

Codes and Ordinances Committee

Councilor Peter Lachapelle, Chair
Councilor Elaine Lauterborn, Vice Chair
Councilor Donna Bogan
Councilor Robert Gates
Councilor Ray Varney



AGENDA

CODES AND ORDINANCES COMMITTEE

Of the Rochester City Council

Thursday October 1, 2015

City Council Chambers

31 Wakefield Street, Rochester, NH

7:00 PM

1. **Call to Order**
2. **Public Input**
3. **Approval of the Codes and Ordinances Committee Minutes P-3**
 - **August 6, 2015**
4. **Pawnbrokers/Second Hand Dealers Ordinance Amendments**
 - **Current P-9**
 - **Proposed P-14**
5. **Out Door Dining Ordinance Proposed 26.10 P-19**
6. **Recreation, Parks and Youth Services, Arena Ordinance Amendments**
 - **Current P-23**
 - **Proposed P-31**
7. **Aggressive Panhandling Discussion P-33**
8. **Other**
9. **Adjournment**

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CODES AND ORDINANCES COMMITTEE

Of the Rochester City Council

Thursday August 6, 2015

City Council Chambers

31 Wakefield Street, Rochester, NH

7:05 PM

Committee Members Present

Councilor Peter Lachapelle, Chair
Councilor Elaine Lauterborn, Vice Chair
Councilor Donna Bogan
Councilor Robert Gates
Councilor Ray Varney

Others Present

Kelly Walters, City Clerk
Terence O'Rourke
Councilor Gray
Councilor Keans
Seth Creighton, Chief Planner
Michael Bezanson, City Engineer
John Ford, Resident Lorraine
Edgecombe, Resident
Pat Wilson, Resident

MINUTES

1. Call to Order

Councilor Lachapelle called the Codes and Ordinance Committee meeting to order at 7:05 PM. Kelly Walters, City Clerk, took a silent roll call. All Committee members were present.

2. Public Input

John Ford, 29 Forest Park Drive, addressed the Committee. He distributed a map of Forest Park Drive and called attention to the lots of land next to his property. He stated that a resident of 161 Milton Road has been discharging a weapon on/off for about a year and half. This has become an annoyance to the neighborhood and a safety issue for the children in the area. He believed the gun shots were being fired from the owner's driveway into a riverbank. More recently, the target practicing has increased with a more powerful sounding rifle. Mr. Ford voiced his concerns to the Rochester Police Department, but was told that the property owner was within his legal rights to use his rifle. He attended the meeting to find out if anything could be done to resolve this issue.

Attorney O'Rourke informed the Committee that he visited 161 Milton Road in Rochester earlier that day, along with members of the Building, Zoning, and Licensing Services Department. They found that the firing range being used supersedes the 300 feet State requirement and the shots are

fired into a small graveled hill. Attorney O'Rourke did not find any safety issues related to this firing range. He added that no "shooting" laws are being violated. The State law has limited the local governments from further regulating the use of firearms. He said the noise issues fall under another State law which again precludes the City from taking any action; however, the neighbors with whom the Building, Zoning, and Licensing Services spoke with earlier in the day did not have any noise complaints.

Attorney O'Rourke stated that the resident who is shooting off firearms has welcomed his neighbors to visit and see the firing range for themselves. He said the property owner is open for discussions with the neighborhood; however, so far no one from the neighborhood has contacted him. Attorney O'Rourke suggested that one of the Building, Zoning, and Licensing Services staff could mediate any communication between this property owner and the neighborhood, if necessary. The Committee had a lengthy discussion about the matter.

Lorraine Edgecombe, 58 Forest Park, addressed the Committee. She expressed her concern about children finding their way into the wooded area where shots are being fired. She agreed that this is a dangerous situation. Councilor Keans asked if the landowner had posted the land as "private property" or with signs that read "do not trespass." Mr. Ford replied that the property owner may have posted such signs many years ago, but did not believe the signs are posted now. The Committee discussed the matter further. It was determined that the State laws do not prohibit this activity and there is no recourse to for the residents at this time.

Councilor Lachapelle closed the Public Input portion of the meeting. **Note:** Councilor Gray informed the Committee that Patricia Wilson, 50 Forest Park Drive, arrived after the public input session; however, she wished to complain about the property located at 161 Milton Road, relative to the firearms matter. The discussion had already taken place and Councilor Gray told Ms. Wilson that he would relay her concerns to the Committee.

3. Approval of the Codes and Ordinances Committee Minutes

- **June 4, 2015**

Councilor Gates **MOVED** to **ACCEPT** the Codes and Ordinance Committee meeting minutes of June 4, 2015. Councilor Bogan seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

4. Green Infrastructure Grant - Chapter 50

Councilor Lachapelle said Chapter 50 is now available for review. He said the amended version of Chapter 50 had been worked on and reviewed by the Conservation Commission as well as the Planning Board.

Seth Creighton, Chief Planner, gave a brief overview of the project to rewrite Chapter 50 of the General Ordinances entitled *Stormwater Management and Erosion Control*. He noted that the City Council had approved using the Green Infrastructure Grant. He also noted that two of the key staff members involved with obtaining the grant and working on the material no longer work for the City of Rochester. He said that along with the proposed amendment to Chapter 50 there are two proposed changes to the Site Plan Regulations and Subdivision Regulations, which can be found attached to this set of minutes.

Mr. Creighton explained the benefits of using more of the natural land and adding plants for stormwater management, instead of the more conventional stormwater system that has proven not to work. He said the proposed amendments are derived from the best management practices for stormwater which have been adopted by the State of New Hampshire.

Councilor Gates asked if these regulations were created more for private developers or if they would include homeowners. Mr. Creighton replied that the regulations are for the development of land disturbing 5,000 square feet of existing or new impervious area and it is almost always a developer because not many homeowners meet this requirement.

Councilor Varney asked if all of the technical information could be found within Chapter 50 of the General Ordinances, or is some of the information found in another part of the General Ordinances. Mr. Creighton replied that all the information could be found in Chapter 50.

Councilor Varney suggested sending the proposed changes out to some of the local engineering firms for comment. Mr. Creighton concurred.

Councilor Keans said Section 50.8, "Standards for Redevelopment," does not mention "single family" dwelling. She asked what if a single-family dwelling meets the 5,000 square foot threshold. Mr. Creighton stated that section 50.8 deals specifically with redevelopment. Councilor Lauterborn questioned if the impervious area on a single-family unit would include the roof and the driveway. Mr. Creighton replied yes, and any other structure built on the lot, such as a shed.

Councilor Gates asked for a clear definition about "disturbed area" or "land disturbance." Mr. Bezanson, City Engineer, replied it is defined in

Chapter 50.14 (l) as follows: *Disturbed Area or Land Disturbance – An area where the natural vegetation has been removed exposing the underlying soil or where vegetation has been covered.*

Councilor Varney said there are existing subdivisions, with 1-acre lots [undeveloped], located in the Agricultural Zone. He asked if someone wished to construct a single-family home on such a lot, would the regulations of Chapter 50 apply in those cases. Mr. Creighton agreed to get back to the Committee with an answer to this question.

Councilor Lauterborn **MOVED** to send the final proposed version of Chapter 50 to the full City Council for a first reading and to refer the matter to a public hearing. Councilor Gates seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Mr. Creighton suggested allowing the engineering firm who was involved with the rewrite of this ordinance to attend a City Council meeting in order to answer questions about the draft ordinance. Councilor Varney said it would be a good idea, but to wait until the matter is at the public hearing.

5. Discussion - Fireworks

Councilor Lachapelle received a few phone complaints about fireworks being set off during the July 4th weekend. Councilor Lachapelle said the fireworks ordinance seems strict enough for the City of Rochester. Councilor Varney said the Police Department reported 13 complaints following the July 4th weekend; however, not all have been substantiated.

Councilor Varney said the City is depending on the police officers to respond to complaints about fireworks and determine if the fireworks being set off are in compliance with the existing City ordinance. He said a permit application approved by the Fire Department would seem more efficient. He said in this way, a firefighter would inspect the site ahead of time to ensure there is enough space to set off fireworks. The Committee briefly discussed the idea. This matter will stay in Committee. Councilor Varney said the City should do a better job of informing the public of the existing fireworks ordinance, especially since fireworks cannot be set off in the streets of Rochester. Councilor Lachapelle requested a detailed report for the next meeting regarding the fireworks complaints from the Fire Department and the Police Department, from June 1st until the end of August.

6. Discussion – Panhandling

The Committee discussed the problems occurring with panhandlers in the City of Rochester. Councilor Lachapelle referred to the written complaints

found in the packet. The Committee briefly discussed the aggressive behavior of some of the panhandlers. Councilor Lachapelle said the City of Rochester offers services for those in needy situations and if people would give to the services rather than to the needy people themselves the problem would go away. Councilor Varney said thousands of communities are educating the public and posting signage to decrease panhandling. Councilor Lauterborn said there are basically two reasons a person gives money to a panhandler. The first is that they believe that the panhandler is homeless or, second, because they are afraid.

Councilor Lachapelle said any signage must be consistent throughout the City. Councilor Keans did not believe spending money on signs would resolve the issue. Councilor Bogan countered that signage would help with informing the tourist. Councilor Gray said it would make sense for the Chamber of Commerce to get involved and encourage businesses to post such signs; the City should not be involved with paying for the signs or providing informational cards to the public.

Attorney O'Rourke suggested that Todd Marsh, Welfare Director, and the City Manager could work on a public announcement regarding panhandling. Councilor Gates suggested that a public announcement should be made at City Council meetings. Councilor Varney added that a five-minute video or screen shot of how to stop panhandling could be broadcast prior to each City Council meeting. Attorney O'Rourke suggested sending out a press release.

The Committee debated the matter and talked about the legalities of the issue. It was determined that this discussion would be brought to the next Regular City Council meeting under the Codes and Ordinances Committee Report to review some of these suggestions. Councilor Lachapelle requested the panhandling signs be included with the minutes.

7. Certification of Chapter 42 - Separate Attachment to the Packet

Councilor Gates **MOVED** to certify the electronic version of Chapter 42. Councilor Lauterborn seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Varney asked how these amendments would be advertized, especially the sign ordinance. Ms. Walters said that a press release would be sent out soon. Councilor Varney suggested that the Planning Department should inform the Chamber of Commerce and the Rotary of the changes, as well.

Councilor Lauterborn asked if these amendment changes were in effect now. Councilor Varney replied yes; however, the word should be given out as much as possible.

8. Other

No discussion.

9. Adjournment

Councilor Gates **MOVED** to **ADJOURN** the Codes and Ordinances Committee meeting at 8:30 PM. Councilor Bogan seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Respectfully submitted,

Kelly Walters
City Clerk

Addendums to the Codes and Ordinances minutes:

- Memorandum regarding Chapter 50, *Stormwater Management and Erosion Control* P. 7
- Proposed Chapter 50: *Stormwater Management and Erosion Control* P. 8
- Proposed Changes to Subdivision Regulations – Section 5.4 *Drainage* P. 36
- Proposed Changes to Site Plan Regulations – Section 13 *Stormwater Management* P. 41
- Posters to stop panhandling P. 44

CHAPTER 26**PUBLIC LICENSE****SECTION ANALYSIS**

- 26.1 Licensing Board Established
- 26.2 Licenses Required
- 26.3 Pawnbroker's License
- 26.4 Junk Dealer's License
- 26.5 Boxing and Wrestling Exhibitions
- 26.6 Public Dances, Circuses, Parades, etc.
- 26.7 Moving of Buildings Through Streets
- 26.8 Bowling Alleys and Billiard Tables
- 26.9 Soliciting Funds

26.1 Licensing Board Established.

There is hereby established a Licensing Board for the City of Rochester which shall consist of the City Manager, Chief of Police, and one other person to be appointed by the Mayor in accordance with the provisions of Section 74 of the Rochester City Charter, at the first January meeting of the City Council following the regular municipal election for a term of two (2) years. The Licensing Board shall have such powers and duties as are prescribed in RSA 286.

26.2 Licenses Required.

The Licensing Board may grant blanket licenses to theaters and in such case the licensee shall pay in advance the following fees: (1) For the public showing of moving pictures, \$50.00 for the first three months and \$20.00 for every three months thereafter; (2) For exhibitions, vaudeville, entertainment, and presentations other than moving pictures or in addition to moving pictures, \$100.00 for the first three months and \$75.00 for every three months thereafter, provided, however, that if a licensee has paid a fee for a license for a motion picture, the fee for occasional exhibitions, vaudeville, entertainment and presentations shall only be such sum in addition to a motion picture fee as the Board may deem just and reasonable; but the fee for a license to exhibit in any hall shall not exceed \$50.00.

26.3 Pawnbroker's License.

The provisions of RSA 398 relative to pawnbrokers are hereby accepted. A pawnbroker's license shall designate the place where the licensee may carry on his/her business and the licensee shall not carry on said business at any other location within the City. The fee for a pawnbroker's license or any renewal thereof shall be \$50.00 a year, payable in advance.

26.4 Junk Dealer's License.

The fee for a junk dealer's license or any renewal thereof granted under the provisions of RSA 322 shall be \$50.00 a year, payable in advance.

26.5 Boxing and Wrestling Exhibitions.

The holding of boxing and/or wrestling exhibitions or bouts within the City of Rochester, under license issued by the New Hampshire State Athletic Commission and permit issued by the Licensing Board of the City of Rochester, is hereby permitted and authorized, subject to the provisions of the statutes of the State of New Hampshire relating to athletic exhibitions. No permit for the holding of boxing and/or wrestling exhibitions or bouts within the City of Rochester shall be issued by the Licensing Board unless the place for holding such exhibition or bout shall have been approved by majority vote of the City Council. After issuance by the Licensing Board, the City Council may revoke or suspend said permit after hearing for any cause which the Council may deem sufficient. The fee for such permit shall be \$25.00 per day.

26.6 Public Dances, Circuses, Parades, etc.

Unless a license therefore shall first have been obtained from the Licensing Board, no person shall conduct a public dance, circus or carnival, theatrical or dramatic representation, parade or procession upon any public street or way, and no open air public meeting upon any ground abutting a public street or way or any party or gathering on private property which party or gathering is open to the general public. The fee for such permit shall be \$2.00.

26.7 Moving of Buildings Through Streets.

In addition to the requirements of Section 15.7 hereof, no person shall move, or assist in moving any house, shop or other building through any street, lane, or alley without first obtaining a written license therefore from the Licensing Board. The fee for such license shall be \$25.00.

26.8 Bowling Alleys and Billiard Tables.

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

26.9 Soliciting Funds.

The actual issuance of permits in accordance with RSA 31:91 shall be exercised by the Licensing Board. There shall be no fee for such permits.

CHAPTER 34

JUNK AND SECOND-HAND DEALERS

SECTION ANALYSIS

- 34.1 Junk Dealer Defined
- 34.2 Second-Hand Dealer Defined
- 34.3 Licenses Required
- 34.4 License Applications
- 34.5 License Revocation/Expiration
- 34.6 Purchases from Minors
- 34.7 Second-Hand Dealers' Records
- 34.8 Junk Dealers' Records
- 34.9 Exclusions
- 34.10 Penalty
- 34.11 Severability

34.1 Junk Dealer Defined. A “junk dealer,” within the meaning of the provisions of this ordinance, shall be a person, firm or corporation engaged in the purchase, sale or barter of old iron, steel, chain, aluminum, brass, copper, tin, lead or other base metals, belting, waste paper, old rope, old bags, bagging barrels, piping, rubber, glass, empty bottles and jugs of all kinds and quantities of less than (1) gross, and all other articles discarded or no longer used as manufactured articles composed of any one (1) or more of the materials hereinbefore mentioned.

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

34.3 License Required. No person, firm or corporation shall engage in the business of junk dealer or second-hand dealer as herein defined unless licensed therefore by the Licensing Board.

34.4 License Applications. Applications for licenses shall be made to the Licensing Board and filed with the Director of Building, Zoning, & Licensing Services Department upon blanks furnished by the Director of Building, Zoning, & Licensing Services Department for that purpose, and shall be submitted by the Director of Building, Zoning, & Licensing Services Department to the Chief of Police who shall cause an investigation to be made of the fitness of the applicant to engage in the business of a junk dealer or second-hand dealer and report his findings to the Licensing Board before such license is acted upon by the City Council. The license fee for each license shall be Fifty Dollars (\$50.00) per year payable in advance to the Building, Zoning, & Licensing Services Department. There shall be no fee for non-profit charitable organizations, public schools, and public institutions. [1]

The Licensing Board, after a satisfactory investigation by the Police Chief, may issue a temporary license to existing junk or second-hand dealer establishments when there is only a change of ownership. [3]

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

34.6 Purchases from Minors. No junk dealer or second-hand dealer shall, directly or indirectly, either purchase or receive by way of barter or exchange, any of the articles aforesaid, of a minor under the age of eighteen (18) years, knowing or having reason to believe him to be such; except when said minor shall be accompanied by a parent or legal guardian who shall sign the transaction record in person before said dealer.

34.7 Second-Hand Dealers' Records. Every second-hand dealer, upon acquisition of any article either by purchase or exchange, enumerated in Section 34.2 hereof, shall prepare and keep a written record of the transaction stating the full name, address, month, day and year when the transaction took place, and a full, accurate, and detailed description of each article so purchased or exchanged, with the price paid thereof, and cause said record to be signed by the seller in person. A copy of said record shall be available for inspection by any Rochester Police Officer or the Rochester Director of Building, Zoning, & Licensing Services Department at any and all times.

34.8 Junk Dealers' Records. Every junk dealer, upon the acquisition of any items, enumerated in Section 34.1 hereof, shall keep a permanent record of such transactions which shall include a full, accurate, and detailed description of the item with the full name and address of the seller, together with the registration number of any vehicle used by the said seller in delivery of said items and the month, day and year of the said transaction. A copy of said record shall be available for inspection by any Rochester Police Officer or the Rochester Director of Building, Zoning, & Licensing Services Department at any and all times.

34.9 Exclusions. Specifically excluded from the provisions of this Chapter 34 are the following:

- (1) Antique dealers
- (2) Purchases from private residences
- (3) Wearing apparel stores

34.10 Penalty. Any person, firm, corporation or association violating any of the provisions of this ordinance, in addition to the revocation of his/her license, shall be liable to a fine or penalty of not more than One Hundred (\$100.00) Dollars for each offense.

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

[1] Amended 5/1/07

[2] **Amended 10/15/2013** – Director/Department of Code Enforcement to Director/Department of Building, Zoning, & Licensing Services

[3] Amended Section 34.4 on 2/3/2015

26.3 Pawnbroker's License.

(a) - - -

(b) All pawnbrokers shall be subject to the holding period restrictions and requirements set forth in Section 34.7 of the General Ordinance of the City of Rochester.

34.7 Second-Hand Dealers' Records and Inspection.

(A) Every pawnshop or secondhand dealer, upon acquisition of any article enumerated in Section 34.2 of the Ordinance, shall prepare transaction records electronically as directed by the Chief of Police or his designee, and submit said form electronically, detailing the proven identity of the seller including his name, date of birth, address, type of identification and identification number if there is one. A digital photograph of said person shall accompany the electronic filing of the transaction. Only government issued forms of identification will be accepted. No transaction shall occur if the identity of the seller cannot be proven. The record of the transaction shall also contain the month, day, and year when the transaction occurred as well as full, accurate, and detailed description of each article purchased brand name and serial number, if any, with the price paid therefor, and cause the record to be signed by the seller in person along with a digital color photograph of the property pursuant to the following requirements:

(1) *Individually identifiable articles.* Articles that are individually identifiable by a serial number or other applied numbers, letters, characters or markings or other unique features that serve to distinguish it from any other similar article and can be used to establish ownership.

a. Each individually identifiable article brought in to a pawnbroker or secondhand dealer for sale, barter, trade, pledge or pawn during a single transaction shall be itemized separately. Articles shall not be grouped together (i.e. five gold monogrammed rings), but must provide a complete and thorough description of each item to include the following:

1. Type of article;
2. Brand name/make/manufacture (if applicable);
3. Model number (if applicable);
4. Serial number (if applicable);
5. Color/finish; and
6. Any other identifying marks, writing, engraving, etc.

b. A digital photograph(s) shall be taken of each individually identifiable article, sufficiently detailed to allow reasonable identification of the article. The digital photograph(s)

Proposed

shall capture any identifying numbers, marks, writing, engraving, etc., or any other distinguishing characteristics.

(2) *Non-individually identifiable articles.* Articles that cannot be distinguished from any other similar article may be described in groups of similar types of articles, but only within the same transaction.

a. Non-individually identifiable articles brought into a pawnbroker or secondhand dealer for sale, barter, trade, pledge or pawn during a single transaction may be grouped and shall include reasonable descriptions of the number and types of items within each group to enable the Police Department to determine if they may have been stolen during a particular crime. (For example, the licensee receives a video game controller, five video game discs, and numerous items of jewelry. The licensee would have to individually itemize and photograph the video game controller as outlined in (A)(1) above, as it would have a serial number. The remaining items shall not be listed as "miscellaneous video games and jewelry." Instead, the licensee shall describe them as follows: "five video game discs to include the following titles..." and "miscellaneous jewelry to include two yellow gold necklaces, one silver necklace, two pairs of silver earrings, one women's yellow gold ring, one women's white gold diamond ring and two silver bracelets.")

b. A colored digital photograph(s) shall be taken of each group of similar types of articles within the same transaction. The articles may be photographed together as a group but each individual article shall be visible in the photograph. (For example, given the circumstances outlined in (A)(2)(a) above, the five video game discs would be photographed together as a group, side-by-side, and the jewelry items would be photographed together as a group with each item laid out so to be individually viewable.)

(B) When filed electronically, a copy of the record shall be forwarded to the Police Department or authorized data storage site as soon as possible, but no later than 24 hours after completion of the transaction. The dealer shall retain a copy of the record at his local place of business for one year from the date of transaction which, along with any article therein listed, may be inspected by any duly authorized police officer. No article so purchased shall be sold, changed, altered in its appearance or otherwise within 30 days after the purchase thereof, except with written consent of the Chief of Police or his designee. All items purchased or pawned shall remain on the premises during the waiting period. Every pawnshop, or secondhand dealer, auctioneer, or auction house, upon final sale of a secondhand article enumerated in Section 34.2, shall prepare and maintain at his local place of business, a record of the sale detailing the proven identity of the buyer including his name, date of birth, address, and type of identification. The record shall also contain a description of the article sold including brand name and serial number, if any, and the price paid therefor. The record shall be available at the local place of business for inspection by any duly authorized police officer for one year from the date of transaction.

(C) Every pawnshop or secondhand dealer that purchases an item in which a transaction record must be prepared pursuant to Section 34.7 of the Ordinance shall pay to the City of Rochester a annual fee of \$300.00 and a fee of \$1.00 per transaction due in full the second Tuesday of every month, for the preceding month.

34.8 Junk Dealers' Records and Inspection.

(A) Every junk dealer, upon the acquisition of any item enumerated in Section 34.1 of the Ordinance, shall prepare transaction records electronically as directed by the Chief of Police or his designee. When filed electronically, a copy of the record shall be forwarded to the Police Department or authorized data storage site as soon as possible, but no later than 24 hours after completion of the transaction. The electronic record shall detail the proven identity of the seller including his name, date of birth, address, type of identification, and identification number if there is one. Only government issued forms of identification will be accepted. If the identity of the seller cannot be proven, no transaction may occur. Furthermore, a digital photograph of said person shall accompany the electronic filing of the transaction. The owner, corporation, or company shall maintain at his local place of business, a record of the transaction detailing the proven identity of the seller. The record shall include a full, accurate, and detailed description of the item, including brand name and serial number, if any, along with a color digital photograph of item(s) pursuant to the following photographing requirements:

(1) Articles that cannot be distinguished from any other similar articles may be described in groups of similar types of articles, but only within the same transaction by the same customer. Licensees/owners/employees shall provide reasonable descriptions of the number, weight and/or types of items within each group to enable the Police Department to determine if they may have been stolen during a particular crime.

(2) A colored digital photograph(s) shall be taken of each group of articles, provided however, that similar types of articles contained within some type of container does not have to be photographed individually. A color digital photograph of the container and a reasonable representation of its contents will be sufficient.

(B) All electronic records submitted by junk dealers and/or scrap yards shall also include a complete and accurate description of any vehicle used by the seller, to include year, make, model, color, registration number and state, to be included with the electronic filing of the transaction. The record shall also include the day, month, and year when the transaction occurred. The record shall be available at the local place of business for inspection by any authorized police officer for one year from the date of transaction.

(C) Every junk dealer and/or scrap yard that purchases an item in which a transaction record must be prepared pursuant to Section 34.8 of the Ordinance shall pay to the City of Rochester a annual fee of \$300.00 and a fee of \$0.50 per transaction due in full the second Tuesday of every month, for the preceding month.

34.9 Exclusions.

(1) Any person, firm, partnership or corporation whose business is the retail buying, selling, buy-back, exchanging, dealing in or dealing with furs, fur coats, books, magazines, used furniture, used clothing, or used motor vehicles/motorcycles by legally recognized vehicle dealerships, shall be exempt from the requirements of Sections 34.7 and 34.8.

(2) Coins or stamps sold/purchased in bulk may be resold to individuals or wholesalers without record, provided that the sale/purchase occurs after the 30-day hold period and the photographing requirements of Sections 34.7 and 34.8 have been met.

(3) Purchases from private residences by citizens not engaged in secondhand dealer type business are exempt from the provisions of Chapter 34.

(4) An organization that purchases secondhand goods, whether directly or indirectly, from a not-for-profit organization and does not purchase any secondhand goods from the general public is exempt from the provision of Chapter 34.

(5) Antique dealers are exempt from the provisions of Chapter 34.

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CHAPTER 26**PUBLIC LICENSE****26.10 Use of City Property for Outdoor Dining.**

1. Requests for use of City property for outdoor dining providing food and alcohol service shall be made in writing to the City Manager on an annual basis by February 1st with no expectation of continued year-to-year use of the City property on a continuing basis. Requests will only be accepted by businesses licensed to serve food to the public. In the event that a new business opens during the outdoor dining season and wishes to incorporate outdoor dining in its plans, an application will be allowed for the remainder of the dining season only.
2. Such requests shall include a dimensioned site plan of the existing conditions, including a depiction of public infrastructure such as curb lines, light poles, bike racks, street trees, tree grates, manhole covers, meters, licensed A-frame signs, adjacent on-street parking and loading zones, adjacent accessible sidewalk curb cuts and the like. Such requests shall also include a dimensioned site plan depicting the proposed table/chair layout plan for outdoor dining dimensioned routes of travel within the outdoor dining area and on the adjoining public sidewalk, as well as detail sheets for the proposed enclosure system, tables, chairs, lighting, trash receptacles, and the like. These plans will be reviewed by the TRG and suggestions forwarded to the City Manager.
3. The terms and conditions of any such requests that are approved by the City Manager in any given year shall be described in an annual Area Service Agreement, which includes a clear depiction of the area approved for outdoor dining use and the time period of approved use ("Season"), with said Area Service Agreement to be signed by the City Manager and the party or parties making the request. The Season shall run from May 1st through the day after Columbus Day.
4. Area Service Agreements shall not be assignable to other parties.
5. Use of the Area subject to the Area Service Agreement (the "Area") may be precluded, modified or made subject to any such terms and conditions as may be determined by the City Manager in order to accommodate special municipal events.
6. A ten dollar (\$10.00) per square foot fee will be charged for the Area subject to the Area Service Agreement and the fee shall be for the Season with no proration of the fee. The minimum fee for the season shall be \$1,000 even if the size of the Area subject to the Agreement is less than 100 square feet. The fee shall be due and payable to the City of Rochester prior to authorization to use the Area.
7. The Area specified for outdoor dining use in the Area Service Agreement shall be restored upon termination of the Area Service Agreement at season's end. Specifically, at season's end, the enclosure system, tables, chairs and all other materials in their entirety shall be removed from the City-owned area with the area left in an unobstructed, undamaged, clean and sanitary condition at no cost to the City.

8. Outdoor dining establishments on City property shall indemnify and hold harmless the City of Rochester and shall maintain and provide insurance of the types and amounts specified by the City's Legal Department and shall list the City as additional insured.
9. Outdoor dining establishments shall not damage sidewalks, curbing, bike racks, street trees, light poles, trash containers, utilities or any other City amenities or infrastructure, or make same inaccessible for public use or maintenance purposes.
10. Outdoor dining establishments may utilize the Area for authorized purposes during their normal business hours, except that all tables within the Area shall be cleared of all food and alcoholic beverages by 11:00 p.m. Monday through Saturday and by 10:00 p.m. on Sunday with no alcohol served within the Area subsequent to one-half hour before the foregoing closure times.
11. Outdoor dining establishments shall agree at all times to comply with all laws, rules and regulations of the NH State Liquor Commission and all other local, state and federal laws. Approval of the Area Service Agreement by the State Liquor Commission is required. Alcoholic beverage violations shall be self-reported to the State Liquor Commission and the City Manager. See RSA 178:24 and RSA 179:27.
12. Outdoor dining establishments shall only serve alcoholic beverages to patrons who are seated at a table and who are ordering food with service at tables conducted by wait staff only.
13. Outdoor dining establishments will agree that they shall be solely responsible for compliance with the Americans with Disabilities Act.
14. The Area Service Agreement may be suspended at the sole discretion of the City on an administrative basis.
15. The Area Service Agreement may be revoked in its entirety, excepting for indemnity provisions, by the City Manager at any time.
16. Outdoor dining establishments with alcohol service should meet the following site design standards:
 - a) Be separated from the public pedestrian space on the adjacent municipal sidewalk by an enclosure system consisting of heavy duty black decorative metal materials or equivalent as approved by the City Manager or his designee; special attention shall be paid to the method used to support the enclosure system in order to avoid damage to public property and insure public safety; the minimum height of the enclosure system shall be 30 inches and the maximum height shall be 36 inches.
 - b) Outdoor dining establishments shall have live entertainment of any type located outside, and no visual entertainment shall be situated on the inside of the building in such a manner that it is directed to patrons in the outdoor dining area.
 - c) For those outdoor dining establishments serving alcohol, seating shall be appurtenant and contiguous to a doorway accessing the main restaurant facility with service provided within the Area approved by the City Manager.

- d) The internal dimensions and table/chair layout of the outdoor dining Area must allow for the passage of customers and wait staff and shall, in any event, meet ADA requirements.
 - e) Outdoor dining establishments must provide a 5-foot radius clearance from the center of restaurant doorways (exterior) and doorways shall be kept clear at all times and a 5-foot minimum clear pedestrian path in front of restaurant doorways (exterior) shall be maintained at all times.
 - f) The enclosure system, tables and chairs shall be movable/non-permanent.
 - g) In all areas where outdoor dining establishments are allowed the width for the pedestrian way adjacent to the Area shall, at a minimum, be 3-feet and, in any event, meet ADA requirements, but will depend on site conditions. The pedestrian way in both instances shall allow for and provide clear unimpeded passage and access along the Area. The pedestrian way shall be located entirely on the public sidewalk and shall meet criteria that ensure pedestrian safety, usability and ADA compliance. In no event shall the Area interfere with accessibility or public safety, including safe lines of sight for drivers.
 - h) Canopies over the outdoor dining areas shall not be allowed unless they are completely supported by hardware on the building structure, that is, there shall be no vertical supports in or around the outdoor dining. Table umbrellas are allowed, but must not extend beyond the Area.
 - i) No primary advertising of any kind shall be allowed in the Area.
 - j) No improvements or personal property located within the Area shall extend on or over any City property located outside the Area.
17. Outdoor dining establishments shall agree at all times to comply with all local laws, rules regulations and orders including, but not limited to the following:
- a) Health Department to approve outdoor food service operations and cleaning operations, with the Area to be left in a clean and sanitary condition at all times and no outdoor garbage containers will be permitted. The Area shall be left in clean condition at close of business with all garbage removed in its entirety from the Area, and any ground debris swept up, at close of daily business. No food prep, grilling, service windows, service counters, wait stations, or bus buckets shall be allowed in the Area and no condiments, paper products or the like shall be stored on the tables in the Area. Health Department shall review/approve that kitchen facilities are sufficient to support additional seating.
 - b) The Director of Buildings, Zoning and Licensing shall review/approve that bathroom facilities are sufficient to support outdoor dining seating.
 - c) Only decorative lighting shall be permitted.
 - d) A Place of Assembly inspection and updated Place of Assembly permit shall be required from the Fire Department and the Fire Department shall review/approve means of egress as part of the TRG process.
18. No Area Service Agreement should be approved by the City Manager except in conformance with the foregoing.

19. The above are policy guidelines that will serve as the basis for Area Service Agreements, which may include other terms and conditions deemed by the City Manager to be in the public interest.
20. The number and location of Outdoor dining establishments on City property shall be at the sole unfettered discretion of the City Manger acting in the public interest and no entitlement is created by this policy for any party to have a outdoor dining at any location.

This Ordinance shall take effect upon the passage by the City Council.

Adjustment, each to serve for a term of three (3) years, in accordance with the provisions of Chapter 673 of the New Hampshire Revised Statutes Annotated as presently enacted or the corresponding provisions of any recodification or amendment of the New Hampshire Revised Statutes Annotated.

3.8 Licensing Board.

(a) The composition, functions, powers and duties of the Licensing Board shall be as provided by ordinance.

3.9 Conservation Commission.

(a) The City of Rochester hereby adopts the provisions of Chapter 36-A of the New Hampshire Revised Statutes Annotated as presently enacted or the corresponding provisions of any recodification or amendment of the New Hampshire Revised Statutes Annotated.

(b) The Conservation Commission shall consist of seven (7) members, one of whom may be a member of the Planning Board. Members of the Commission shall be appointed by the Mayor in accordance with the provisions of Section 74 of the Rochester City Charter for terms of three years. The terms of members of the Commission shall be so arranged that two regular members of said Commission shall be appointed annually and a chairman shall be appointed every third year by the Mayor. Vacancies shall be filled for the unexpired terms. One alternate member of the Commission shall be appointed in the same manner as regular members of the Commission for a term of three years, and when such alternate serves in the absence or disqualification of a regular member, he shall have full voting powers." [1]

(c) The functions, duties, and powers of the Conservation Commission shall be as provided in Chapter 36-A of the New Hampshire Revised Statutes Annotated as presently enacted or the corresponding provisions of any recodification or amendment of the New Hampshire Revised Statutes Annotated.

3.10 Recreation, Parks and Youth Services Commission.

(a) The composition, functions, powers and duties of the Recreation Parks and Youth Services Commission shall be as provided by ordinance.

3.11 Board of Assessors.

(a) The composition, functions, powers and duties of the Board of Assessors shall be as provided in Section 20 of the Rochester City Charter, state statutes, and/or ordinance.

3.12 Economic Development Commission.

(a) The Economic Development Commission shall consist of eleven (11) members, two (2) of which members shall be ex-officio members. Nine (9) of the initial members of the Commission shall be those currently serving on the commission. Thereafter, three (3) members shall be elected annually for a term of three (3) years with vacancies being filled by the City Council for any unexpired terms. The initial election shall be so arranged that one-third of the members may be elected each year. After the initial election, the three (3) annual vacancies shall be filled by the Mayor in accordance with Section 74 of the City Charter. The Economic Development Commission shall recommend at least two (2) persons from the private sector to the Mayor each

year as potential nominees. In all cases, election shall be by the City Council. Members shall be chosen for their expertise, experience and abilities in business, industry, finance, real estate, government and law. A majority of the members shall reside within the City of Rochester and up to four (4) of the elected members may reside outside of the City, provided, however, that any elected member residing outside of the City shall maintain a place of business, or shall be employed within the City, while serving as a member of the Commission. The Mayor and the Economic Development Director shall be ex-officio, non-voting members of the Commission.

(b) The Chairman shall be appointed annually by the Mayor and the Commission shall elect from its members such other officers and committees as it deems necessary.

(c) The Economic Development Commission shall perform the following functions:

(1) Promote the City of Rochester, through advertising, prospect development and other means, as an attractive location for industrial and business expansion;

(2) Assist prospects interested in evaluating Rochester as a potential industrial or business location; act as the official agent of the City Government in matters pertaining to economic development;

(3) Undertake appropriate actions to encourage the continued availability of marketable industrial/commercial sites within the City, including:

(A) Advising the Mayor, Council and Departments concerning planned capital improvements, municipal programs or actions which may affect the City's future economic growth;

(B) Conducting studies to determine suitability and development potential of industrial/commercial sites within the City; and,

(C) Assisting interested site owners and/or their agents in marketing available industrial/commercial properties;

(4) Utilize available industrial/commercial development financing programs to provide an attractive source of financing for local plant construction or expansion;

(5) Act as the City's liaison with existing business and industry located in the Greater Rochester Area, to insure maintenance of good relations, encourage the City's responsiveness to industry needs, and foster expansion of the City's established industrial/commercial base; and,

(6) Identify and secure funding from Federal, State, and local governmental and private sources to carry out the Commission's approved programs.

(7) Serve as Rochester's Business and Industrial Development Authority in accordance with the provisions of Chapter 162-G of the New Hampshire Revised Statutes Annotated, as amended.

(d) In performing the functions listed in Section (c) above, the Commission shall be empowered to:

(1) Operate flexibly within the limitations of formal economic development policies adopted by the City Council;

(2) Submit annually to the Mayor and Council a proposed work program and funding request for staffing, consultants, advertising, travel, etc., necessary to carry out its program, for inclusion in the City's annual operating budget;

(3) Apply for, receive, and administer grants from Federal, State, and other public sources;

(4) Receive and administer funds raised from private sources;

- (5) Carry out all other functions and responsibilities as outlined in Section (c) above;
- (6) Submit annually to the Mayor and City Council a report of the preceding year's activities.
- (7) Serve as Rochester's Business and Industrial Development Authority and exercise the powers and duties granted to such business and industrial development authority by RSA 162-G, as amended, except those powers and duties relating to findings and approvals which are the exclusive duties of the City Council; and, provided, further, that the exercise of such powers and duties of the Commission shall be subject to the following limitations, to wit:
- (A) No lease, sublease, purchase agreement or other instrument executed, or entered into by the Economic Development Commission shall obligate the City of Rochester to make expenditures in excess of appropriations received from the City Council and/or bonds authorized by the City Council and issued by the City of Rochester pursuant to the provisions of RSA 162-G, or of funds received or to be received under the provisions of a lease, sublease or other instrument. This prohibition is not intended to limit the Commission's authority with respect to the application for, receipt and administration of funds referred to in subparagraphs 2, 3, and 4 above.
- (B) The Commission shall not be authorized to issue bonds, i.e. any evidence of indebtedness issued to finance a project in whole or in part. The authority to issue bonds pursuant to the provisions of Chapter 162-G of the New Hampshire Revised Statutes Annotated shall be vested in the City Council.
- (C) All funds of the Commission shall be kept and accounted for as an enterprise fund of the City of Rochester, no matter their source. Funds appropriated by the City Council for the Economic Development Department shall not be considered funds of the Commission for the purposes of this subparagraph.
- (D) All actions of the Commission under RSA Chapter 162-G shall be authorized by resolutions of the Commission passed on the affirmative votes of at least two-thirds of the Commission members present and voting, subject to the voting restrictions provided for in RSA 162-G:15, III. Actions of the Commission which are not taken under RSA 162-G shall be authorized by the Commission on the affirmative votes of a majority of the Commission members voting, unless otherwise provided by law. [5]

3.13 Arena Advisory Commission.

- (a) The Arena Advisory Commission shall consist of seven (7) members appointed in accordance with the provisions of Chapter 74 of the City Charter. The members of the Arena Advisory Commission shall be residents of the City of Rochester, provided, however, that up to two members of said Commission may be non-residents of the City of Rochester provided, that at the time of the election of such individuals to the Advisory Commission, such individuals are associated with communities or organizations utilizing the Rochester Arena facilities. The term of office of Arena Advisory Commission members shall be three (3) years, provided, however, that the terms of the initial members of the Commission be so arranged so that three members shall serve for a term of one (1) year, two members shall serve terms of two (2) years, and two members shall serve terms of three (3) years, with the successors of all members being appointed for three (3) year terms.
- (b) The Chairman of the Rochester Arena Commission shall be appointed annually by the Mayor and the Commission shall elect from its members such other officers and committee as it deems

necessary.

(c) The Arena Advisory Commission shall perform the following functions:

(1) Aid, assist, and advise the Arena Director in formulating plans for maintaining, equipping, operating, and regulating the arena facility and establishing a fee schedule for the use thereof.

(2) The Commission shall inform itself of the ways and means by which its plans and programs for the development and use of the arena facility may best be achieved and may advise the Arena Director, the City Council, and the public of the manner in which such objectives may best be accomplished.

3.14 Utility Advisory Board.

(a) In accordance with the provisions of Section 19 of the Rochester City Charter, the Utility Advisory Board shall consist of five members, which members shall be appointed in the manner and for such term as provided for in Section 17.27 of the General Ordinances of the City of Rochester.

(b) The Utility Advisory Board shall perform the following functions:

(1) Make recommendations to the City Council, from time to time, on the level of sewer and water rates to be charged pursuant to the provisions of Chapters 16 and 17 of the General Ordinances of the City of Rochester, but such recommendations shall not be binding on the City Council.

(2) Hear and decide appeals of such matters relating to the sewer and water usage and connections as shall be assigned to the Board by ordinance or resolution adopted by the City Council.

(3) Perform all other related functions as required. [2]

3.15 Arts and Culture Commission.

(a) Definition. For the purpose of this ordinance, “Arts and Culture” encompasses a wide range of activities, including painting, sculpture, other fine and folk arts, crafts, popular culture, music, theater, dance, film, other performance arts, architecture, archeological resources, cemeteries, literature, history, community/cultural heritage, agriculture, and other elements consistent with the intent of this section.

(b) Purpose of the Commission. This ordinance is established by the Rochester City Council pursuant to NH RSA’s 47:17 XV and 674:2, III (h). The geographic focus of the Arts and Culture Commission’s activities shall be Rochester, but when appropriate, the Arts and Culture Commission may work to promote arts and culture in the Greater Rochester area, consistent with the intent of this section. The purpose of the Arts and Culture Commission (or “the Commission”) is to implement the Arts and Culture Resources Master Plan by:

CHAPTER 21**RECREATION, PARKS AND YOUTH SERVICES**

SECTION ANALYSIS

- 21.1 Definitions
- 21.2 Conduct Prohibited in Parks
- 21.3 Function of Commission
- 21.4 Term and Officers of Commission
- 21.5 Duties of Director
- 21.6 Uses of Parks
- 21.7 Finances
- 21.8 Penalties

21.1 Definitions.

(a) Park. The term “park” or “parks” shall include all parks, playgrounds, athletic fields, tennis courts, swimming pools, band shells, music pavilions, recreation areas, parking lots, and structures under the jurisdiction of the recreation director now owned or hereafter acquired by the City of Rochester for park or recreation purposes.

(b) Permit. Any written authorization issued by or under the authority of the Director permitting specified park privileges.

(c) Commission. The Rochester Recreation, Parks and Youth Services Commission. This commission shall consist of seven (7) residents of the City to be nominated by the Mayor and elected by the Council, in accordance with the provisions of Section 74 of the Rochester City Charter, as follows: one member from the City Council, one member from the School Board, and five interested citizens, at least two of which interested citizens shall be involved in non-recreation youth services.

(d) Director. The City Manager, in accordance with the provisions of Sections 15 and 18 of the Rochester City Charter, shall appoint a Director of Recreation, Parks, and Youth Services for the City of Rochester, who shall be the department head of the Rochester Department of Recreation, Parks and Youth Services.

21.2 Conduct Prohibited in Parks.

(a) Disturbing the Peace. No person shall disturb the peace in any park by any act.

(b) Immorality and Indecency. No person shall do any obscene or indecent act in any park, or display, expose or distribute any picture, banner, or other object suggestive of sex in a lewd, indecent, immoral way; or enter a comfort station or toilet set apart for the use of the opposite sex; nor shall any person dress or undress in an any park except in dressing rooms provided for such persons.

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(c) Solicitation. No person shall solicit money, subscriptions, contributions for any purpose or attempt to sell any wares of any nature whatsoever in any park unless authorized by a permit of the Director.

(d) Improper Admission. No person shall gain improper admission to, or use of, or attempted admission to any park facility, for which a charge is made, without paying the fixed charge or price of admission.

(e) Disobeying Authorities and Signs. No person shall, in any park, disobey a proper order of a Police Officer or any park employee designated by the Recreation Director to give orders, nor shall any person in any park disobey, disregard or fail to comply with any rule or regulation, warning, prohibition, instruction or direction, posted or displayed by sign, notice, bulletin, card, poster or when notified or informed as to its existence by a park employee or other authorized person.

(f) Defacing Park Property. No person shall cut, break, injure, deface, or disturb any tree, shrub, plant, rock, building, cage, pen, monument, fence, bench or other structure, apparatus or property or pluck, pull up, out, take or remove any shrub, bush, plant or flower or mark, or write upon any building, monument, fence, bench or other structure, or injure, deface or remove any property real or personal or any natural growth, structure, equipment, animals, signs or other park property.

(g) Setting of Fires. No fires shall be set in any park except in areas where fires are designated as permitted or except as authorized by permit issued under the authority of the Director.

(h) Discharging in Bodies of Water. No person shall throw, cast, lay, drop or discharge into or leave in any body of water in any part, or in any storm sewer, or drain flowing into said waters, or in any gutter, sewer or basin, any substance, matter or thing, whatsoever.

(i) Waste Matters. No person shall deposit, drop or leave any papers, bottles, debris or other waste matter or refuse of any kind in any park or part thereof except in such receptacles as may be provided for that purpose, nor shall any person urinate or defecate in or upon any part of any park grounds.

(j) Drinking. [3]
No person shall enter a park in an intoxicated condition, nor shall any person drink any alcoholic beverages of any kind or nature in any park or on any park grounds, provided, however that a temporary waiver from the prohibition of this section may be granted to any Rochester based non-profit organization upon written application to, and approval by, the Licensing Board and the Rochester City Council, which application and approval shall specify the date and hours during which such waiver shall be effective.

(k) Dogs Prohibited on the So-Called Commons. [2]

Dogs shall not be permitted within the confines of the municipal park known as the “Commons,” situate off South Main Street between Common Street and Grant Street. No person shall enter or remain upon the said Commons with a leashed dog, nor shall any person allow a dog to run at large within the confines of said Commons at any time.

(j) Smoking on the Rochester Common.

No person shall smoke on the portion of the so-called Rochester Common between northeasterly side of the path bisecting said Common, at the Civil War Memorial, and the northeasterly fence line surrounding said Common where it adjoins the South Main Street right-of-way, at any time, provided, however, that a temporary waiver from the prohibition of this section may be granted upon written application to, and approval by, the Licensing Board, which application and approval shall specify the date and hours during which such waiver shall be effective. [5]

21.3 Function of Commission.

The commission shall act as advisory body to the Director.

21.4 Term and Officers of Commission. [4]

The term of Commissioners shall be four (4) years. The Mayor shall appoint the chairman and the commission shall, from its own members, elect a secretary and other necessary officers to serve for one year or until their successors are elected.

21.5 Duties of Director.

The Director shall be responsible for the direction of all phases of the City’s recreation programs and parks owned or controlled by the City subject to the supervision of the City Manager. The Director shall be responsible for hiring and supervising all personnel as may be required to carry out recreation department programs. The Director with the consent of the commission shall have the power to promulgate reasonable written rules and regulations to govern the use of the City’s parks and equipment and to issue permits for the use thereof for use of parks as set forth in this Chapter.

21.6 Uses of Parks.

All City parks are open for the general use of the public and in particular of the residents of the City of Rochester, subject to the following exceptions:

(a) No person shall conduct, operate, present or manage in any park, a parade, drill, public meeting, ceremony, speech, public contest, exhibit, performance of any kind without a permit.

(b) All organized picnics or outings for a group larger than 25 persons shall require a previously obtained permit.

(c) No person shall exhibit, sell, or offer for sale, hire, or lease any object, service, or merchandise of any sort whatsoever except under a previously obtained permit to do so.

(d) All parks shall be open during the hours of 12:01 AM to midnight every day unless signs specifying more restrictive opening hours shall be prominently posted around such park(s). Buildings or structures within said park(s) shall be open in accordance with signs posted on said buildings or structures posted by the Director, specifying hours during which such buildings and/or structures shall be open to the public. [1]

(e) No person under eighteen (18) years of age, and over six (6) years of age shall loiter in any City park during normal school hours on any day in which the Rochester Public
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Schools are in session unless accompanied by a parent, guardian or other suitable person.

21.7 Finances.

The City Council shall annually appropriate such sum of money as the Council may determine, for recreation and parks, such sum, together with any moneys received by the department from charges, donations, or other sources, to be paid to the City Treasurer and by him/her placed in the credit of the department, subject to its expenditures there from for the purposes as set forth herein. Annually, on or before the first day of the budget, the Director shall make a detailed report in writing to the City Manager of his/her acts and proceedings, of the condition of the facilities under his/her jurisdiction, of the standing of his/her recreation and parks program, and of his/her receipts and expenditures, together with an estimate of his/her anticipated revenues and expenditures for the following fiscal year. The Director shall make such other interim reports as from time to time may be requested by the City Manager.

21.8 Penalties.

Any violation of this Chapter or of the rules and regulations as provided for hereunder shall be considered to be a violation.

- [1] Amended 6/5/01
- [2] Amended 5/7/02
- [3] Amended 6/6/06
- [4] Amended 9/4/07
- [5] Amended 10/15/13

3.10 Recreation and Arena Commission.

(a) The composition, functions, powers, duties of the Recreation and Arena Commission shall be as provided by Chapter 21 of the Ordinance.

3.13 [Deleted].

CHAPTER 21

RECREATION AND ARENA

21.1 Definitions.

(a) ----

(b) ---

(c) Commission. The Rochester Recreation and Arena Commission. This commission shall consist of fourteen (14) members to be nominated by the Mayor and elected by the Council, in accordance with the provisions of Section 74 of the Rochester City Charter, as follows: one member from the City Council, one member from the school board, and twelve (12) interested citizens. One (1) member of the Commission may be a non-resident of the City of Rochester provided, that at the time of election of such individual to the Commission, such individual is associated with communities or organizations utilizing the Rochester Arena facilities or has other specialized skills related to the provision of recreational services. Two (2) of the interested citizens shall be involved in non-recreation youth services.

(d) Director. The City Manager, in accordance with the provisions of Sections 15 and 18 of the Rochester City Charter, shall appoint a Director of Recreation and Arena for the City of Rochester, who shall be the department head of the Rochester Department of Recreation, Parks, and Youth Services and serve as the Arena Director.

21.2 Conduct Prohibited in Parks and Arena. [Add "arena" to all sections as needed]

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21.3 Function of Commission.

- (a) The Commission shall act as advisory body to the Director.
- (b) Aid, assist, and advise the Director in formulating plans for maintaining, equipping, operating, and regulation of the recreational facilities, related programs and the arena facility and advise the City Council in establishing a fee schedule for the use thereof.
- (c) The Commission shall inform itself of ways and means by which its plans and programs for development and use of the recreational facilities and arena facility may best be achieved and may advise the Director, the City Council, and public of the manner in which such objectives may best be accomplished.

21.4 Term and Officers of Commission.

The term of each Commissioner shall be four (4) years commencing January, 2016. The Mayor shall appoint the chairman and the commission shall, from its own members, elect a secretary and other necessary officers to serve for one year or until their successors are elected.

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21.6 Use of Parks and Arena. [Add "arena" to all sections as needed]

Chapter 9.23
AGGRESSIVE PANHANDLING

Sections:

- 9.23.010 Purpose and intent.**
- 9.23.020 Definitions.**
- 9.23.030 Place of panhandling – Violation.**
- 9.23.040 Manner of panhandling – Violation.**
- 9.23.050 Panhandling – Where permitted.**
- 9.23.060 Penalty.**
- 9.23.070 Severability.**

9.23.010 Purpose and intent.

It is the purpose of this chapter to regulate panhandling in order to promote the health, safety, peace, and general welfare of the citizens and visitors of the city of Longview. (Ord. 3051 § 2, 2008).

9.23.020 Definitions.

For the purposes of this chapter:

- (1) “Automated teller machine (ATM)” means a device linked to a financial institution’s account records which is able to carry out transactions, including, but not limited to, account transfers, deposits, cash withdrawals, balance inquiries, and mortgage and loan payments.
- (2) “Obstructing” means to walk, stand, sit, or lie, or place an object in such a manner as to block passage by another person or a vehicle, or to require another person or a driver of a vehicle to take evasive action to avoid physical contact.
- (3) “Panhandler” means any person engaged in the act of panhandling.
- (4) “Panhandling” is any solicitation made in person, requesting an immediate donation of money or other thing of value. Purchase of an item for an amount far exceeding its value, under circumstances where a reasonable person would understand that the purchase is, in substance, a donation, is a donation for the purpose of this chapter. Offers to work for food or other compensation, under circumstances where a reasonable person would understand that the compensation given is, in substance, a donation, is also a donation for the purposes of this chapter.
- (5) “Public transportation vehicle” means any vehicle used as a mode of mass transit. (Ord. 3051 § 2, 2008).

9.23.030 Place of panhandling – Violation.

It shall be unlawful for any person to panhandle when the person solicited is in any of the following places within the city limits of Longview, Washington:

- (1) At any bus stop; or
- (2) In any public transportation vehicle or facility; or
- (3) In any vehicle on a street or on a driveway providing ingress or egress to a street where such driveway is open to the general public; or
- (4) Within 50 feet of any automated teller machine (ATM); or
- (5) On private property, unless the panhandler is in physical possession of written permission from the owner or lawful occupant thereof. (Ord. 3051 § 2, 2008).

9.23.040 Manner of panhandling – Violation.

It shall be unlawful for any person to panhandle in any of the following manners:

- (1) By intentionally coming within three feet of the person solicited, unless that person has indicated that he or she does wish to make a donation; or
- (2) By intentionally obstructing the path of the person or vehicle of the person solicited; or
- (3) By intentionally obstructing the passage through the entrance or exit of any building; or
- (4) By soliciting anyone under the age of 16; or
- (5) By following a person who walks away from the panhandler, if the panhandler’s conduct is intended to or is reasonably likely to intimidate the person being solicited into responding affirmatively to the solicitation; or
- (6) By using profane or abusive language, either during the solicitation or following a refusal. (Ord. 3051 § 2, 2008).

9.23.050 Panhandling – Where permitted.

Panhandling is permitted in any place and manner not otherwise restricted by this chapter. (Ord. 3051 § 2, 2008).

9.23.060 Penalty.

Any person found to be in violation of this chapter shall be guilty of a misdemeanor, penalty for conviction of which shall be a fine of not more than \$1,000 and/or imprisonment of not more than 90 days. (Ord. 3051 § 2, 2008).

9.23.070 Severability.

If any one or more sections, subsections, or sentences of this chapter are held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this chapter and the same shall remain in full force and effect. (Ord. 3051 § 2, 2008).