repairs by the City due to negligence of the Customer. The Department of Public Works shall use a reasonable standard of care to return private property to its prior condition; however, it will be the ~~customer's~~ Customer's responsibility to repair and replace any damaged property.
- P. When it becomes necessary to thaw a frozen service pipe, if it cannot be determined whether it is frozen on the public or private portion, one half (1/2) of the cost thereof shall be paid by the Customer. The entire cost of thawing a frozen service pipe on the private portion of service shall be the responsibility of the Customer.
- Q. No new service pipes or extensions of mains will be installed between December 1 and March 31 unless the authorized by the Department of Public Works, and Customer shall be responsible for any and all extra expenses incurred as a result of the new service or main extension. An additional minimum charge as listed in § 260-33, Water Rate and Fee Schedule, shall be applied to the customer for road maintenance during these winter conditions if service or extension is allowed. [Amended 11-14-2006]

§ 260-7 Pipes and fixtures.

- A. No persons except those duly authorized by the Department of Public Works ~~shall~~will tap any water main or connect any service pipes thereto, shut off or turn on the water from any main, or tamper with any City water infrastructure. No person except firefighters shall open any hydrants, including private hydrants that are not behind the customer's meter, without the consent of the Department of Public Works. Water taken out of the system without permission will be calculated by the Department of Public ~~Works~~Division of Water Supply Works and the violator will be required to pay the same and, in addition, may be subject to a fine for the violation of above provision.

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

~~BB. Notice of shutoff for repairs to mains or service pipes will be given in accordance with Env Dw 503.9, except in emergencies.~~

~~CB.~~ No water service pipes shall be laid in the same trench with gas pipes, sewer pipes, or any other facility of a public utility nor within three feet of any open excavation or vault.

~~CDC.~~ No cross-connection between the public water system and any non-potable supply will be permitted. ~~allowed unless properly protected. The Department of Public Works shall inspect any such connection.~~ No connection capable of causing backflow between public water supply and ~~any waste outlet will~~ non-public water supply shall be permitted.

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§ 260-8 Meters.

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- A. ~~All services are to be metered except in unusual cases where the Department/Department Commissioner determines that it is not practicable. Every Premises owned property served by the public water system shall have one customer account consisting of an individually metered/shall be metered water service and equipped with a separate exterior shutoff valve/curb stop for each meter, and, when applicable, appropriate cross-connection protection unless otherwise determined by the Department of Commissioner Public Works. Existing City water customers prior to March 1, 2008, will not be required to retrofit existing services to comply with this shutoff valve requirement. However, new Sub-meters for individual/dwelling units/structures on the Premises may be operated by the Owner but shall not be read by the City for billing, nor maintained/required by the City unless they comply with RSA 205-A:6. New services or any meters not currently being read by the City shall be required to comply with this provision prior to the City taking over responsibility for reading or billing of said meter. or Customer, a A master/A common meter shall/shall will be provided for all new multi-unit dwelling structures or developments by the developer at the cost of the Owner. rented units or developments/lots.~~
- B. ~~All meters are owned and maintained by the Department of Public Works, but the customer/Customer will be charged for any damage to meters (including necessary fittings and appurtenances thereto) caused by abnormal conditions, i.e.e.g., freezing, fire, tampering, etc. The Department of Public Works will typically install up to a 2-inch meter only one meter per on any one service, and except sewer deduct meters. The And the o. Owner of the premises shall be liable for the entire amount of water used on the premises irrespective of any leases or presence of sub-meters for of individual consumers. The City shall directly read, maintain, and repair only those sub-meters for developments in compliance with RSA 205-A:6. [Amended 4-2-2008]~~
- C. Meters are installed for measurement of all water supplied to Customer. Customers shall provide a clean, dry, warm, safe, sanitary, and accessible place (always free from debris) for installation, - maintenance, and repair of a meter. The location shall be easily accessible by a person in the upright position for reading, maintaining, and changing.

- D. All persons shall avoid unnecessary waste of water. Water shall not be left running to prevent freezing unless required or authorized by the Department of Public Works. All customers taking water ~~shall~~ 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 City Standards, the Rochester Plumbing Code. To encourage the conservation of water, all water-cooled air conditioning and refrigeration equipment with a total installed cooling capacity in excess of three (3) tons shall include a water conserving device that limits the actual water used for cooling to ten percent (10%) of the usual amount required for service to the Premises without use of the equipment.

§ 260-9 Sewer deduct meter.
[Amended 5-5-1998; 4-2-2008]

Upon application and approval by the Department of Public Works, a customer may have installed by the City a sewer deduct meter to measure water that will not be disposed of in the City's sewer system. The purpose of this meter ~~is~~ would be to meter water uses, including, but not limited to, irrigation, in-ground sprinkler systems, swimming pool filling, and commercial air-conditioning systems. ~~In order to encourage the conservation of water, all water-cooled air conditioning and refrigeration equipment with a total installed cooling capacity in excess of three (3) tons shall include a water conserving device that limits the actual water used for cooling to ten percent (10%) of the usual amount required for service to the Premises without use of the equipment. Customer shall be responsible for the cost of inspection and installation of the sewer deduct meter. The meter shall~~ The cost of this meter inspection of the installation by the City is entirely the responsibility of the customer. The meter will fully meet the requirements of § **260-8** of this chapter except that the sewer deduct meter shall not be required to have a separate exterior shutoff valve.

§ 260-10 Meter repairs.

- A. All meters shall be maintained and kept in ~~repaired~~ by the Department of Public Works except when damaged or tampered with by the ~~Customer~~ customer or by ~~his/her/their~~ negligence, including freezing. In case of any such damage, the cost of repairs to the meter (including necessary fittings and appurtenances thereto) shall be charged to the ~~Owner~~ 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 used is determined to be different than the amount previously estimated, the charge for the difference between the average daily use and actual use will be included as a charge on the subsequent billing. ~~by the difference between the two.~~
- C. If a customer, after being so notified, does not allow ~~timely~~ timely ~~immediate~~ access to the Department of Public Works 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. Tampering with the meter may result in be subject the violator to fines and/or termination of water service. in the event that the violator was the Owner or Customer.
[Amended 5-5-1998]

§ 260-11 **Meter testing.**

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- 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 two percent (-2%)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 Customer.water customer. There shall be a minimum service charge for any complaint-driven service call. The minimum service charge shall be as listed in § **260-33**, Water Rate and Fee Schedule. Any meter found to be accurate in accordance with this article will not be replaced by the Public Works Department due to a complaint.
- C. Should the meter in question be found to be within the accuracy limits set forth in § 260-11 A. 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. **[Amended 5-5-1998; 4-2-2008]**

§ 260-12 **Sealing of meter.**
[Amended 5-5-1998]

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.

§ 260-13 **Tampering with Metermeter-Meter Operations.**

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- A. No Customercustomer or Person or his or her agent shall move, alter, or otherwise tamperperform a tampering event with regard to a meter—No person may move or alter a meter without having first received the written consent and authorization of the Department of Public WorksWorksCommissioner and/or his/her designee to take such action. In the event that the Department of Public WorksWorksCommissioner and/or his/her designee shall determinesdetermine that a Customercustomer or Person tamperedor his or her agent has performed a tampering with a meter, such Customer or Person shall be subject to the following charges: **[Amended 5-5-1998]**
 - (1) A charge in an amount based upon the actual water usage metered to such meter prior to the tampering-event, if determinable and if not, a best reasonable estimate.
 - (2) A charge in an amount equal to based upon twice the billedestimated water usage for the Premises serviced by the meter equal to the usage for the in question during the preceding-same billing period for the prior year (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 § 260-33, Water Rate and Fee Schedule.
- B. Anything in Subsection A above to the contrary notwithstanding, should a ~~Customer~~customer or his or her agent, as a result of an emergency or other circumstances beyond his/her/their control, ~~move or alter~~perform a tampering event with respect to a meter, without having received the prior written consent and authorization of the Department of Public Works, ~~Such Works Commissioner. Such~~customer-Customer may, upon appeal to the Utility Advisory Board in accordance with the provisions of § 260-19 and within its discretion, be relieved of any or all of the charges listed in Subsection A(1) through (4) above, provided that such ~~customer-Customer~~customer shall have notified the Department of Public Works, in writing, of the ~~movement or alteration~~movement or alteration in question within three business days of the occurrence of such ~~tampering event~~tampering event.
- C. Any provisions of this section to the contrary notwithstanding, ~~tampering may be cause the occurrence of a tampering event without a customer and/or his/her agent having first obtained the written consent and authorization of the Commissioner of the Department of Public Works shall because~~for discontinuance of service to the customer.
- D. For the purposes of this section, the term "tampering"event shall mean any ~~unauthorized~~unauthorized action which disables, disconnects, bypasses, or otherwise ~~inhibits or prevents~~inhibits or prevents the ~~tampers with a~~tampers with a water meter ~~from operating or registering~~, so as to affect, in any way, the ability of such meter to accurately measure the water being supplied to a Customer. Such ~~tampering~~tampering event shall include, but shall not be limited to, any breaking or other disruption of the seal affixed to a meter pursuant to the provisions of § 260-12 of this chapter.

§ 260-14 ~~Outside reader~~Reader.
[Amended 3-6-2007]

All ~~Customer~~customers shall be required to have an outside reader with radio read capability for their meter ~~installed at the Premises. Existing City maintained meters that were installed prior to November 1, 2004, shall be exempt from the requirement for radio read capability until such time as the radio read program is implemented.~~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. ~~Reasonable Exceptions may be granted by the Commissioner the Department 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.

§ 260-15 **Inspections.**
[Amended 5-5-1998; 3-6-2007]

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 quantity of water used, and the manner of use. In the case of an emergency, no prior notice needs to be given, and, in the event of refusal of entry, water may be shut off with a fee assessed and application can be made to the courts for an appropriate order with all legal costs being charged to the customer.

§ 260-16 (Reserved)

§ 260-17 **Establishment of ~~water~~ Water rates ~~Rates, rates.~~**
[Amended 5-5-1998; at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

Water rates shall be established periodically by the City Council. Such water rates shall be computed based on the total amount budgeted for the Department of Public ~~Works, Works, Division of Water Supply Works,~~ for any operations and maintenance costs, plus any debt service and capital outlays determined by the City Council, and projections of estimated water consumption, number of accounts, and/or other such factors. Water rates shall be recommended to the City Council by the Utility Advisory Board and/or the City Manager and shall be established to provide sufficient revenue to at least pay the expenses of operating and maintaining the water treatment works, transmission and distribution system, and appurtenant facilities.

- A. Exemption. The City Council may authorize elderly exemptions for users qualifying for property tax exemptions in the City, but such exemptions shall not result in charges lower than those necessary to recover operation and maintenance costs. Only the portion of the water rates that recovers the debt service or capital outlays may be exempted.
- B. Implementation of new rates. Before new rates and/or fees are effective, there shall be two readings before the City Council. In addition, a public hearing shall be held between the first and the second readings. The public hearing shall be held at least 10 calendar days before the rates are effective.

§ 260-18 **Billing and payment.**

- A. Water bills shall be rendered to all customers at least quarterly and may be rendered more frequently at the discretion of the Business Office with the approval of the City Manager. [Amended 5-5-1998]
- B. Water bills shall be due and payable upon presentation and shall become delinquent after 30 days after the date of issuance. Interest shall accrue on bills not paid when due at the same rate charged by the City for overdue property tax bills. Seasonal customers will not be eligible for service unless the previous year's bill has been paid in full.
- C. Checks shall be made payable to the City of Rochester and mailed to the Tax Collector's office or paid online, in City Hall. When bills are overdue, the customer will be sent a notice. Bills not paid when due become a lien on the property by New Hampshire statute.
- D. The failure of a customer to receive water bills does not relieve the customer of the responsibility of

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making prompt payment.

- E. The Department of Public Works in supplying water, doing work, or furnishing material shall ~~deal with~~ interact only with the Customer or their duly authorized representative. ~~customer.~~ Said Customer ~~and the premises, and such customer~~ shall keep the Department Business Office advised of the address to which bills, notices, and communications may be forwarded. Although the payment for service rate may be assumed by an agent or tenant, the Customer of the Premises ~~shall~~ will be held personally responsible for the same. A change in ownership shall not relieve the Premises from payment of back bills. In case of forfeiture, the water may be shut off and will not be turned on again until all unpaid charges have been settled in full. A water shutoff notice will be delivered to the Customer prior to shutoff. (See § 260-20.)

§ 260-19 Appeals.
[Amended 5-5-1998]

Users aggrieved of bills rendered under this article have the following rights of appeal:

- A. Notification. The aggrieved ~~Customer~~ user shall notify the Business Office in writing that said bill is contested before the next bill for water service is issued. ~~payment is due for water service.~~ The notification shall explain why the bill is contested and provide the information necessary to determine the validity of the claim. The Finance Director may require the use of forms to expedite the appeals process.
- B. Resolution. Upon receipt of a notification under Subsection A, the Finance Director shall submit the claim to the Utility Advisory Board with a recommendation on the validity of the claim. 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. Aggrieved parties shall be allowed only one appeal per claim. [Amended 3-5-2019]
- C. Disposition of appeals. For appeals found to be valid, the date of the billing ~~will~~ shall be revised to the date of the Utility Advisory Board's decision. Revised charges ~~will~~ shall become due and payable as specified in § 260-18. For appeals not found to be valid, the date of the billing ~~will~~ shall be as originally issued, and charges and interest ~~will~~ shall be as computed as specified in § 260-18.

§ 260-20 Agreements and shutoffs.

- A. An agreement between the City Finance Director and the customer may be signed, on a form provided by the Department or on-line at the City's website ~~in the Business Office,~~ if the ~~customer~~ Customer is unable to satisfy ~~his/her~~ their water bill in full at the due date. A water shutoff notice and agreement procedure shall be established by the Finance Director and approved by the City Manager. [Amended 5-5-1998]
- B. Bills unpaid more ~~Unpaid bills of over~~ than 30 days after the due date shall constitute cause for termination of water service or shutoff. If on the day of the shutoff the customer pays the outstanding water bill after City personnel arrive at the customer's service to execute the shutoff, the customer

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will be assessed a minimum service charge. This charge is as listed in § 260-33, Water Rate and Fee Schedule.

§ 260-21 Miscellaneous bills.
[Amended 5-5-1998; 3-5-2019]

Charges for labor and material, including installation costs, shall be billed upon completion of the work which the bill covers. If such bills are not paid within 30 days or a payment agreement made with the ~~Department~~Department Business Office, the water will be shut off ~~or and unpaid the~~ charges will become a lien on the property, ~~or both~~. All late payments ~~will~~shall include interest charges. Collection procedures will be taken, and any costs will be charged to the ~~Customer~~customer.

§ 260-22 Turning on and off.
[Amended 5-5-1998; 3-5-2019]

Forty-eight hours' advance notice is normally required for turning on and shutting off water for work performed by the Department of Public Works, except in the case of emergency, consistent with Env-Dw 503.9. ~~The requested service will be provided as soon as possible thereafter, except in cases of termination for non-payment. Fourteen (14) days advanced notice will be provided to the Customer for termination of service for unpaid charges. The requested service will be provided as soon as possible thereafter.~~ All expenses involved for the shut-off at either a customer's~~Customer's~~ request or for non-payment will be the responsibility of the customer. Overtime charges at the rate of time and 1/2 will be charged before or after duty hours, with a minimum of a three-hour charge.

§ 260-23 Swimming pools.
[Amended 5-5-1998]

The Department of Public Works does not use its equipment to fill private swimming pools. Private companies ~~shall must~~ obtain written authority from the Department of Public Works to use water from the water system. Customers desiring an abatement of sewer charges while filling their pools must ~~contact~~call the ~~Department~~Business Office for instructions prior to filling the pool. There will be no abatement if the ~~Department~~Business Office has not been contacted.

§ 260-24 Bulk Water Hauling.

Any construction, irrigation, swimming pool, or other bulk water hauler shall contact the Department to arrange access to designated City bulk water station(s) where metering and backflow prevention can be ensured. Any such hauler's use of hydrants or any other water source other than the designated station(s) shall constitute a tampering violation and hauler shall be responsible to compensate the City for all water released and all applicable fines. The Department will estimate such quantities for charges.

§ 260-24-25 Transfers.

On sale or transfer of property, the customer must give notification to the Business Office of such sale or transfer in order that a final meter reading can be taken, and proper charges made to the proper owner. A minimum of 24 hours' notice is required. ~~If an existing~~ ~~If an~~ apartment building ~~or other multi-unit, or other structure, or~~ dwelling unit ~~or~~ Premises is converted to a ~~become a~~ condominium, ~~the Owner shall provide~~

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written notification to the DepartmentBusiness Office. The new Owner shall complete a water service application and be responsible for any fees or charges from the Department of Public Works and any private plumber necessary to provide a separate service and meter.

§ 260-~~25-26~~ **Violations.**

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- A. Should any Customer violate any regulations established by the DepartmentDepartmentDivision of Water Supply Works, or fail to pay rates or other charges when due, his/her/their supply mayshall be shut off, or terminated, and it shall not be resumed until causes of a complaint or non-compliance are removed and/or all charges paid. **[Amended 5-5-1998; 3-5-2019]**
- B. Any violation of the rules and regulations hereby established or failure on the part of any Customer receivgustomertaking water to promptly pay any and all chargeselaims due to of the Department shall be considered sufficient cause for terminationcutting off of water service the water supply of such Customer and such servicesupply shall not be turned on again until all such breacheuse of complaint shall have been removed, including any additional work or costs incurred for the turning on of the water.
- C. Where two or more Customers take water through one service pipe, the provision in regards to termination of service or cutting off the supply shall be applicable to all such customers although one or more of them may be innocent of any cause of offense.

§ 260-~~26-27~~ **Interruption of service.**
[Amended 5-5-1998]

The Department of Public Works reserves the right to shut off the service temporarily whenever it becomes necessary to make extensions, alterations, or repairs, or to curtail the use of water whenever conditions so require without prior notice. The Department of Public Works will make best efforts to provide advanced notice to Customers when practicable.

§ 260-~~27-28~~ **Claims for damages and liability.**
[Amended 5-5-1998]

- A. The Department of Public Works will not be responsible for any damage caused by shutoffs in the mains or service pipes, because of shortage of supply, installingsetting or removing meters, repairs, construction, or for other reasons beyond the control of the Department. Notice of shutoff will be given when practicable; however, nothing in this rule shall be construed as requiring the giving of such notice. The Department of Public Works will not be liable for any damages resulting from leakage escaping from any part of the owner's system.
- B. All customers having direct pressure hot water tanks or appliances shouldmust place proper automatic vacuum and relief valves in the pipe system to prevent any damage to such tanks or appliances should it become necessary to shut off water on the street mains or service pipe. Service will be provided to such direct pressure installations only at the customer's risk and in no case will the Department of Public Works be liable for any damage occasioned thereby.

§ 260-29 Regulation of water usage during emergency.
[Amended 9-14-1999; 7-10-2018]

- A. Purpose. The purpose of this regulation is to ensure the use of water is properly regulated whenever an emergency exists by reason of a shortage of water due to inadequate supply, limited treatment or distribution capacity, or failure of equipment or material. The City of Rochester may use reasonable means to protect, preserve, and maintain the public health, safety, and welfare when a water supply shortage exists.
- B. Authority. The City of Rochester adopts these regulations under its authority to regulate public water systems under RSA 38:26. In accordance with the provisions of RSA 47:17, XV, whenever an emergency exists by reason of a shortage of water due to inadequate supply, limited treatment or distribution capacity or failure of equipment or material, the City Manager is authorized to restrict or prohibit the use of water from the City water system.
- C. Applicability. The requirements of this section shall apply to all water users with connections receiving water from the City's public water system, including any connections with consecutive water systems which includes all public water systems owned and operated by the City.
- D. Definitions. As used in this section, are set forth in Section 260-2 above.~~the following terms have the meanings indicated:~~

PERSON

~~Any individual, corporation, trust, partnership, joint stock company, association, state, municipality, commission, United States government or any agency thereof, political subdivision of the state or any interstate body, or other entity.~~

WATER SUPPLY SHORTAGE

~~A situation when the City's water supply is in jeopardy as evidenced by a state or federal government agency declaring a drought in the area or the water system being unable to, or within 60 days of such written determination becomes unable to, supply the full commercial, domestic, and residential needs of the users of the City's water system, including needs for adequate fire protection. A water supply shortage usually occurs due to drought or a major infrastructure failure.~~

- E. Water emergency declaration. A water emergency declaration may be issued by the City Manager whenever a supply shortage or other water emergency occurs.
- F. Water use restrictions. Upon declaration of a water emergency, the City Manager shall implement certain water use restrictions necessary to conserve and maintain adequate reserves of the public water supply. Provided there is a declaration as noted above, the following levels of restriction will apply immediately after the public notification period specified in Subsection H:
- (1) If a Level 1 water use restriction is issued, then customers are encouraged to refrain from outside

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water use such as landscape watering and to limit the amount of water used outdoors for other purposes.

- (2) If a Level 2 water use restriction is issued, then:
 - (a) Any outside water use by odd-numbered addresses is allowed only on odd-numbered days.
 - (b) Any outside water use by even-numbered addresses is allowed only on even-numbered days.
 - (c) Any outside water use shall not occur between the hours of 8:00 a.m. and 5:00 p.m.
- (3) If a Level 3 water use restriction is issued, then:
 - (a) No outside water uses for lawn watering or irrigation. This applies to automatic sprinklers, automatic irrigation systems, and any unattended lawn watering.
 - (b) Filling of any swimming pools or containers greater than 100 gallons' capacity is prohibited.
 - (c) Washing of vehicles, including automobiles, trailers, trucks, etc., by hose is prohibited.
 - (d) Any outside water use shall not occur between the hours of 8:00 a.m. and 5:00 p.m.
- (4) If a Level 4 water use restriction is issued, then all outside water use is prohibited.

G. Exemptions to water use restrictions.

- (1) Hand irrigation of crops used for food by residents at a residential property, provided a competent person is present using watering equipment with an automatic shut-off device, shall not be restricted.
- (2) Water to sustain animal life shall not be restricted.
- (3) Despite the authority granted by Subsection **B** of this regulation, orders imposing water use restrictions shall not apply to uses that obtain water from sources other than the City water system, unless it can be clearly demonstrated that the use of such water directly affects the City water system.
- (4) The City Council may issue temporary water use restriction exemption permits for identified properties and locations that have made recent landscaping investments. The exemption period for limited irrigation for new seed, sod, or plugs is up to 45 days from the date of installation, and will be permitted between the hours of 5:00 p.m. and 8:00 a.m. Property owners must demonstrate that area soils have been appropriately prepared and use efficient irrigation best management practices. A watering exemption permit only pertains to newly seeded lawns and will not be issued for over seeding. This exemption does not apply during a Level 4 water use restriction.

- H. Public notification. Upon declaration of a water emergency by the City Manager, the City shall issue a written emergency notice declaring the emergency and setting forth with particularity a water use restriction that regulates the use of water from the City's water system. The notification, as issued, shall be reissued whenever there are modifications to the water use level restrictions.
- (1) Publication and/or posting of notice. The written emergency notice shall be published in a newspaper of general circulation in the City of Rochester within 72 hours after the issuance of such notice. In addition, the written emergency notice shall be posted in five prominent places within the City and on the City website.
 - (2) Immediate threat to public health or safety. Whenever a sudden or unexpected event reduces the availability of water or water pressure as to create an immediate threat to public health or safety, the emergency notice may be issued by any reasonable means, including electronic means.
- I. Termination notice of a water emergency. Upon a determination by the City that the water emergency no longer exists, the City Manager may terminate the water use restrictions. Public notification of such termination shall be given in accordance with Subsection **H(1)**.
- J. Appeals of water emergency declaration. Any person aggrieved by a water emergency declaration by the City Manager shall have the right to present the matter to the next regular or special meeting of the City Council or any emergency session of the Council called to discuss the water emergency. The City Council may exempt such aggrieved person, in whole or in part, from the compliance with such water use restrictions upon a showing that compliance with such water use restrictions creates an immediate threat to such person, or such person's immediate household's, health or safety. A ruling by a majority vote of the City Council with regards to such appeal shall be final and binding. Until and unless the action of the City Manager is modified or revoked by action of the City Council, all water usage shall be bound by the terms of the water use declaration issued by the City Manager.
- K. Penalties. Any person who, in any manner, directly or indirectly, violates or permits others under his/hers/their custody or control to violate any terms of a duly issued water use restriction shall be guilty of a violation. Each separate day of water use in violation of such emergency notice shall constitute a separate offense and each separate prohibited water use in excess of one on the same day shall constitute a separate offense. In addition to the foregoing penalties, the City of Rochester is authorized to discontinue the furnishing of water where orders and restrictions have been violated on multiple accounts. Such discontinuance shall be made pursuant to RSA 38:31 and may be continued so long as there is evidence that the violations continue. Penalties are determined by each water level restriction as follows:
- (1) Level 1 water restriction. There are no penalties as this is voluntary.
 - (2) Level 2 and 3 water restrictions.
 - (a) First violation will be issued a warning.

- (b) Second violation shall be punishable by a fine of one hundred dollars (\$100.00).
 - (c) Third violation shall be punishable by a fine of one hundred dollars (\$100.00).
 - (d) Additional violations shall be punishable by a fine of five hundred dollars (\$500.00) to ten thousand dollars (\$10,000.00) and discontinuance of water service. A service reactivation fee, as defined by § **260-33B**, will be charged before water service is restored.
- (3) Level 4 water restriction. Each violation shall be punishable by a fine of five hundred dollars (\$500.00) to ten thousand dollars (\$10,000.00) and discontinuance of water service. A service reactivation fee, as defined by § **260-33B**, will be charged before water service is restored.

§ 260-~~28-30~~ **Utility Advisory Board.**

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- A. Function of the Board. The Utility Advisory Board shall periodically make recommendations to the City Council on the level of water rates to be established under this article, but such recommendations are not binding on the City Council. 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. **[Amended 5-5-1998; at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**
- B. Membership. The Utility Advisory Board shall consist of five members. Such members shall be nominated by the Mayor and appointed by the City Council.
- C. Term. Members appointed on, or after, June 1, 2013, shall serve a term of three years from the date of appointment. **[Amended 6-4-2013]**
- D. Vacancies. Vacancies on the Utility Advisory Board shall be filled in the same manner that members are appointed under Subsection **B**. The term of a member appointed to fill a vacancy shall be equal to the remaining term of the member being replaced.
- E. Administrative actions. The City Manager shall have the authority to veto or modify any action of the Utility Advisory Board.

§ 260-~~29-31~~ **Construction/extension of water mains for new development which may become public water mains.**

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- A. Applications for the construction/extension of water mains that are intended to be accepted by the City as City-owned mains shall be in the form of a petition addressed to the Department of Public Works in compliance with the rules established by the Department of Public Works. **[Amended 5-5-1998; 5-1-2007]**
- B. The Department of Public Works may require that an applicant file a site plan with the Planning and Development Department such rights-of-way, easements, releases, performance surety, or any other instruments reasonably consistent for any such construction, and the City of Rochester shall be grantee, guaranteed insured, or payee of any such instrument. **[Amended 5-1-2007]**

- C. Construction or extension of any such water mains shall be per City standards.
- D. The applicant shall pay full costs for any such construction of water main and installation and full title to the same shall, upon acceptance by the City Council, be the property of the City of Rochester. All construction of water mains shall be under the direct supervision of the Department of Public Works.
- E. The City will not normally accept water mains that are constructed or extended appurtenant to roadways where such roadways are not intended to be accepted by the City. Such mains will be considered by the City to be private services and all required maintenance the responsibility of the owner. Owner maintenance and operation of such mains shall be subject to the directives of the Department to ensure water quality.
- F. Construction or extension of private water mains or private distribution systems beneath private property shall meet the specifications of the Department and Owner maintenance and operation of such mains shall be subject to the directives of the Department to ensure water quality.

§ 260-~~31~~32 **Extension of existing water mains in accepted roadways.**

- A. Upon petition by citizens of the City or when deemed necessary or desirable for the protection and well-being of the City, the extension of water mains in accepted roadways may be approved by a vote of the City Council in accordance with City Ordinance § 22333-9. [Amended 5-5-1998]
- B. Where the construction and installation of water mains is to be made in and upon existing streets and roads, and the public good requires it and/or undue hardships would result if cash payment were made, then and in such case the City of Rochester may finance the construction through the issuance of bonds or other financing method and pay the full costs. The proportionate share of each abutter along the line of construction and installation based on the actual cost of construction per running foot or other equitable distribution of cost when petition, application, or late petition is made and granted shall become a lien on such abutting property as real estate taxes until payment of said proportionate share of full costs, including financing, is made.
- C. Payment may be as follows:
 - (1) The affected party may pay his/hers/their proportionate share in cash for the full amount, at the time the obligation is incurred; or
 - (2) The affected party may enter into an agreement with the City of Rochester that said proportionate share of all costs may be paid in equal installments over a period of time equal to the term of the bond or a lesser period. Such agreement is to be recorded with the Strafford County Register of Deeds at the expense of the affected party. In the event property is conveyed, the new owner(s) will be responsible for all unpaid bills and liens.

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§ 260-~~32~~33 Private fire protection.

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- A. Private fire services may be permitted at the discretion of the Department~~Commissioner~~ of Public Works and Fire Chief. All applications for private fire protection services must follow the provisions of § 260-4, Application for service. [Amended 5-5-1998]
- B. Fees for private fire hydrants shall be as listed in § 260-33, Water Rate and Fee Schedule.
- C. Private fire hydrants shall typically be set on the customer's side of the meter so that all use is recorded and billed. In cases where private fire hydrants are before the customer's meter any such use of a private fire hydrant for non-fire service flows must utilize a fire hydrant meter authorized and provided by the Department to measure said flows.~~The Customer or user shall be responsible for all water utilized and measured by said hydrant meter pursuant to the rates set forth in §260-33.~~

§ 260-~~33~~34 Water Rate and Fee Schedule.

[Amended 6-26-2007; 6-10-2008; 6-16-2009; 7-5-2011; 11-20-2012; 2-4-2014; 9-15-2015; 8-2-22]

- A. Quarterly water rates. [Amended 11-1-2016; 2-6-2018; 8-2-22]
 - (1) ~~Residential Customers without exemption: five dollars and fifty five cents (\$5.55) per 100 cubic feet of water use.~~
 - (2) ~~Residential customers with exemption: two dollars and forty cents (\$2.40).~~
 - (3) ~~Commercial and industrial Customers: five dollars and fifty five cents (\$5.55) per 100 cubic feet of water use.~~
 - (4) ~~Unmetered residential, commercial and industrial Customers:~~
 - (a) ~~Per quarter per unit without exemption: one hundred forty eight dollars and fifty three cents (\$148.53).~~
 - (b) ~~Per quarter per unit with exemption: seventy four dollars and twenty five cents (\$74.25).~~
 - (5) ~~Minimum fee:~~
 - (a) ~~Per quarter per unit without exemption: twenty one dollars and nine cents (\$21.09).~~
 - (b) ~~Per quarter per unit with exemption: sixteen dollars and ninety one cents (\$16.91).~~
 - (1) Residential Customers without exemption: six dollars and fifty-four cents (\$6.41) per 100 cubic feet of water use.
 - (2) Residential customers with exemption: two dollars and seventy-seven cents (\$2.77).
 - (3) Commercial and industrial Customers: six dollars and forty-one cents (\$6.41) per 100 cubic feet

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of water use.

(4) Unmetered residential, commercial, and industrial Customers:

(a) Per quarter per unit without exemption: one hundred seventy-one dollars and fifty-six cents (\$171.56).

(b) Per quarter per unit with exemption: eighty-five dollars and seventy-six cents (\$85.76).

(5) Minimum fee:

(a) Per quarter per unit without exemption: twenty-four dollars and thirty-five cents (\$24.35).

(b) Per quarter per unit with exemption: nineteen dollars and fifty-one cents (\$19.51).

B. Fees.

- (1) Meter Installation: a minimum of three hundred dollars (\$300.00) or estimated cost of installation, in advance one hundred dollars (\$100.00).
- (2) Installation and repair license: one hundred dollars (\$100.00) per year.
- (3) Bad check: twenty-five dollars (\$25.00) plus all associated fees.
- (4) Service reactivated following payment when shut off due to nonpayment: sixty dollars (\$60.00).
- (5) Service shutoff or turn on by request: thirty dollars (\$30.00).
- (6) Temporary service: see installation fees; water charges will be billed accordingly.
- (7) Private fire protection service: see installation fees.
- (8) Private fire hydrant service connection: one hundred fifty dollars (\$150.00) per hydrant per fiscal year. For purposes of this subsection, a private fire hydrant shall mean any fire hydrant located outside the public right-of-way and/or located on property other than that is not owned by the City of Rochester, but which is connected to the public water system. Any private hydrant located behind a water meter on that property shall be exempt from this charge.

(9) Service Connection Permit Fee: -fifty dollars (\$50.00).

(10910) Swimming pools: fees based on volume used times unit rate.

(114011) Meter repair or testing: thirty dollars (\$30.00) per visit plus cost of transportation of meter to testing facility and cost of testing.

(12412) Meter damage: fifty dollars (\$50.00).

~~(134213)~~ Backflow prevention devices: all costs associated with installation, repair, or inspection paid by owner. Inspection costs shall be not less than minimum service charge.

~~(144314)~~ Violations: all costs to correct violation paid by owner.

~~(154415)~~ Minimum service charge: thirty dollars (\$30.00) per visit.

~~(164516)~~ Meter tampering charge: a reconnection fee of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00).

~~(174617)~~ Minimum charge for road maintenance between December 1 and March 31: two hundred dollars (\$200.).

(18) Service Development Fee: \$3.17 per gallon per day, per unit in accordance with the Table 1008-1 referenced and as set forth §260A-5.

Article II Cross-Connections

[Adopted 4-2-2013 (Ch. 18 of the 1995 Code); amended in its entirety 12-3-2013]

§ 260-~~34-35~~ Purpose.

- A. New Hampshire Code of Administrative Rules Part Env-Dw 505 requires that the City of Rochester take appropriate actions to prevent the reverse flow of water previously delivered to customers or the backflow of harmful substances into the public water system. Each public water system serving 1,000 or more persons must have a written cross-connection control program ordinance. [Amended 3-5-2019]
- B. Cross-connections between water supplies and non-potable sources of contamination represent one of the most significant threats to health in the water supply industry. This program is designed to accomplish the following:
 - (1) To protect the City of Rochester, New Hampshire, public ~~potable~~ water supply from contamination by isolating, within its customers' internal distribution systems, contaminants that could backflow or backsiphon into the public water system.
 - (2) To promote the elimination or control of existing cross-connections, actual or potential, between the customer's in-plant potable and non-potable water systems by isolating those contaminants that could backflow or backsiphon into the customer's internal distribution system.
 - (3) To provide for the maintenance of a continuing program of cross-connection control that will systematically and effectively prevent the contamination of potable water systems via cross-

connections.

- (4) To supplement the regulations promulgated and revised by the New Hampshire Department of Environmental Services as listed in § 260-36 below.

~~§ 260-35 Definitions-~~

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

~~**AIR GAP (approved for both high and low hazard protection)**~~

~~An unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture, or other device and the flood level rim of the receptacle. Physically defined as a distance equal to twice the diameter of the supply side pipe but never less than one inch.~~

~~**APPROVED BACKFLOW PREVENTION DEVICE-**~~

~~A backflow prevention device that has been:~~

- ~~A. Manufactured to allow for accurate testing and inspection so as to allow verification of performance; and~~
- ~~B. Tested and certified by the University of Southern California, Foundation for Cross Connection Control and Hydraulic Research.~~

~~**APPROVED SOURCE-**~~

~~A source of water utilized by a public water system for distribution to the public for consumption purposes and which is approved by the New Hampshire Department of Environmental Services, Water Division, for said use following a required and/or approved treatment process.~~

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

~~**ATMOSPHERIC VACUUM BREAKER-**~~

~~A device which prevents backsiphonage by creating an atmospheric vent when there is either a negative pressure or sub-atmospheric pressure in a water system.~~

~~**AUXILIARY WATER SUPPLY-**~~

~~Any water supply on, or available to, a premises other than the City's approved public potable water supply.~~

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

~~**BACKFLOW-**~~

~~The flow of water or other liquids, mixtures, or substances into the distribution pipes of a potable water supply from any source or sources other than the intended source.~~

~~**BACKFLOW PREVENTER WITH INTERMEDIATE ATMOSPHERIC VENT-**~~

A device having two independently operating check valves separated by an intermediate chamber with a means for automatically venting it to the atmosphere. The check valves are force loaded to a normally closed position and the venting means is force loaded to abnormally open position.

~~BACKFLOW PREVENTION DEVICE~~

A device or means designed to prevent backflow or backsiphonage. Most commonly categorized as air gap, reduced pressure principle device, double check valve assembly, pressure vacuum breaker, atmospheric vacuum breaker, hose bib vacuum breaker, residential dual check, double check with intermediate atmospheric vent, and barometric loop.

~~BACKFLOW PREVENTION DEVICE INSPECTOR, CERTIFIED~~

A person who has proven his/her competency to inspect and test backflow prevention devices by the possession of a valid backflow prevention device certification issued by the New England Water Works Association or other equivalent certification approved by New Hampshire Department of Environmental Services.

~~BACK PRESSURE~~

Pressure created by mechanical means or other means causing water, liquids, or other substances to flow or move in a direction opposite of what is intended.

~~BACKSIPHONAGE~~

The flow of water or other liquids, mixtures, or substances into the distribution pipes of a potable water system from any source other than its intended source, that is caused by negative or reduced pressure in the potable water system.

~~BAROMETRIC LOOP~~

A section of pipe rising at least 35 feet at its topmost point above the highest fixture it supplies. It is utilized in water supply systems to protect against backsiphonage (only).

~~CHECK VALVE~~

A self closing device which is designed to permit the flow of fluids in one direction and to close if there is a reversal of flow.

~~CONTAINMENT PHILOSOPHY~~

The method and philosophy of backflow prevention which requires a backflow preventer at the service entrance which isolates the customer's facility from the public water supply.

~~CONTAMINANT~~

As defined in RSA 485:1-a, II, any physical, chemical, biological or radiological substance or matter in water.

~~CROSS CONNECTION~~

Any actual or potential physical connection or arrangement between two otherwise separate systems, one of which contains potable water and the other of which contains water of unknown or questionable

~~safety and/or steam, chemicals, gases, or other contaminants whereby there may be a flow of an unapproved water or other substance to a potable water system.~~

~~CUSTOMER (OWNER)~~

~~Any person who has legal title to or license to operate or habitat in a property at which a cross-connection inspection is to be made or at which a cross-connection is present.~~

~~DEPARTMENT~~

~~The City of Rochester Department of Public Works.~~

~~DEVICE UPGRADE~~

~~The replacement of an existing backflow prevention device with another appropriate device designed for a higher hazard duty when the degree of hazard is increased.~~

~~DIVISION~~

~~Division of Water, New Hampshire Department of Environmental Services.~~

~~DOUBLE CHECK VALVE ASSEMBLY or DCA (approved for low hazard protection only)~~

~~An assembly of two independently operating spring-loaded check valves with tightly closing shutoff valves on each side of the check valves, plus properly located test cocks for the testing of each check valve.~~

~~FIXTURE ISOLATION PHILOSOPHY~~

~~A more complex isolation approach whereby protective devices are placed at individual fixtures within a facility as well as where cross-connections exist at the last free-flowing outlet to ensure occupants of a facility are protected within.~~

~~HIGH DEGREE OF HAZARD~~

~~A condition where, if a backflow were to occur, the resulting effect on the water supply could cause injury, illness or death if consumed by humans. The foreign substance may be hazardous to humans from a chemical, biological, physical, or radiological standpoint. The effects of the contaminant may result from short- or long-term exposure.~~

~~HOSE BIBB VACUUM BREAKER~~

~~A device which is attached to a hose bibb and which acts as an atmospheric vacuum breaker.~~

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

~~LOW DEGREE OF HAZARD~~

~~A condition where, if a backflow were to occur, the resulting effect on the water supply would be a change in aesthetic qualities. The foreign substance must be non-toxic and non-hazardous to humans.~~

~~PERMIT~~

~~A document issued by the Department that allows the use of a backflow preventer.~~

PERSON

~~As defined in RSA 485:1 a, XIII, any individual, partnership, company, public or private corporation, political subdivision or agency of the state, department, agency or instrumentality of the United States, or any other legal entity.~~

POTABLE WATER

~~Water from a source that has been approved by the New Hampshire Department of Environmental Services.~~

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

PREMISES

~~The industrial, commercial or residential facility or dwelling connected to the public water supply.~~

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

PRESSURE VACUUM BREAKER or PVB (approved for low hazard protection only)

~~A device containing one or two independently operating spring loaded check valves and an independently operating spring loaded air inlet valve located on the discharge side of the check or checks. The device includes tightly closing shutoff valves on each side of the check valves plus properly located test cocks for the testing of each of the check valve(s).~~

PUBLIC WATER SYSTEM

~~As defined by RSA 485:1 a, XV, a system for the provision to the public of piped water for human consumption, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year. Such term includes any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system, and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. Any water system which meets all of the following conditions is not a public water system:~~

- ~~A. Consists only of distribution and storage facilities (and does not have any collection and treatment facilities);~~
- ~~B. Obtains all of its water from, but is not owned or operated by, a public water system; and~~
- ~~C. Does not sell water to any person.~~

REDUCED PRESSURE ZONE PRINCIPLE BACKFLOW PREVENTION DEVICE or RPZ (approved for both high and low hazard protection)

~~An assembly consisting of two independently operating approved check valves together with a hydraulically operating, mechanically independent pressure differential relief valve located between the two check valves and below the first check valve. These units are located between two tightly closing, resilient seated shutoff valves as an assembly and equipped with properly located resilient seated test cocks for the testing of the check valves and the relief valve.~~

~~**RESIDENTIAL NO. 7 DUAL CHECK**~~

~~An assembly of two independently operating, spring loaded check valves without tightly closing shutoff valves and test cocks. Generally employed immediately downstream of the water meter to act as a containment device. This is a non-testable device.~~

~~**SITE SURVEYS**~~

~~Initial site surveys of existing commercial and industrial properties are required to determine degree of compliance with the regulations herein. Such activities shall be executed by the Department either using its own resources or contracted resources. Activities shall include on-site surveys of commercial and industrial users of the public water supply which in the judgment of the Department may present risk of cross contamination.~~

~~**SUPPLIER**~~

~~Any person who controls, owns, or generally manages a public water supply system.~~

~~**WATER SERVICE ENTRANCE**~~

~~The point in the customer's water system beyond the sanitary control of the Department; generally considered to be the outlet end of the water meter and always before any unprotected branch.~~

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

~~**WATER TREATMENT CHIEF OPERATOR**~~

~~The Water Treatment Chief Operator of the City of Rochester, New Hampshire, Water Treatment Facility, Department of Public Works, or his/her designated representative, who is vested with the authority and responsibility for implementation of a cross-connection control program and for enforcement of the provisions of Article I of this chapter and these regulations.~~

~~**WATER UTILITY**~~

~~The suppliers of water.~~

§ 260-36 Authority.
[Amended 3-5-2019]

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.

§ 260-37 Responsibilities of Department.

The Department is responsible for protecting the public potable water distribution system from contamination due to the backflow or backsiphon of contaminants through the water service connection.

§ 260-38 Duties of Department of Public Works.

- A. The Department will determine if an approved backflow prevention device is required at the City's water service connection to any customer's premises.

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- B. The Department may, directly or through a designated representative, give notice in writing to any such customer to install an approved backflow prevention device at each water service connection to ~~his/hers~~their premises.
- C. The Department will issue permits for all new backflow prevention devices and amended permits for any upgrades to such devices for higher-hazard duty. No permit will be issued by the Department without an application from the owner.
- D. Permits shall have a duration based upon degree of hazard for the protective device. High-hazard device permits shall have a duration of six months to coincide with semiannual inspection and testing requirements. Low-hazard device permits shall have a duration of 12 months to coincide with annual inspection and testing requirements. All permits shall automatically renew following certification from owner that periodic inspection and testing has been completed on schedule.
- E. There will be no fees for permits issued.
- F. Existing commercial and industrial properties at the time of the issuance of this article shall be the subject of site surveys conducted by the Department to determine the need for backflow prevention devices. Department shall conduct site surveys in accordance with Env-Dw 505.
- G. The Department will not allow any cross-connection to remain unless it is protected by an approved backflow ~~prevention~~preventioner device for which a permit has been issued and which will be regularly tested and inspected per required schedule to ensure satisfactory operation.
- H. If the Department determines at any time that a ~~serious~~ threat to the public health exists, the water service will be terminated immediately.
- I. The Department will maintain records to include all applications for backflow prevention devices, installation, inspection and testing certification forms, notices of inspection/test requirement and permits.
- J. The Department will monitor for permit compliance. Permits shall lapse and become void if inspection and testing are not certified on schedule. A void permit shall constitute grounds for discontinuation of water.
- K. The Department will inform the owner by letter of any failure to comply with scheduled inspection and testing and resulting permit violation. The Department will allow an additional 14 days past the original due date for completion of inspection and testing and owner certification. In the event that the owner fails to provide the certification within the additional 14 days, the Department will inform the owner, by letter, that the water service to the owner's premises will be terminated. In the event that the owner informs the Department of extenuating circumstances as to why the certification has not been made on schedule, a time extension may be granted by the Department, but in no case will exceed an additional 30 days.

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- L. All new single-family residential water services, as well as substantive remodeling of residential properties that require meter changes and/or plumbing permits, will be required to install a residential ~~No. 7~~ dual check device immediately downstream of the water meter. **[Amended 3-5-2019]**
- M. Installation of a residential dual check valve results in a potential closed plumbing system within the residence. As such, provisions shall be made by the owner to provide for thermal expansion within the closed loop system, i.e., the installation of thermal expansion devices and/or pressure relief valves.
- N. New and retrofit installations of reduced pressure zone principle devices and double check valve backflow preventer shall include the installation of strainers located immediately upstream of the backflow device. The installation of strainers will preclude fouling of backflow devices due to both foreseen and unforeseen circumstances occurring to the water supply system such as water main repairs, water main breaks, fires, periodic flushing, and cleaning of mains, etc. These occurrences may stir up debris within the water main that will cause fouling of backflow devices installed without the benefit of strainers.

**§ 260-39 Requirements of owner.
[Amended 3-5-2019]**

- A. The owner shall be responsible for the elimination or protection of all cross-connections on his/her/their premises.
- B. The owner shall ensure the protection of the public water supply within his/her/their premises by the installation of approved backflow prevention devices, where necessary, or by fixture isolation techniques to comply with the City's containment philosophy and NH state regulations. All testing, inspection and maintenance shall be the responsibility of the owner. Those devices internal to the facility will not be regulated by the Department; however, -any isolation devices required to be installed by the Department shall be regulated by the Department.-
- C. The owner, after having been informed by letter from the Department, shall at his/her/their expense install, maintain, and test, or have tested, any and all backflow preventers on his/her/their premises.
- D. On new commercial and industrial installations, the owner or his/her/their qualified agent supplying the device(s) shall propose the type of backflow preventer, if any, that will be required. The owner shall supply a complete application for the installation of a backflow prevention device and provide it to the Department for permit issuance. The Department shall approve proposed devices.
- E. The owner shall inform the Department of any proposed or modified cross-connections and also of existing cross-connections ~~of~~ which the owner is aware but may not be known by the Department.
- F. The owner shall not install a bypass around any backflow preventer unless there is a backflow preventer of the same type on the bypass. Owners who wish to continue operations cannot shut down operation for during testing of the device(s) shall~~shall~~must supply additional devices for an operational by-pass. additional devices necessary for testing to take place.-

- G. The owner shall install backflow devices with the minimum requirements as provided herein in a manner approved by the Department or its designee and in accordance with approved plumbing regulations. All new devices shall be tested satisfactorily upon installation.
- H. The owner shall install only a backflow preventer approved by the Department and the Division.
- I. The owner shall be responsible for the payment of all fees for device installation or replacement, annual or semiannual device inspection and testing, re-testing in the case that the device fails to operate correctly, and second reinsertions for noncompliance with Department rules and regulations.

~~I. Any owner having a private well or other private water source shall not connect ("hard pipe") to the Department's system. The owner may be required to install a backflow preventer at the service entrance if a private water source is maintained, even if it is not cross-connected to the Department's system.~~

~~J. In the event the owner installs plumbing to provide potable water for domestic purposes which is on the Department's side of the backflow preventer, such plumbing must have its own backflow preventer installed.~~

- J. Should a backflow prevention device be required or an upgraded device, whether determined by the Department or otherwise the owner, the owner shall be responsible for submitting an application for such device to the Department.
- K. There will be no fee for applications submitted.
- L. Owners shall certify the installation of new or upgraded backflow prevention devices in writing to the Department within 3090 days of issuance by the Department of the permit.
- M. Failure, refusal, or inability on the part of the owner to install the required initial or upgrade device(s) and provide certification to the Department within 30 days shall constitute grounds for discontinuing water service to the premises until such time as the required certification of compliance is received by the Department.
- N. Owner shall be responsible for providing certification of inspection and testing to the Department within 14 days of regularly scheduled periodic inspection and testing, and retesting following initial test failure if applicable. Failure to submit the certification within 14 days shall void the permit and constitute grounds for discontinuing water service to the Premises~~premises~~.
- O. The ~~owner~~Owner shall correct at ~~his/her~~their cost any malfunction of the backflow preventer which is revealed by periodic testing. Corrections that impact the required certification schedule above shall be communicated to the Department at the earliest possible time.

§ 260-40 **Administration.**
[Amended 3-5-2019]

- A. Philosophy: The City will administer the program on the theory of containment, the approach of which utilizes a minimum of backflow devices and isolates the customer from the public water supply so that contamination of the public water system does not occur. If he/she so desires, the owner may utilize public health officials or private consultants to assist in the survey of his/hers/their facilities and to assist in the selection of proper fixture isolation devices and the proper installation of these devices.
- B. The owner shall allow his/hers/their property to be inspected for possible cross-connections and shall follow the provisions of the Department's program and the Division's regulations if a cross-connection is required.

§ 260-41 **Degree of hazard.**

The Department recognizes the threat to the public water system arising from cross-connections. These threats are classified as follows in this section:

- A. Low hazard. If a backflow were to occur, the resulting effect on the water supply would, at the most, be a change in its aesthetic qualities. The foreign substance(s) must be non-toxic to humans. All threats classified as "low hazard" will require, at a minimum, the installation of an approved double check valve assembly.
- B. High hazard. If a backflow were to occur, the resulting effect on the water supply could cause illness, injury or death if consumed by humans. The foreign substances may be hazardous to humans from a physical, chemical, biological, and/or radiological standpoint. The effects of the contaminants may result from short- or long-term exposure. All threats classified as "high hazard" will require the installation of approved reduced pressure zone principle backflow prevention devices, ~~or~~ air gaps or other high hazard device approved by the Department.

§ 260-42 **Auxiliary water sources.**
[Amended 3-5-2019]

- A. Any owner having a private well or other private water source shall not cross-connect ("hard pipe") to the Department's system. The owner may be required to install a testable high hazard backflow prevention device at the service entrance to the public water system if a private water source is maintained, even if it is not cross-connected to the Department's system.

~~Where a single or dual family residential customer served by the public water supply system has or proposes to install an auxiliary water supply (i.e., well, cistern, spring, etc.), the supplier of the water shall protect the public water supply against backflow by requiring the customer to perform one of the following:~~

- ~~(1) Permanently disconnect the auxiliary water supply from any direct connection to the public water supply system. An inspection to determine compliance with this requirement shall be made by the supplier of the water, local Director of Building, Zoning, and Licensing Services, or his/her designee. The frequency of the inspections shall be at the time of the disconnection and at periodic intervals thereafter (i.e., every three to five years).~~

(1) ~~The owner has the option to abandon~~ ~~The owner has the option to abandon or discontinue~~ the auxiliary water supply in a manner acceptable to the ~~Water~~ ~~Division of the Department, to the Division~~ ~~Department and NH Department of Environmental Services~~ in lieu of installation of a backflow prevention device.

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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 ~~Department~~ ~~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 ~~Department~~ ~~water supplier~~ and approved.

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§ 260-43 **Permits.**
[Amended 3-5-2019]

- A. Cross-connection permits that are required for backflow prevention devices are obtained from the Department. A permit will be issued for each individual device. There will be no fees for initial permits and subsequent renewals. Permits shall be issued with a duration which coincides with the inspection and testing schedule of the device. High-hazard devices shall have permits with durations of six months; low-hazard devices shall have durations of 12 months. Failure of the owner to provide certification of inspections and testing on the required schedule shall void the permit and constitute grounds for discontinuation of water.
- B. Amended permits shall be issued for any premises whereby there are any increases in degree of hazard such as to supersede the effectiveness of the present backflow preventer. Owners are responsible for submitting applications for the amended permits.
- C. The permit shall contain the information required in New Hampshire Administrative Rules Part Env-Dw 505, Backflow Prevention.
- D. Permits are subject to revocation for cause by the Department and become immediately revoked if the owner should so change the type of cross-connection or degree of hazard associated with the service without proper notification to the Department.
- E. Fixture isolation devices internal to a facility will not be regulated by the Department and permits are not required.

§ 260-44 **Existing backflow prevention devices.**
[Amended 3-5-2019]

Any existing backflow preventer shall be allowed by the Department to continue in service if in good

working order unless the degree of hazard is such as to supersede the effectiveness of the present backflow preventer or result in an unreasonable risk to the public health. Permits for existing devices shall be issued with durations to coincide with the required schedule of inspection and testing. 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 an approved device, or an approved device must be installed in the event that no backflow device is present.

§ 260-45 Installation.
[Amended 3-5-2019]

- A. Installation requirements. Initial installations, replacements and upgrades shall be performed by an individual with a current backflow prevention device inspector/tester certification from the New England Water Works Association (NEWWA) [and in accordance with Department of Public Works requirements and New Hampshire statutes.](#)
- B. Reduced pressure zone backflow prevention devices.
 - (1) The reduced pressure zone backflow prevention device shall be installed on the owner's side of the water meter on the potable water supply line.
 - (2) For "in-plant" protection, lines for safety showers and lines for eye wash units must be taken off the upstream side of the reduced pressure zone backflow prevention device.
 - (3) The reduced pressure zone backflow prevention device shall be located ~~so as to~~ permit easy access and provide adequate and convenient space for maintenance, inspection, and testing. The device must be protected from freezing, flooding, and mechanical damage.
 - (4) The reduced pressure zone backflow prevention device and shutoff valves must be installed in a horizontal alignment between three and four feet from the floor to the bottom of the device and a minimum of 12 inches from any wall, unless the device is approved by the Department of Public Works or its designee for vertical installations.
 - (5) Tightly closing valves must be installed at each end of the device and must be immediately accessible unless otherwise approved by the Department of Public Works or its designee.
 - (6) 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 be approved, the air gap must be at least twice the internal diameter of the discharge line, or two inches minimum.
 - (7) Backflow prevention devices are not allowed to be installed below grade or other location that may be prone to unit inundation and/or submergence.
- C. Double check valve assemblies.
 - (1) The double check valve assembly shall be installed on the owner's side of the water meter on the potable water supply line.

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- (2) For "in-plant" protection, lines for safety showers and lines for eye wash units must be taken off the upstream side of the double check valve assembly.
- (3) The double check valve assembly shall be located so as to permit easy access and provide adequate and convenient space for maintenance, inspection, and testing. The device must be protected from freezing, flooding, and mechanical damage.
- (4) The double check valve assembly and shutoff valves must be installed in a horizontal alignment and the top of the double check valve assembly must be between 30 inches and 53 inches from the floor to the bottom of the device and a minimum of 12 inches from any wall, unless the device is approved by the Department of Public Works or its designee.
- (5) Tightly closing valves must be installed at each end of the device and be immediately accessible unless otherwise approved by the Department of Public Works or its designee.
- (6) Double check valve assemblies must be provided with suitable connections and appurtenances for testing.

§ 260-46 Periodic testing.
[Amended 3-5-2019]

- A. Backflow prevention devices shall be inspected and tested at least semiannually for high-hazard applications and at least annually for low-hazard applications. All new devices in new facilities shall be tested for positive operation upon installation. Responsibility for ensuring inspections and testing and providing certification to the Department shall be the Owner's. Failure to certify inspections and testing on the required schedule shall void the permit and be grounds for discontinuation of water service.
- 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 an individual with a current backflow prevention device inspector/tester certification from the New England Water Works Association (NEWWA).
- C. Any backflow preventer which fails during a periodic test shall be repaired or replaced. When repairs are necessary, upon completion of the repair, the device shall be re-tested at the owner's expense to ensure correct operation. High-hazard situations shall not be allowed to continue unprotected if the backflow preventer fails the test and cannot be repaired immediately. The owner is responsible for spare parts, repair tools, or a replacement device. Parallel installation of two devices 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.
- D. Backflow devices will be tested more frequently than specified in Subsection A above in cases where there is a history of test failures and the Department feels that, due to the degree of hazard involved, additional testing is warranted. Cost of the additional testing will be borne by the owner.

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E. Failure to test a backflow prevention device as required, or failure to repair a device when needed, may result in immediate, temporary termination of the water service until the device is tested or repaired as directed by the Department.

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§ 260-47 **Conflicting provisions; severability.**

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- A. If a provision of this article is found to be in conflict with any provision of a zoning, building, safety or health or other ordinance or code of the City of Rochester, or the State of New Hampshire, or the federal government, existing on or subsequent to the effective date of this article, that provision which in the judgment of the City of Rochester establishes the higher standard of safety and protection shall prevail.
- B. The invalidity of any section, clause, sentence, or provision of this article shall not affect the validity of any other part of this article that can be given effect without such invalid part or parts.

§ 260-48 **Interpretation.**

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The provisions of this article with respect to the meaning of technical terms and phrases, the classification of different plumbing devices, the regulations with respect to installing, inspecting, or testing backflow prevention equipment, and other technical matters shall be interpreted and administered by the Department acting in and for the City of Rochester, New Hampshire.

§ 260-49 **Appeals.**

Any party aggrieved by any decision, regulation, or provision under this article, as amended, from time to time, shall have the right to appeal said decision to the Department which shall issue a decision within 30 calendar days of the appeal. If said appeal is denied by the Department, then the aggrieved party shall have the right to appeal to the Utility Advisory Board and then to the City Manager.

§ 260-50 **Additional rules and regulations; amendments.**

The City reserves the right to adopt, from time to time, additional rules, and regulations as it shall deem necessary and proper relating to control and management of cross-connections, which additional rules and regulations, to the extent appropriate, shall be a part of these regulations. Future changes to this article will be submitted to New Hampshire Department of Environmental Services for approval prior to City adoption.

§ 260-51 **When effective; repealer.**

This article shall be in full force and effect immediately following its passage, as provided by law. The adoption of this article specifically repeals any previously adopted cross-connection ordinance or rules of the City of Rochester, New Hampshire, with regard to cross-connections between water supplies of potable and non-potable systems and/or sources.

Chapter 260A
Water Development Connection Fee
(As approved September 6, 2022)

§260A-1 Authority.

The City of Rochester is authorized pursuant to RSA 38:27 and RSA 38:28 to assess a Water Development Connection Fee on new connections and development to help meet the additional water system demands created by the new development including capital construction and improvement of the City's water system--. Said fees are assessed on a capacity- ~~buy~~-buy-in approach as set forth in §260A-4 below.

§260A-2 Definitions.

This Chapter incorporates by reference the Definitions found in the City of Rochester Water Ordinance, Chapter 260, §260-2, as amended.

§260A-3 Purpose.

These regulations shall govern the assessment of connection fees upon new development connections to the City's Public Water System to generate capital funds to maintain, improve, and expand the water system to minimize the effect on existing customers in a fair and equitable manner.

§260A-4 Water Development Connection Fee

The water development connection fee or assessment will be imposed pursuant to these provisions only upon new development connections, including subdivisions, building construction and other land use changes, based on a ~~capacity buy in~~capacity buy-in approach--. This approach applies to new users that are required to invest in the equity of the City's Public Water System at a rate that reflects prior investments by existing users per unit of total capacity to raise funds to meet the demands and impacts created by the new development connections to the City's water treatment and distribution facilities, inclusive of the system defined herein as the Public Water System--. The water development connection fee shall not apply to any capital projects, including new connections or repairs, improvements, replacements, or expansion of the public water system initiated by the City, as approved by the City Council.

§260A-5 Calculation of Fees

The water development connection fee is calculated as a per gallon per day charge by dividing the net equity in user paid capital assets by the capacity of the respective water system in gallons per day--. The portion of the water system capacity assigned to any new user is determined based on New Hampshire Water Usage Unit Design Standards, as contained in Table 1008-1 in Env-Wq 1000 of the New Hampshire Code of Administrative Rules--. The Code of Administrative Rules can be found at: <https://www.des.nh.gov/sites/g/files/ehbemt341/files/documents/2020-01/Env-Wq%201000.pdf>

§260A-6 Assessment and Collection of Fees

The water development connection fee will be assessed by the Department at the time of application only for new connections pursuant to Article I, §260-4--. The fee shall not be assessed for any existing connections or developments. The fees shall be collected at the time of application for connection in accordance with §260-4 above; however, the Department and applicant may establish an alternate, mutually acceptable schedule of payment of water development connection fees--. If an alternate schedule for payment of fees is established, the Department may require the applicant to post surety, in the form of a cash bond, letter of credit or performance bond to guaranty future payment of the assessed impact fees--. The Department and City reserve the right to annual review and amend the water development connection fees as necessary.

§260A-7 Waivers

A. An applicant may request a full or partial waiver from the Department of the water development connection fee assessments imposed by this ordinance--. The amount of any such waiver, including the value of the land, facilities constructed, or other like-kind contributions or improvements to be made by the applicant toward public capital facilities in lieu of a water development connection fee shall not exceed the value of the water development connection fee.

B. The applicant must exclude from a waiver application the value of any on-site and/or off-site contributions or improvements that the applicant is required by the Department or City to implement or construct as a result of a plan or development approval--. The required on or off-site contributions or improvements as a result of a plan or development approval by the City must be completed by the applicant in addition to or regardless of the water development connection fee under this ordinance--. The value of contributions or improvements proposed as a waiver to offset the connection fee by the applicant shall be credited only towards facilities of a like kind--. All costs incurred by the Department for the review of a proposed waiver, including reasonable consultant and counsel fees, shall be paid by the applicant requesting a waiver.

C. An applicant may apply to the Department for a waiver of a portion or the full amount of the water development connection fee, where such waiver application is accompanied by an independent fee calculation study that documents the proportionate capital cost impacts of the new connection or development--. The Department shall review any such study, and in its discretion, ~~and~~ make a recommendation to the City Manager as to whether a waiver should be granted or denied--. The City Manager shall approve all waiver applications--. All costs incurred by the Department for review of any such study shall be paid by the applicant.

§260A-8 Administration of Water Development Connection Fees

A. All funds collected shall be properly identified and promptly transferred for deposit into an individual capital facilities connection fee account for the water facilities for which fees are ~~assessed, and~~ assessed and shall be used solely for the purposes specified in this ordinance--. The water development connection fee account shall be a capital reserve fund account and the City shall not accrue these fee revenues to the general fund.

B. Payment, administration, collection, custody, and records for the water development connection fee account shall be done by the Finance Department upon the direction of the City Manager.

C. The Department shall make a report to the City Council at the end of the fiscal year providing an account of all public water system facilities funded through water development connection fees during the prior year, and the report shall also include a summary of all waivers granted during the prior year.

E. Funds withdrawn from the water development connection fee account shall be used solely for the purpose of acquiring, constructing, expanding, or equipping those public water system facilities identified in this ordinance.

§ 260A-9 Appeals.

Any party aggrieved by any decision, regulation, or provision under this Article, as amended, from time to time, shall have the right to appeal said decision first to the Department. The Department shall issue a decision within thirty (30) calendar days of receipt of the appeal. If said appeal is denied by the Department, then the aggrieved party shall have the right to appeal to the Utility Advisory Board within thirty (30) days.

§ 260A-10 Additional rules and regulations; amendments.

The City reserves the right to adopt, from time to time, additional rules and regulations as it shall deem necessary and proper relating to this Article, which additional rules and regulations, to the extent appropriate, shall be a part of this Article.

§ 260A-11 When effective

This Article shall be in full force and effect immediately following its passage, as provided by law.