

Codes and Ordinances Committee

Councilor Peter Lachapelle, Chair
Councilor Elaine Lauterborn, Vice Chair
Councilor Tom Abbott
Councilor Donna Bogan
Councilor Robert Gates



8/29/16

AGENDA

CODES AND ORDINANCES COMMITTEE

Of the Rochester City Council

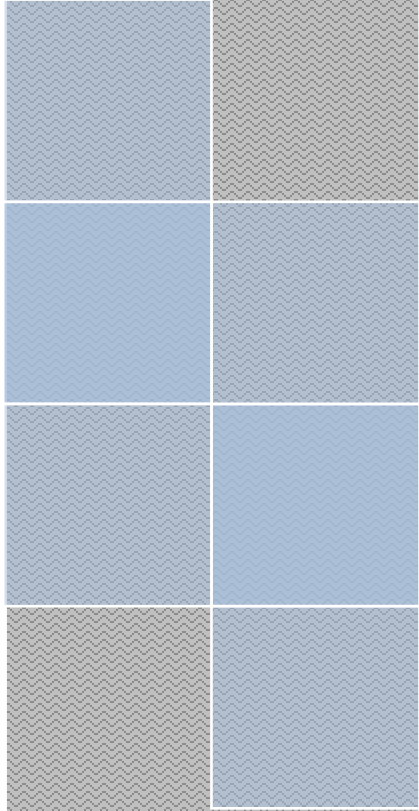
Thursday, September 1, 2016

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
 - August 4, 2016 P. 3
 4. Amendment to Chapter 45 of the General Ordinances of the City of Rochester Regarding Overnight Parking, Occupancy, and Camping on City Owned Property P. 11
 5. Amendment to Chapter 46 of the General Ordinances of the City of Rochester Regarding Graffiti on Private Property P. 15
 6. Amendment to Chapter 11 of the General Ordinances of the City of Rochester Regarding School Department Capital Reserve Fund P. 17
 7. Amendment to Chapter 23 Fire Safety Measures (Fireworks)
 - Current Ordinance P. 19
 - Proposed Ordinance (*Submitted by Councilor Willis*) P. 23
 8. Drug Free School Zone Applicability to Rochester Public Library
 - Memo From the Director of the Rochester Public Library P. 27
 9. Other
 10. Adjournment



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CODES AND ORDINANCES COMMITTEE

Of the Rochester City Council

Thursday, August 4, 2016

City Council Chambers

31 Wakefield Street, Rochester, NH

7:00 PM

Codes and Ordinances Committee

Councilor Peter Lachapelle, Chair

Councilor Elaine Lauterborn, Vice Chair

Councilor Thomas Abbott

Councilor Donna Bogan

Councilor Robert Gates

Councilor Torr

Councilor Gray

Lisa Stanley, Greater Rochester Chamber of Commerce Board Member

T.J. Jean, Greater Rochester Chamber of Commerce, President

Richard Bickford, School Department

MINUTES

1. Call to Order

Councilor Lachapelle called the meeting to order at 7:00 PM. All members of the Committee were present.

2. Public Input

Councilor Lachapelle invited the public to speak about any item City topic not already listed on the Agenda. He noted that time would be allotted to speakers during each agenda topic. No member of the public came forward. Councilor Lachapelle closed the public input portion of the meeting at 7:01 PM.

3. Approval of the Codes and Ordinances Committee Minutes [May 5, 2016]

Councilor Abbott **MOVED** to **APPROVE** the May 5, 2016, Committee meeting minutes. Councilor Bogan seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

4. Amendment to Ordinances – Chapter 11.20

Councilor Lachapelle introduced the Amendment to Chapter 11.20 and invited the Committee members, City Council members, and the public to speak about the topic.

Councilor Gates **MOVED** to recommend to the full City Council that Chapter 11.20 be adopted with the proposed language presented by the Rochester Greater Chamber of Commerce. Councilor Bogan seconded the motion. The resolution as proposed is as follows:

General Ordinances

CHAPTER 11

11.20 City of Rochester Economic Development Special Reserve Fund.~~[deleted]~~

(a) City of Rochester Economic Development Special Reserve Fund – Statement of Purpose. The City of Rochester currently serves as the “Host Community” for the Turnkey Recycling and Environmental Enterprises Waste Disposal Facility (“TREE”) currently operated by Waste Management of New Hampshire, Inc., and located on the Rochester Neck Road. By virtue of its status as Host Community for TREE, the City of Rochester, in addition to incurring significant expenses in connection with such facility, receives significant financial benefits in the form of real property taxes, users fees (in the form of so-called “Host Community Fees”) and various other benefits relative to the cost to the City and its inhabitants of the disposal and/or recycling of various solid waste, including reduced and/or eliminated fees for the disposal and/or recycling of solid waste generated within the City of Rochester. It is currently estimated that the permitted capacity of the TREE Waste Disposal Facility (TLR-III) will be reached in approximately the year 2023. When such facility is filled to its permitted capacity, it is anticipated that the City will experience a loss in revenues, and the City and its inhabitants will experience increased costs associated with the disposal and/or recycling of solid waste, particularly in the form of reduced and/or lost users fees and reduced property tax revenues, as well as increased costs associated with the disposal and/or recycling of solid waste. Therefore, in an effort to offset the expected loss of revenues and increased costs occurring to the City as a result of the anticipated filling of the TREE Waste Disposal Facility to its permitted capacity and to promote the general fiscal strength and well being of the City, it is necessary that economic development in the City of Rochester be promoted and/or maintained to insure the existence and/or expansion of a vibrant economic base for the City and its inhabitants. Therefore, the City Council of the City of Rochester, pursuant to the authority granted by RSA 47:1-b and RSA 47:1-c, hereby establishes a special revenue reserve fund from the specific source identified in subsection (b) of this Section 11.20 for **capital expenditures or expenditures for capital**

projects, transfers to capital projects, transfers to capital reserve, or for any other appropriation of a non-recurring nature in support of economic development as determined by the City Council. ~~the specific purpose of paying expenditures associated with the promotion of new, and maintenance of current sources and levels of economic development within the City of Rochester. The special reserve fund established in subsection (b) of this Section 11.20 shall be known as the "City of Rochester Economic Development Special Reserve Fund."~~ No expenditure from the said City of Rochester Economic Development Special Reserve Fund shall be made without an appropriation of such funds having been adopted by the Rochester City Council, which appropriation shall provide that such appropriation is for economic development purposes and shall contain a statement and/or finding by the City Council indicating the manner in which it is anticipated that such appropriation is related to the economic development of the City of Rochester.

(b) City of Rochester Economic Development Special Reserve Fund.

There is hereby created a non-lapsing budgetary account within the City of Rochester, pursuant to the authority granted to the City by the provisions of RSA 47:1-b, such special reserve fund to be known as the 'City of Rochester Economic Development Special Reserve Fund'. Such fund shall be funded on an annual basis by the appropriation by the City Council to such special reserve fund of an amount not less than \$100,000 from the funds annually payable to the City of Rochester by Waste Management of New Hampshire, Inc. from the so-called "Host Community Fees" payable to the City pursuant to the provisions of the "Host Agreement" between the City and Waste Management of New Hampshire, Inc., or of any successor to such Agreement. In addition to such minimum funding level, the City Manager may, during any fiscal year of the City, upon written notification to, and appropriation by, the City Council, transfer to said 'City of Rochester Economic Development Special Reserve Fund' unappropriated 'Host Community Fees' in an amount not to exceed the difference between the total amount of Host Community Fees received from Waste Management of New Hampshire, Inc. during such fiscal year and the amount of such 'Host Community Fees' previously appropriated by the Rochester City Council during such fiscal year (having in mind the minimum funding/appropriation requirement provided for herein and any other appropriation of such fiscal year's 'Host Community Fees' by the City Council during such fiscal year). The 'City of Rochester Economic Development Special Reserve Fund' shall, upon appropriation by the City Council to such fund, include funds currently in Account #1501-324400, in the amount of \$1,537,613.54, as of the date of adoption of this ordinance, and such funds shall be expended only for the specific purpose set forth in subsection (a) of this Section 11.20 and shall be expended only in accordance with the provisions of subsection (a) of such Section.

Lisa Stanley, resident, addressed the Committee. She said that Chapter 11.20 and the Economic Development Special Reserve Fund had been established by the guidelines found in RSA 47:1-b and c. She said the City Council did not “rescind” the Economic Reserve Fund or Chapter 11.20 properly and therefore believed that both the Economic Development Reserve Fund and Chapter 11.20 are currently active.

Attorney O'Rourke clarified that the City Council did rescind Chapter 11.20 of the General Ordinances; however, the City Council had not deleted the Economic Development Special Reserve Fund.

Councilor Varney did not oppose the motion to be voted upon; however, he said the last sentence of Chapter 11.20 (b) references the balance of \$1,537,613.54, which is no longer available. He also stated that it implies that all money must be derived from Host Community Fees. He added that the City Council should use General Funds as it sees appropriate. Councilor Gates **MOVED** to AMEND the proposed amendment by removing the last sentence of 11.20 (b). Councilor Bogan seconded the motion.

The sentence to be removed is as follows:

The 'City of Rochester Economic Development Special Reserve Fund' shall, upon appropriation by the City Council to such fund, include funds currently in Account #1501-324400, in the amount of \$1,537,613.54, as of the date of adoption of this ordinance, and such funds shall be expended only for the specific purpose set forth in subsection (a) of this Section 11.20 and shall be expended only in accordance with the provisions of subsection (a) of such Section.

T.J. Jean, Chairman of the Greater Rochester Commerce, supported the language as proposed and did not state any objection to the amendment.

Mayor McCarley, Councilor Keans, and Ms. Stanley opposed deleting the last sentence of 11.20 (b) in order to preserve the historical information about the Economic Development Special Reserve Fund. Councilor Lachapelle called for a vote on the motion to amend. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Lachapelle called for a vote on the original motion as amended. The **MOTION CARRIED** by a unanimous voice vote.

General Ordinances

CHAPTER 11

11.20 City of Rochester Economic Development Special Reserve Fund. ~~[deleted]~~

(a) City of Rochester Economic Development Special Reserve Fund – Statement of Purpose.

The City of Rochester currently serves as the “Host Community” for the Turnkey Recycling and Environmental Enterprises Waste Disposal Facility (“TREE”) currently operated by Waste Management of New Hampshire, Inc., and located on the Rochester Neck Road. By virtue of its status as Host Community for TREE, the City of Rochester, in addition to incurring significant expenses in connection with such facility, receives significant financial benefits in the form of real property taxes, users fees (in the form of so-called “Host Community Fees”) and various other benefits relative to the cost to the City and its inhabitants of the disposal and/or recycling of various solid waste, including reduced and/or eliminated fees for the disposal and/or recycling of solid waste generated within the City of Rochester. It is currently estimated that the permitted capacity of the TREE Waste Disposal Facility (TLR-III) will be reached in approximately the year 2023. When such facility is filled to its permitted capacity, it is anticipated that the City will experience a loss in revenues, and the City and its inhabitants will experience increased costs associated with the disposal and/or recycling of solid waste, particularly in the form of reduced and/or lost users fees and reduced property tax revenues, as well as increased costs associated with the disposal and/or recycling of solid waste. Therefore, in an effort to offset the expected loss of revenues and increased costs occurring to the City as a result of the anticipated filling of the TREE Waste Disposal Facility to its permitted capacity and to promote the general fiscal strength and well being of the City, it is necessary that economic development in the City of Rochester be promoted and/or maintained to insure the existence and/or expansion of a vibrant economic base for the City and its inhabitants. Therefore, the City Council of the City of Rochester, pursuant to the authority granted by RSA 47:1-b and RSA 47:1-c, hereby establishes a special revenue reserve fund from the specific source identified in subsection (b) of this Section 11.20 for **capital expenditures or expenditures for capital projects, transfers to capital projects, transfers to capital reserve, or for any other appropriation of a non-recurring nature in support of economic development as determined by the City Council.** ~~the specific purpose of paying expenditures associated with the promotion of new, and maintenance of current sources and levels of economic development within the City of Rochester.~~ The special reserve fund established in subsection (b) of this Section 11.20 shall be known as the “City of Rochester Economic Development Special Reserve Fund.” No expenditure from the said City of Rochester Economic Development Special Reserve Fund shall be made without an appropriation of such funds having been adopted by the Rochester City Council, which appropriation shall provide that such appropriation is for economic development purposes and shall contain a statement and/or finding by the City Council indicating the manner in which it

is anticipated that such appropriation is related to the economic development of the City of Rochester.

(b) City of Rochester Economic Development Special Reserve Fund.

There is hereby created a non-lapsing budgetary account within the City of Rochester, pursuant to the authority granted to the City by the provisions of RSA 47:1-b, such special reserve fund to be known as the 'City of Rochester Economic Development Special Reserve Fund'. Such fund shall be funded on an annual basis by the appropriation by the City Council to such special reserve fund of an amount not less than \$100,000 from the funds annually payable to the City of Rochester by Waste Management of New Hampshire, Inc. from the so-called "Host Community Fees" payable to the City pursuant to the provisions of the "Host Agreement" between the City and Waste Management of New Hampshire, Inc., or of any successor to such Agreement. In addition to such minimum funding level, the City Manager may, during any fiscal year of the City, upon written notification to, and appropriation by, the City Council, transfer to said 'City of Rochester Economic Development Special Reserve Fund' unappropriated 'Host Community Fees' in an amount not to exceed the difference between the total amount of Host Community Fees received from Waste Management of New Hampshire, Inc. during such fiscal year and the amount of such 'Host Community Fees' previously appropriated by the Rochester City Council during such fiscal year (having in mind the minimum funding/appropriation requirement provided for herein and any other appropriation of such fiscal year's 'Host Community Fees' by the City Council during such fiscal year). **The 'City of Rochester Economic Development Special Reserve Fund' shall, upon appropriation by the City Council to such fund, include funds currently in Account #1501-324400, in the amount of \$1,537,613.54, as of the date of adoption of this ordinance, and such funds shall be expended only for the specific purpose set forth in subsection (a) of this Section 11.20 and shall be expended only in accordance with the provisions of subsection (a) of such Section.**

5. Leak Abatement Policy

Councilor Lachapelle stated that John Storer, P.E. Director of City Services, submitted a Leak Abatement Policy, which had been recommended for approval by the Public Works Committee and the Utility Advisory Committee.

Councilor Lauterborn **MOVED** to send the proposed Leak Abatement Policy to the full City Council for approval. Councilor Bogan seconded the motion. Mayor McCarley questioned what would happen to pending or new cases prior to this Policy being adopted. Councilor Willis, who serves on the Utility Advisory Board, explained that all pending cases or new cases would be placed on hold at this point; however, he did not believe the new policy would

affect any closed cases. He further explained that the Utility Advisory Board does not have the ability to grant relief if water passed through the meter and was returned to the sewer. The Committee briefly discussed leaks that are undetected. The **MOTION CARRIED** by a unanimous voice vote.

6. City Charter Section 29: General Powers of the School Board

Councilor Lachapelle said that the City Council did some research a few years ago about the possibility of utilizing the City's Public Buildings to manage both the City's properties and the School's properties, instead of having the two separate building departments. He recalled that the outcome of the research did not prove to be a feasible move. Councilor Lachapelle did not support the proposed Charter Amendment.

Councilor Gates stated that other municipalities have successfully made this change work and saved money for the taxpayers, including his hometown in MA. He believed it was worth looking into. Councilor Gray stated that new legislation had made it possible to combine some of the City services with that of the School Department.

Richard Bickford, Rochester School Department, gave a powerpoint presentation with details about the School's Building Department and its functions. Mr. Bickford gave details on improvements to the department, which have been successful.

Councilor Gray stated that it would be good Mr. Bickford to share some of the ideas presented in the powerpoint presentation with the Department of Public Works. He supported investigating how the City and School could share some of the same services. Councilor Varney agreed and said the idea should be explored. Councilor Gates requested leaving the matter in Committee and inviting a representative from a community where this type of cooperation has been successful to speak to the Committee. Councilor Lachapelle replied that if a representative should speak on this matter than it should be a community based out of New Hampshire.

7. HB 1205 Libraries with Children's Programming – Drug Free Zone

The Committee briefly discussed the Drug Free Zone. Councilor Lauterborn supported seeking advice if the City Council could expand the Drug Free Zone to include the Rochester Public Library. Brian Sylvester, Director of the Rochester Public Library, agreed to discuss the matter with the Library Trustees and report back to the Committee. Councilor Keans recalled that the drug free zones are regulated by Federal Law.

Councilor Lachapelle stated that the topic would remain in Committee. It was determined that the City Attorney would discuss the matter with Police Chief Allen and report back to the Committee with a legal opinion.

8. Amendment to Ordinances – Election Officials

Kelly Walters, City Clerk, gave a brief overview about the Chairman of the Supervisors of the Checklist and the Job Description. She noted that additional changes should be made to Chapter 5 Election Officials Salaries to clean up the language. She suggested that Attorney O'Rourke review the changes and the job description as well. Councilor Lauterborn **MOVED** to send the proposed amendment and job description to the full City Council for approval. Councilor Bogan seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

9. Other

Councilor Varney stated that the City Council set up a Special Reserve Fund for the School CIP Account; however, this should be accompanied by an ordinance. The City Attorney was asked to create a proposed ordinance for review. The Special Reserve Fund for the School CIP account is attached.

Councilor Torr requested that the Committee take another look at Chapter 42 and Chapter 43 of the General Ordinances regarding not allowing any new mobile home parks. Councilor Lachapelle said this would be on the next Codes and Ordinances Committee agenda for discussion.

10. Adjournment

Councilor Abbott **MOVED** to **ADJOURN** the Committee meeting at 8:14 PM. Councilor Bogan seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Respectfully submitted,

Kelly Walters, CMC
City Clerk

**AMENDMENT TO CHAPTER 45 OF THE GENERAL ORDINANCES OF THE CITY
OF ROCHESTER REGARDING OVERNIGHT PARKING, OCCUPANCY AND
CAMPING ON CITY OWNED PROPERTY**

THE CITY OF ROCHESTER ORDAINS:

That Chapter 45 of the General Ordinances of the City of Rochester and currently before the Rochester City Council, be amended as follows:

CHAPTER 45

**OVERNIGHT PARKING, OCCUPANCY AND CAMPING ON CITY OWNED
PROPERTY**

SECTION ANALYSIS

45.1 Authority

45.2 Purpose

45.3 Acts Prohibited

45.4 Definitions

45.5 Exceptions

45.6 Responsibility

45.7 Removal

45.8 Enforcement

45.9 Severability

45.10 Effective Date

45.1 Authority.

In accordance with and under the authority of New Hampshire Revised Statutes Annotated 41:11; 41:11-a; and 47:17, the City Council of the City of Rochester hereby adopts the following ordinance for the regulation of overnight parking or camping on all City-owned property.

45.2 Purpose.

This purpose of this Ordinance is to protect the public peace, preserve public law and order, promote safety and welfare and ensure proper and decent conduct for the residents of the City of Rochester and the general public, in the use of City-owned properties.

45.3 Acts Prohibited.

From and after the effective date of this ordinance it shall be unlawful for any person to camp, or to park, with occupancy by one or more persons, any vehicle or recreational vehicle, either overnight or for any two-hour period between dusk and dawn, on any City-owned lands within the City of Rochester.

45.4 Definitions.

(a) *Camp*: Includes pitching a tent, placing or erecting any other camping device, or sleeping in or on the City-owned property.

(b) *Recreational vehicle*: Any vehicle fitting the definition in RSA 216-I:1, VIII.

(c) *City-owned property*: All properties owned by the City of Rochester.

45.5 Exceptions.

Restrictions in this ordinance shall not apply:

(a) When permission has been granted by the Chief of Police or designee for official or emergency purposes.

(b) When permission has been granted by the City Manager or Chief of Police in conjunction with a performance at the Rochester Opera House or with a written special event permit.

45.6 Responsibility.

All violations of parking restrictions and charges accompanied therewith shall be deemed the responsibility of the registered owner of said vehicle. Such registrations may be proven as set forth in RSA 261:60. Said registered owner shall be conclusively presumed to be in control of the vehicle at the time of the parking violation, and no evidence of actual control or culpability needs to be proven as an element of the offense in accordance with RSA 231:132-a.

45.7 Removal.

Any vehicle parked in violation of this Ordinance by be ordered towed by the Rochester Police Department at the expense of the owner or custodian of said vehicle.

45.8 Enforcement.

(a) Any person who violates this Ordinance shall be guilty of a violation and shall be fined One Hundred Dollars (\$100.00).

(b) Any duly appointed police officer for the City of Rochester may enforce this Ordinance by utilizing any process authorized by state law, including but not limited to a Local Ordinance Citation pursuant to RSA 31:39-d and Chapter 44 of the City of Rochester Ordinance.

(c) All penalties collected for violations of this Ordinance shall be for the use of the City and deposited into the City's general fund.

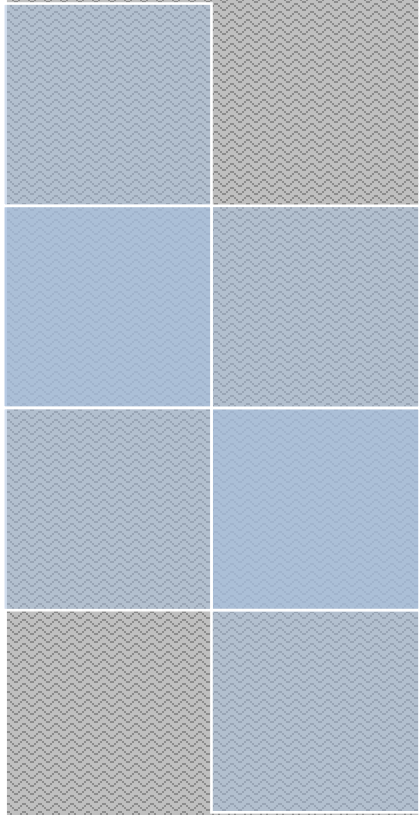
45.9 Severability.

The provisions of this Ordinance are declared to be severable, and if any section, subsection, sentence, clause or part thereof is, for any reason, held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of any remaining sections, subsections, sentences, clauses or part of this Ordinance.

45.10 Effective Date.

This Ordinance shall take effect upon passage.

The effective date of these amendments shall be upon passage.



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**AMENDMENT TO CHAPTER 46 OF THE GENERAL ORDINANCES OF THE CITY
OF ROCHESTER REGARDING GRAFFITI ON PRIVATE PROPERTY**

THE CITY OF ROCHESTER ORDAINS:

That Chapter 46 of the General Ordinances of the City of Rochester and currently before the Rochester City Council, be amended as follows:

CHAPTER 46

GRAFFITI ON PRIVATE PROPERTY

SECTION ANALYSIS

46.1 Authority

46.2 Purpose

46.3 Acts Prohibited

46.4 Definitions

46.5 Enforcement

46.6 Severability

46.7 Effective Date

46.1 Authority.

In accordance with and under the authority of New Hampshire Revised Statute Annotated 47:17, the City Council of the City of Rochester hereby adopts the following ordinance for the regulation of graffiti on private property.

46.2 Purpose.

This purpose of this Ordinance is to promote the health, safety and general welfare of the community by creating an aesthetically pleasing environment in which graffiti is declared a nuisance which must be promptly abated by property owners and imposing penalties on vandals.

46.3 Acts Prohibited.

It shall be a nuisance for any person to place graffiti upon any property located within the City of Rochester. Any owner of property within the City of Rochester shall remove any graffiti on his/her property within five days of notice of its placement on such property. Maintenance of property in violation of this section is a public nuisance.

46.4 Definitions.

(a) *Graffiti*: Any inscription, word, figure, marking or design that is written, marked, etched, scratched, drawn or painted on any real property that was not authorized in advance by the owner of the real property.

(b) *Owner*: Any person in possession of the affected property and any person having or claiming to have, any legal or equitable interest in the property.

(c) *Person*: Any individual, firm, partnership, corporation, association, or any other organization or entity, however formed.

(d) *Property*: All residential, industrial, or commercial real property, and other property, including but not limited to, fences, poles, signs, rocks, trees, paving, etc.

46.5 Enforcement.

(a) Any person who violates this Ordinance shall be guilty of a violation and shall be fined not less than One Hundred Dollars (\$100.00) or more than One Thousand Dollars (\$1,000.00).

(b) Any duly appointed police officer for the City of Rochester and the City of Rochester Code Enforcement Officer may enforce this Ordinance by utilizing any process authorized by state law, including but not limited to a Local Ordinance Citation pursuant to RSA 31:39-d and Chapter 44 of the City of Rochester Ordinance.

(c) All penalties collected for violations of this Ordinance shall be for the use of the City and deposited into the City's general fund.

46.6 Severability.

The provisions of this Ordinance are declared to be severable, and if any section, subsection, sentence, clause or part thereof is, for any reason, held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of any remaining sections, subsections, sentences, clauses or part of this Ordinance.

46.7 Effective Date.

This Ordinance shall take effect upon passage.

The effective date of these amendments shall be upon passage.

**AMENDMENT TO CHAPTER 11 OF THE GENERAL ORDINANCES OF THE CITY
OF ROCHESTER REGARDING SCHOOL DEPARTMENT CAPITAL RESERVE
FUND**

THE CITY OF ROCHESTER ORDAINS:

That Chapter 11 of the General Ordinances of the City of Rochester regarding the School Department Capital Reserve Fund and currently before the Rochester City Council, be amended as follows:

11.24 City of Rochester School Department Capital Reserve Fund.

(a) By adoption of a Resolution on December 15, 2015, the City Council established a Capital Reserve Fund pursuant to RSA 34:1 for the purpose of rehabilitating, enlarging, replacing, and/or constructing new school facilities and/or the purchase of land for the enlargement of existing school facilities and/or siting of new school facilities. The name of such fund shall be the School Building Fund.

(b) The City Council, at its sole discretion, may appropriate monies to said School Building Fund through the annual budgeting process. The City Council may also by favorable vote of $\frac{3}{4}$ of its members, transfer to such fund after a public hearing with notice as provided in RSA 34:2, not more than $\frac{1}{2}$ of its unencumbered surplus funds remaining on hand at the end of the fiscal year, within limits as provided in RSA 34:4. No transfer from the City's unencumbered surplus funds to the School Building Fund shall be considered until after the annual audit presentation by the independent auditor and confirmation of the stated surplus. The City Council may also accept and appropriate gifts, legacies and trusts to the School Building Fund by majority vote.

(c) Expenditure of funds from the School Building Fund is at the sole discretion of the City Council.

(d) Pursuant to RSA 34:6, the Trustees of Trust Funds shall have custody of all capital reserves transferred to the School Building Fund. The Trustees of the Trust Fund will hold the monies appropriated to the School Building Fund in a separate account. Appropriations made to the School Building Fund will be paid over to the Trustees of the Trust Fund after July 1 but prior to June 30 of the fiscal year of the appropriation.

(e) The City Council may dissolve the School Building Fund at its sole discretion. Upon dissolution of any portion of said fund appropriated from the General Fund said funds will lapse to surplus (Unassigned General Fund fund balance) and cannot be repurposed directly to a different capital fund or project. Any funds contained in the School Building Fund accepted and appropriated from gifts, legacies or trusts may be redirected at the discretion of the City Council.

The effective date of these amendments shall be upon passage.



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23.8 Means of Escape.

[3]

All factories, hotels, tenement houses, public halls, schoolhouses and other buildings used as places of public resort in the City shall be provided with ample means of escape in case of a fire and adequate facilities for entrance and exits on all occasions; and be so erected as not to endanger the health and safety of persons who occupy them.

23.9 Fire Department Access

[4]

Before construction on commercial buildings, a residential street or a private street with two (2) or more duplexes or single-family dwellings may begin, Fire Department access roads shall be designed and maintained to support the imposed loads of fire apparatus and shall be provided with a surface suitable for all-weather driving capabilities.

23.10 Control of Fire Hazards

[4]

The Chief or his/her designee shall examine, or cause to be examined, at regular intervals, all places where combustible material may be collected or deposited and cause the same to be removed by the tenants, occupants or owners of such place, at their expense, whenever, in the opinion of the Fire Chief, such removal is necessary for the security of the City against fires. A record of all such inspections shall be kept by the Chief or his/her designee.

23.11 Penalty

[3]

Any person, persons, firm, corporation or partnership who shall violate any provision of Chapter 23 shall be guilty of a violation punishable by a fine of not less than one hundred dollars (\$100) or not more than five hundred dollars (\$500). Each day that the violation continues to exist shall constitute a separate offense.

23.12 Sprinkler Requirements for Certain Single-family Dwelling Units.

[6]

In addition to sprinkler requirements for structures under the provisions of the applicable N.F.P.A. (National Fire Protection Association) Code and/or any other applicable law or regulation all newly constructed duplexes, triplexes and single-family dwelling unit combination structures that are attached to each other, shall be sprinkled in accordance with National Fire Protection Association (N.F.P.A.) Code standards as contained in the New Hampshire State Fire Code.

23.13 Prohibition and Regulation of Fireworks.

[7][8][9]

- A. In accordance with the provisions of RSA 160-C, it shall be illegal for any person, firm, partnership or corporation to offer for sale, expose for sale, sell at retail, purchase, possess, use, explode or display any permissible fireworks within the City of Rochester, except as specifically provided for in this ordinance.
- B. As used in this ordinance:
 - i. “Display” means the use, explosion, activation, ignition, discharge, firing or any other activity which is intended to cause or which causes a firework to do what it was manufactured to do.
 - ii. “Permissible fireworks” means those consumers firework devices defined as “permissible fireworks” in RSA 160-C, as the same currently exists or as, from time to time, hereinafter amended.
 - iii. “Fire Chief” means the Fire Chief of the City of Rochester or his/her designee.

- iv. “Police Chief” means the Police Chief of the City of Rochester or his/her designee.
- C. Subject to, and in accordance with the provisions of Chapter 160-C of the New Hampshire Revised Statutes Annotated it shall be lawful to possess and/or display permissible fireworks upon compliance with the following requirements:
- i. A person who is 21 years of age or older may display permissible fireworks on private property with the written consent of the owner or in the owner’s presence, subject to the provisions of this ordinance and RSA Chapter 160-C, and any other applicable ordinance regulation or statute.
 - “ii No display of permissible fireworks shall be permitted within the City except between the hours of 6 PM and 11 PM on Saturdays in the months of June and July and between the hours of 6 PM and 10 PM on Saturdays between the months of August through May. Permissible fireworks shall be permitted on the following holidays; Labor Day, Fourth of July (including the evening of July 3rd beginning at 6PM, including from such time until midnight on any rain date established for the annual city-wide fireworks display held at the Rochester Fairgrounds), on New Year’s Eve (December 31st), provided, however, that on New Year’s Eve such display shall be permitted to occur between the hours of 6 PM on December 31st and 1:00 AM on January 1st.
 - iii The display of permissible fireworks shall be of such a character, and so located and conducted, that it shall not be hazardous to property or endanger any person. In accordance with the provisions of RSA Chapter 160-C no permissible fireworks shall be permitted on public property and must be at least 50 feet from nearby buildings, nearby trees, electrical and telephone lines or other overhead obstructions, and the location of any nearby storage of flammable or combustible liquids or gases.
 - iv No permissible fireworks may be used, discharged, exploded, or displayed during periods of very high or extreme fire danger as determined by the Fire Chief or the NH Division of Forests and Lands.
 - v. Permissible fireworks may be used, discharged, exploded, or displayed in a manner such that any all discharge debris shall remain within the property lines of the lot on which the display originates.
 - vi. Anyone using permissible fireworks shall be responsible for removing any debris accumulated due to the discharge of fireworks that fall onto the public way, public property, and any private property within twenty-four hours. Anyone failing to remove such debris shall be financially responsible for its clean up.
 - vii. Display of permissible fireworks shall be permitted on public property the evening of July 3rd beginning at 6PM, including from such time until midnight on any rain date established for the annual city-wide fireworks display held at the Rochester Fairgrounds, provided that such display shall be authorized in a duly issued Block Party

Application/Permit from the City's Licensing Board covering the public property on which the display is to occur."

[11]

- D. A violation of this ordinance shall be subject to the penalties provided for in Chapter 23, Section 23.11, Penalty, of the City of Rochester General Ordinance.
- E. This ordinance shall be construed consistently with NH Code of Administrative Rules Section 2600, as made applicable by state statute and as adopted by reference in Section 23.1, of the General Ordinances of the City of Rochester, and is not meant to repeal any section thereof. Nothing in this ordinance shall be interpreted so as to conflict with the provisions of Chapters 160-B or 160-C of the New Hampshire Revised Statutes Annotated, as currently written, or as from time to time hereafter amended. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such provision shall be deemed a separate, distinct independent provision and such holding shall not affect the validity of the remaining portions thereof. 11-9-10
- F. The Police Chief or Fire Chief may suspend the use of permissible fireworks for any of the following reasons:
 - i. Unfavorable weather conditions, including but not limited to, lightning storms or high wind conditions exceeding 20 miles per hour or higher.
 - ii. If any person under the age of 21 possesses, uses, discharges or explodes, used, discharged or exploded any permissible firework device.
 - iii. If any person who is using, discharging, exploding, or displaying the permissible fireworks appears to be under the influence of alcohol or drugs;
 - iv. If, in the opinion of the Police Chief or Fire Chief, the use, discharge, exploding, or display of permissible fireworks would create a threat to public safety.
- G. The Police Chief and/or Fire Chief are authorized to seize, take, remove or cause to be removed, at the expense of the owner, all firework devices that are being discharged in violation of this ordinance."

23.14 Listed Agent Program

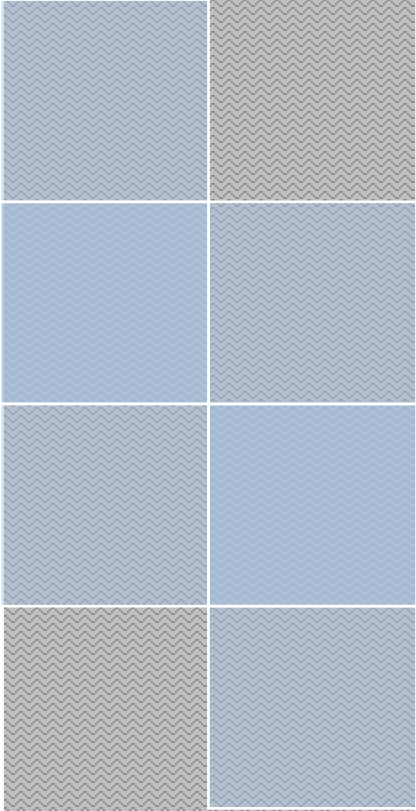
In accordance with NFPA 1:2009 1.13, or the applicable adopted section of the current Code, the Rochester Fire Department enacts the Listed Agent Program. The Fire Chief or his designee shall promulgate administrative rules for the management of the Listed Agent Program."

23.15 Regulation of Fire Alarms

The Fire Chief or his designee shall promulgate administrative rules for the management of the installation and maintenance of Fire Alarms.



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CHAPTER 21A

DISPLAY OF PERMISSIBLE FIREWORKS

1. Statutory Authority

This article is enacted pursuant to the authority granted by Section 17 of Chapter 47 and Section 6 of Chapter 160-C of the New Hampshire Revised Statutes Annotated.

2. Definitions

“Consumer fireworks” means consumer fireworks as defined in 27 C.F.R. section 555.11 and formerly known as class C common fireworks.

“Fire Chief” means the Fire Chief of the City of Somersworth or his/her designee.

“Permissible fireworks” means consumer fireworks, except for those items that are prohibited pursuant to RSA 160-B:16, 160-B:16-b, and 160-B:16-c.

“Police Chief” means the Police Chief of the City of Somersworth or his/her designee.

3. Permit Required

No person shall use, discharge or explode any permissible fireworks without a permit issued by the City of Somersworth.

4. Permit Application

- A. Any person wishing to obtain a permissible fireworks display permit shall apply to the Police Chief and the Fire Chief at least 72 hours prior to the display. The time frame may be waived at the discretion of the Police Chief and Fire Chief.
- B. The applicant shall provide the following information:
 - a. Date of application
 - b. Name, address and telephone number of the applicant
 - c. Address of the location where the display will be held
 - d. A diagram of the display location, showing the location of all nearby property lines, nearby buildings, public ways, nearby trees, electrical and telephone lines or other overhead obstructions, and the location of any nearby storage of flammable or combustible liquids or gases

- e. Name of the owner of the property where the display will be held
- f. Intended date and time of display, including a possible rain date
- g. Written authorization of the property owner, if different from the applicant
- h. Signature of the applicant

5. Permit Fee

The fee for a permissible fireworks display permit shall be five dollars (\$5.00) per event. The fee shall be paid at the time of application and is non-refundable.

6. Site Inspection

- A. Prior to issuing a permit, the Police Chief or the Fire Chief may conduct an inspection of the display site to determine whether a permissible fireworks display can be held in a safe manner.
- B. If, in the opinion of the Police Chief or Fire Chief, the proposed site is not suitable for the safe display of permissible fireworks, the application for a permit shall be denied.

7. Restrictions

- A. No person under the age of 21 may possess, use, discharge or explode permissible fireworks.
- B. No permissible fireworks may be used, discharged or exploded during periods of very high or extreme fire danger as determined by the Fire Chief or the NH Division of Forests and Lands.
- C. Permissible fireworks shall be used, discharged or exploded in a manner such that all discharge debris shall remain within the property lines of the approved site.
- D. No permissible fireworks shall be used, discharged or exploded indoors unless a permit for "Pyrotechnic Display before a Proximate Audience" has been obtained from the NH Department of Safety.
- E. No permissible fireworks shall be discharged between the hours of 11:00 p.m. and 8:00 a.m. with the following exceptions:
 - a. January 1: no discharge between 12:30 a.m. and 8:00 a.m.
 - b. July 3, 4 and 5: no discharge between 12:30 a.m. and 8:00 a.m.
 - c. December 31: no discharge prior to 8:00 a.m.
- F. The applicant shall be responsible for removing any debris accumulated due to the discharge of fireworks that fall onto the public way, public property, and any private property other than the approved site within twenty-four (24) hours of the display.

8. Permit Revocation

- A. A permit may be revoked or suspended by the Police Chief or Fire Chief for any of the following reasons:
 - a. Very high or extreme fire danger
 - b. Unfavorable weather conditions, such as drought or high winds
 - c. If any person under the age of 21 possesses, uses, discharges or explodes any permissible firework device
 - d. If any pyrotechnic device other than a permissible firework is possessed, used, discharged or exploded on the site
 - e. If the person who is using, discharging or exploding the permissible fireworks appears to be under the influence of alcohol or drugs
 - f. If, in the opinion of the Police Chief or Fire Chief, the use, discharge or exploding of permissible fireworks would create a threat to public safety

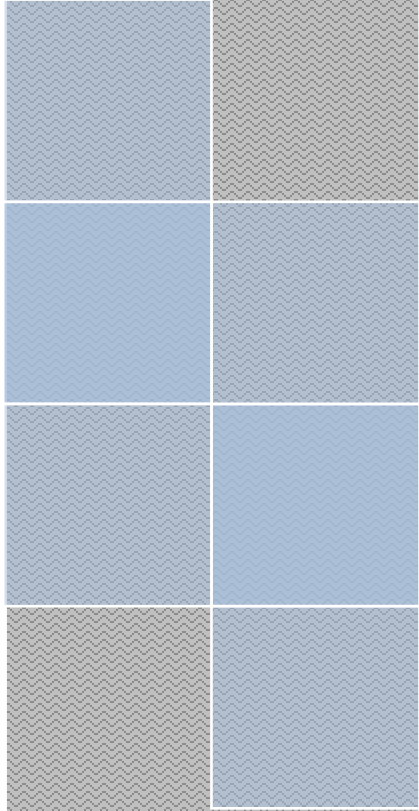
9. Penalty

- A. The Police Chief and Fire Chief are authorized to seize, take, remove or cause to be removed, at the expense of the owner, all firework devices that are being discharged in violation of this ordinance.
- B. Any person who violates the provisions of this ordinance shall be guilty of a violation and upon conviction thereon shall be fined in an amount not exceeding \$1,000.

10. Separability

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such provision shall be deemed a separate, distinct independent provision and such holding shall not affect the validity of the remaining portions thereof.

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Rochester Public Library
65 South Main St.
Rochester, NH 03867

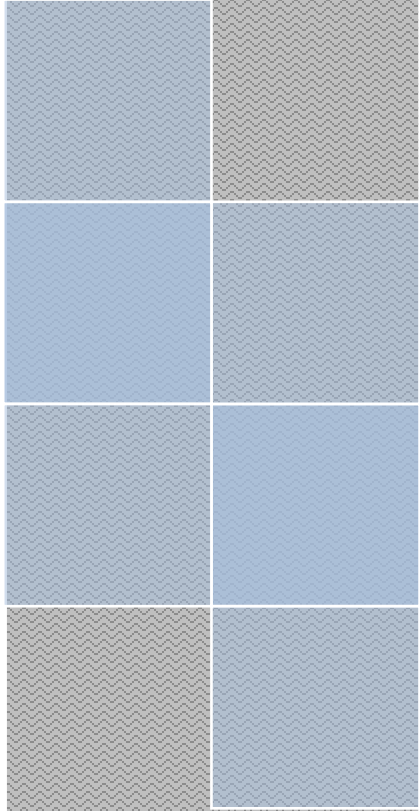
8/29/16
Main Desk: (603) 332-1428
Reference: 335-7550
Children's: 335-7549
Fax: 335-7582
www.rpl.lib.nh.us

Date: 8/9/16
To: Codes and Ordinances Committee, Peter Lachapelle, chair
From: Brian Sylvester, Library Director
Re: Drug Free School Zone applicability to Library

At the 8/4/16 meeting of the Codes and Ordinances Committee the idea of applying the rules of a drug free school zone to the Rochester Public Library was discussed. After further research, I have verified that the Rochester Public Library is within 1,000 feet of William Allen School and is therefore within a drug free school zone under NH RSA 193-B:1. The Rochester Police department, Library staff, and Library Board of Trustees have all been notified.

Respectfully submitted,

Brian Sylvester
Director, Rochester Public Library



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