

**Regular City Council Meeting
April 6, 2021
Council Chambers
31 Wakefield Street
Remotely via Microsoft Teams
6:30 PM**

COUNCILORS PRESENT

Councilor Abbott
Councilor Belken
Councilor Bogan
Councilor Gray
Councilor Hailey
Councilor Hamann
Councilor Hutchinson
Councilor Lachance
Councilor Lachapelle
Councilor Rice
Councilor Walker
Deputy Mayor Lauterborn
Mayor McCarley

OTHERS PRESENT

Blaine Cox, City Manager
Katie Ambrose, Deputy City Manager
Terence O'Rourke, City Attorney
Mike Scala, Director of Economic
Development

Minutes

1. Call To Order

Mayor McCarley called the Regular City Council meeting to order at 6:30 PM and read the following preamble:

Good Evening, as Chairperson of the City Council, I am declaring that an emergency exists and I am invoking the provisions of RSA 91-A:2, III (b). Federal, state, and local officials have determined that gatherings of 10 or more people pose a substantial risk to our community in its continuing efforts to combat the spread of COVID-19. In concurring with their determination, I also find that this meeting is imperative to the continued operation of City government and services, which are vital to public safety and confidence during this emergency. As such, this meeting will be conducted without a quorum of this body physically present in the same location.

a.) **Public Input:** Due to the ongoing situation with COVID-19, the City of Rochester will be taking extra steps to allow for public input, while still

ensuring participant safety and social distancing. In lieu of attending the meeting, those wishing to share comments, when permitted, with the City Council (Public Hearing and/or Workshop settings) are encouraged to do so by the following methods:

- **Mail:** City Clerk/Public Input, 31 Wakefield Street, Rochester, NH 03867 (*must be received at least three full days prior to the anticipated meeting date*)
- **email** PublicInput@rochesternh.net (*must be received no later than 4:00 pm of meeting date*)
- **Voicemail** 603-330-7107 (*must be received no later than 12:00 pm on said meeting date in order to be transcribed*)

Please include with your correspondence the intended meeting date for which you are submitting. *All correspondence will be included with the corresponding meeting packet (Addendum).*

In addition to the above listed public access information, the City Council will be allowing the public to enter Council Chambers and speak in person during the Public Input portion of this meeting. In an effort to adhere to CDC guidelines: enter only at the front Wakefield Street entrance and exit on the side closest to the police department and adhere to 6-foot social distancing while inside. Hand sanitizer and facemasks will be available at the Wakefield Street entrance. Participants will be admitted into Council Chambers one at a time to speak, and will exit directly thereafter. Please note; the seating in Council Chambers will not be available for the public during meetings.

At this time, I also welcome members of the public accessing this meeting by phone. The public can call-in to the below number using the conference code. This meeting will be set to allow the public to "listen-in" only, and there will be no public comment taken via conference line during the meeting.

Phone number: 857-444-0744

Conference code: 843095

b.) **Roll Call:** Please note that all votes that are taken during this meeting shall be done by Roll Call vote.

Let's start the meeting by taking a Roll Call attendance. When each member states their name (and/or ward), also please state whether there is anyone in the room with you during this meeting, which is required under the Right-to-

Know law. (Additionally, Council members are required to state their name and ward each time they wish to speak.)

2. Roll Call

Deputy City Clerk Cassie Givara took the roll call. All Councilors were present and indicated that they were alone in the location from which they were connecting remotely.

3. Opening Prayer

Mayor McCarley asked for a moment of silent reflection.

4. Pledge of Allegiance

Mayor McCarley led the Council in the Pledge of Allegiance.

5. Acceptance of Minutes

5.1 Regular City Council Meeting: March 2, 2021 ***consideration for approval***

Councilor Lachapelle **MOVED** to accept the minutes of the March 2, 2021 Regular City Council Meeting. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous roll call vote with Councilors Walker, Belken, Rice, Lachance, Abbott, Hamann, Gray, Bogan, Lauterborn, Hainey, Lachapelle, Hutchinson, and Mayor McCarley all voting in favor.

5.2 City Council Special Meeting: March 16, 2021 ***consideration for approval***

Councilor Lachapelle **MOVED** to accept the minutes of the March 16, 2021 Special Meeting. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous roll call vote with Councilors Belken, Gray, Hamann, Rice, Lauterborn, Hainey, Lachapelle, Hutchinson, Walker, Lachance, Abbott, Bogan, and Mayor McCarley all voting in favor.

6. Communications from the City Manager

City Manager Cox stated that the Tax Office is scheduled to be closed on April 22 and 23 for the move into their new location in the Community Center at 150 Wakefield Street. The tentative open date for the new location is April 26, 2021. City Manager Cox clarified that all online services would still be available during the closure dates and the drop-box in front of the 19 Wakefield Street

location would still be available.

City Manager Cox thanked City Departments and the Public Health Network for their efforts with the COVID-19 vaccination clinics in Rochester. Multiple City employees were fit in when extra doses were unused, and additional clinic was held which allowed over 100 City staff members to receive their vaccinations.

Councilor Rice referenced a memo from the Fire Chief in the City Manager's report which authorized fire department staff to participate in COVID-19 clinics. Councilor Rice asked if the money used to pay staff was reimbursable by the State. City Manager Cox confirmed that the City would be reimbursed these expenses.

Councilor Rice asked if there would be a drop-box for the Tax Collector's office placed at the new location at the Community Center. City Manager Cox stated that there had already been a drop box installed at the Wakefield Street entrance of the Community Center. Councilor Lauterborn inquired if the current drop box at 19 Wakefield Street would remain operational. Deputy City Manager Ambrose stated that the current drop box will remain open for a short time and will be checked regularly as residents become accustomed to the new location. Councilor Rice asked if there would be signage placed at the location of the old drop box when it is eventually moved to alert residents and give them contact information for troubleshooting. Deputy Manager Ambrose said that there is signage being placed in both locations while the transition is ongoing.

6.1 City Manager's Report

Contracts and documents executed since last month:

- **Building & Licensing Services**
 - Contract Revisions – OpenGov.
- **Department of Public Works**
 - Change Order – Colonial Pines Sewer Extension Phase 2
 - Certificate of Final Completion – Colonial Pines Phase 2
 - Master Service Agreements for Consulting Engineers
 - Additional Master Service agreement
- **Economic Development**
 - Victims of Crime Act Assistance Grant Application
- **Finance**
 - Kronos support services renewal
 - Quadiant Purchase & Meter Rental Agreement
 - Solar Power Purchase Agreement – ReVision Energy
- **Fire Department**
 - Certificate of Authority – COVID Vaccine clinics
 - Finance review & Final Purchasing Contract – Toyne

- **IT**
 - Additional database licenses – Interware
 - PatrolPC Replacement Batteries

The following standard reports have been enclosed:

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

7. Communications from the Mayor

7.1 Veteran’s Council Field of Honor

Mayor McCarley reported that the Vouchers for Veterans program and the Veteran’s Council would be placing 500 flags at the Rochester Common for Memorial Day and having a small ceremony. She stated that those who wanted to donate a flag to honor a veteran could do so by going to vouchersforveterans.org. The flags can be ordered up until April 15.

7.2 Community Center Naming Ceremony

Mayor McCarley announced that the decision had been made to rename the Rochester Community Center after journalist James Foley. The naming ceremony will be held on May 4 with details forthcoming.

Mayor McCarley briefly spoke about ongoing efforts and meetings in regards to legislation which is of concern to Rochester and thanked Senator Gray and Representative Charles Grassie for taking the time to meet and hear these concerns and bring them to their colleagues in Concord prior to voting.

8. Presentation of Petitions and Council Correspondence

8.1 Homeless Center of Strafford County – Building permit fee waiver request

Mayor McCarley reported that the Homeless Center of Strafford County is building a new facility in Rochester and had requested a waiver on their building permit fees. She stated that this was a new circumstance to the Council since such a waiver had not been requested in the past by other non-profit agencies.

Councilor Lachance said that although he supports the Homeless Center and the work they do, allowing such a waiver would be a slippery slope. He stated that if the fee is waived once, other social service agencies are likely to request

similar waivers. Councilor Bogan agreed with Councilor Lachance's statement and stated that the City need to stay consistent with their permit process. Mayor McCarley agreed that allowing a waiver for one organization could cause problems down the road with additional waiver requests. She said that the City would continue to support this organization in any way they can, but authorizing this waiver would set a poor precedent.

Councilor Hainey agreed that allowing this waiver for the Homeless Center would open the door for churches and other non-profits to submit waiver requests. Councilor Lachance asked if there needed to be a motion to deny the waiver request. Mayor McCarley indicated that the Council did not need to take action if the decision was to deny; the City Manager would be in contact with the Homeless Center to inform them of Council's decision.

9. Nominations, Appointments, Resignations, and Elections

10. Reports of Committees

10.1 Appointments Review Committee

Councilor Bogan stated that the Appointment Committee had met on March 16 and had reviewed the following appointment and reappointments:

- 10.1.1 New Appointment:** Samantha Merchant - Ward 2 Library Trustees, Regular Member, *term to expire 1/02/2023*
- 10.1.2 Re-Appointment:** Kevin Sullivan – Conservation Commission, Regular Member, *term to expire 1/2/24*
- 10.1.3 Re-Appointment:** Michael Kirwan – Conservation Commission, Regular Member, *term to expire 1/2/23*
- 10.1.4 Re-Appointment:** James Hayden – Zoning Board of Adjustments, Regular Member, *term to expire 1/2/24*
- 10.1.5 Re-Appointment:** Larry Spector – Zoning Board of Adjustments, Regular Member *term to expire 1/2/23*

10.1.6 Re-Appointment: Marilyn Jones – Historic District Commission, Regular Member *term to expire 1/2/23*

10.1.7 Re-Appointment: Matthew Winders – Historic District Commission, Elevate from Alternate to Regular Member *term to expire 1/2/24*

Councilor Bogan **MOVED** to approve the above listed appointments and reappointments. Councilor Gray seconded the motion. The **MOTION CARRIED** by a unanimous roll call vote with Councilors Hamann, Walker, Hutchinson, Belken, Lachance, Abbott, Gray, Rice, Bogan, Hailey, Lachapelle, Lauterborn, and Mayor McCarley all voting in favor.

10.2 Codes and Ordinances

10.2.1 Committee Recommendation: to accept the amendments to Chapter 22 (Amusements & Entertainment) of the City Ordinances as presented by City staff *consideration for approval*

Councilor Lachapelle **MOVED** to **APPROVE** the amendments to Chapter 22 as presented by City Staff. Councilor Walker seconded the motion. Councilor Lauterborn summarized the changes being made to the chapter. The **MOTION CARRIED** by a unanimous roll call vote with Councilors Bogan, Abbott, Hailey, Walker, Hutchinson, Lachapelle, Rice, Gray, Lachance, Lauterborn, Belken, Hamann, and Mayor McCarley all voting in favor.

10.2.2 Committee Recommendation: to accept the amendments to Chapter 110 (Junk & Secondhand Dealers) of the City Ordinances as presented by City staff *consideration for approval*

Councilor Lachapelle **MOVED** to **APPROVE** the amendments to Chapter 110 as presented by City Staff. Councilor Walker seconded the motion. Councilor Lauterborn summarized the changes being made to chapter 110. The **MOTION CARRIED** by a unanimous roll call vote with Councilors Lachapelle, Rice, Gray, Hailey, Abbott, Bogan, Hutchinson, Lachance, Hamann, Lauterborn, Walker, Belken, and Mayor McCarley all voting in favor.

10.2.3 Committee Recommendation: to accept the amendments to Chapter 162 (Pawnbrokers) of the City Ordinances as presented by City staff *consideration for approval*

Councilor Lachapelle **MOVED** to **APPROVE** the amendments to Chapter 162, Pawnbrokers, as presented by City Staff. Councilor Walker seconded the motion. Councilor Lauterborn summarized the changes being made to chapter 162. The **MOTION CARRIED** by a unanimous roll call vote with Councilors Rice, walker, Belken, Bogan, Lachapelle, Hamann, Lauterborn, Hainey, Abbott, Gray, Hutchinson, Lachance, and Mayor McCarley all voting in favor.

Councilor Lachapelle stated that Chapter 40, which is an ordinance from Building and Licensing services, was held in committee and would be the discussed further at the May meeting. He stated that the minutes from the April 1st meeting will appear in the next month's City Council Packet. The next Codes and Ordinances meeting will be held Thursday, May 6, 6:00 PM.

10.3 Community Development Committee

10.3.1 Committee Recommendation: To revise the FY22 CDBG Housing Rehabilitation and Public Facilities funding recommendations to increase the original funding allocations *consideration for approval*

Councilor Lauterborn summarized the suggestions being made to revise the allocations to the CDBG funding. Councilor Lauterborn **MOVED** to **ACCEPT** the recommendations,. Councilor Belken seconded the motion. Councilor Belken expressed that she felt the Waypoint drop-in venter would be a game changer for Rochester and said that she was pleased the City was able to give them this additional funding. Mayor McCarley agreed. The **MOTION CARRIED** by a unanimous roll call vote with Councilors Walker, Belken, Rice, Lachance, Abbott, Hamann, Gray, Bogan, Lauterborn, Hainey, Lachapelle, Hutchinson, and Mayor McCarley all voting in favor.

10.3.2 Committee Recommendation: To revise the FY22 CDBG Public Services funding recommendations *consideration for approval*

Councilor Lauterborn explained that the suggestion is to increase the allocation to Crossroads House to \$10,000 which is level-funding from last year, to increase My Friend's Place to \$10,834.70 which is slightly more than last year, and to add \$1000 to Strafford County Meals on Wheels bringing them to a total of \$3000. Councilor Lauterborn **MOVED** to **ACCEPT** the recommendations. Councilor Bogan seconded the motion. The **MOTION CARRIED** by a unanimous roll call vote with Councilors Belken, Gray, Hamann, Rice, Lauterborn, Hainey, Lachapelle, Hutchinson, Walker, Lachance, Abbott, Bogan, and Mayor McCarley all voting in favor.

Councilor Gray suggested that if there was CDBG funding un-allocated from the prior year, the City could potentially give funding to the Homeless Center of Strafford County. This donation could potentially be equal to the fee that the center is looking to have waived for their building permit fee. Councilor Gray stated that it is the City's obligation to provide housing and it is in the cities best financial interest to get this center finished to save money on transportation to other area shelters and centers and well as motel vouchers.

10.4 Fidelity Committee

Councilor Hutchinson reported that the Willand Warming Center would be closing for the season on March 31st and the Garrison Hotel Shelter would be closing for the season on April 15th. He stated that the Fidelity Committee would next be meeting on April 15th at 6:00 PM.

Councilor Belken asked if there had been a decision made on what would be done with the building which had housed the Willand Warming Center. Mayor McCarley stated that there is going to be a review of the data and numbers generated from this season at the Willand Center. She said that likely this property will be used for a similar function next winter as the Tri-cities continue to work on a collaborative plan for a more permanent 24/7 approach to homeless resources.

10.5 Planning Board

Councilor Walker reported that the Planning Board had met the night prior and summarized some of the business that they discussed. He said that the big discussion was the compliance hearing for Highfields Commons which lasted approximately two hours which was a contentious topic. There will be a site walk on April 7 to review the complaints and determine if they are now in compliance.

Councilor Lachapelle asked if the Planning Board had any further discussion on Impact Fees. Councilor Walker said that they had reduced the impact fees to zero and they were working on language to bring back to Council

10.6 Public Works

- 10.6.1 Committee Recommendation:** To approve the use of \$30,000 from the Economic Development Fund for the Phase 2 Environmental Site Assessment of the 45 Old Dover property ***motion to refer to Finance***

Committee

Councilor Walker said that there needs to be an environmental assessment of the 45 Old Dover Road site of the current Department of Public Works, which will be moving it a new location. The Department of Public Works has money in their budget to do the first phase of this assessment. Phase Two, which will require test sampling and will cost around \$30,000. The committee made a recommendation to approve the \$30,000 to come from contingency. This recommendation has been revised to come from the Economic Development fund. Councilor Walker **MOVED** to **APPROVE** the use of \$30,000 from the Economic Development plan for the Phase Two environmental assessment at 45 Old Dover Road. Councilor Hamann seconded the motion. The **MOTION CARRIED** by a unanimous roll call vote with Councilors Hamann, Walker, Hutchinson, Belken, Lachance, Abbott, Gray, Rice, Bogan, Hailey, Lachapelle, Lauterborn, and Mayor McCarley all voting in favor.

10.6.2 Resolution Authorizing Supplemental Appropriation to the Department of Public Works (DPW) Water CIP Fund in the Amount of \$100,000.00 for the Water Street Water Line Extension Project *first reading and consideration for adoption*

Councilor Walker stated that the current waterline on north Main Street is too small to supply water to the updated Scenic/Salinger building. There needs to be a new waterline in the back of the building which will serve the lots on the rear side of this block. Councilor Walker **MOVED** to read the resolution for a first time by title only. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous roll call vote with Councilors Bogan, Abbott, Hailey, Walker, Hutchinson, Lachapelle, Rice, Gray, Lachance, Lauterborn, Belken, Hamann, and Mayor McCarley all voting in favor. Councilor Walker read the resolution for the first time by title only as follows:

Resolution Authorizing Supplemental Appropriation to the Department of Public Works (DPW) Water CIP Fund in the Amount of \$100,000.00 for the Water Street Water Line Extension Project

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

That the amount of One Hundred Thousand Dollars (\$100,000.00) is hereby appropriated as a supplemental appropriation to the DPW Water CIP Fund for the purpose of paying costs associated with the Water Street Water Line

Extension Project. The funding for this supplemental appropriation shall be derived in its entirety from the Water Fund Retained Earnings Fund.

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

Councilor Walker **MOVED** to **ADOPT** the resolution. Councilor Lachance seconded the motion. The **MOTION CARRIED** by a unanimous roll call vote with Councilors Lachapelle, Rice, Gray, Hailey, Abbott, Bogan, Hutchinson, Lachance, Hamann, Lauterborn, Walker, Belken, and Mayor McCarley all voting in favor.

10.6.2.1 **Resolution Authorizing 10 Year Financing Agreements for the Water Street Water Extension Project Pursuant to §260-31 of the City Code *first reading and consideration for adoption***

Councilor Walker **MOVED** to read the resolution for a first time by title only. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a unanimous roll call vote with Councilors Rice, Walker, Belken, Bogan, Lachapelle, Hamann, Lauterborn, Hailey, Abbott, Gray, Hutchinson, Lachance, and Mayor McCarley all voting in favor. Councilor Walker read the resolution for a first time by title only as follows:

Resolution Authorizing 10 Year Financing Agreements for the Water Street Water Extension Project Pursuant to §260-31 of the City Code

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

That pursuant to §260-31 of the City Code, the City Manager is hereby authorized to enter into Financing Agreements with Scenic Salinger, LLC and Ventina, LLC to pay the proportionate costs associated with the so-called Water Street Water Extension Project. The Financing Agreements shall be no more than Ten (10) years and shall be consistent with the provisions outlined in §260-31 of the City Code. Further, each entity named herein shall be liable for Fifty Percent (50%) of the total cost of the aforementioned Project.

Councilor Walker **MOVED** to **ADOPT** the resolution. Councilor Lachapelle seconded the motion. Councilor Gray clarified that the reason for this water line extension is due to the water flow being insufficient for the renovated buildings, which will all have sprinklers installed throughout. He wanted it to be noted that the reason for this extension is health and safety of the future residents. The **MOTION CARRIED** by a unanimous roll call vote with Councilors Walker, Belken, Rice, Abbott, Lachance, Gray, Hamann, Lauterborn, Bogan, Hainey, Lachapelle, Hutchinson, and Mayor McCarley all voting in favor.

Councilor Gray referenced a conversation he had with the City Manager in regards to the acceptance of minutes from committees. He stated that some committees approve their minutes and some do not. The City Manager was going to discuss this with the City Attorney to determine what process should be followed. Mayor McCarley said there is currently nothing in the Council rules of order which state that the minutes need to be approved, but agreed that the acceptance of the prior month's minutes should occur at the beginning of each committee meeting for consistency's sake and as a matter of good government. Councilor Walker stated that the reason he does not have the Public Works committee accept their prior month's minutes is because the City Council meeting takes place before hand in the schedule and all the action items from that committee meeting have already been voted on. He speculated this is also why the Finance Committee does not approve their minutes. Mayor McCarley stated that there are other discussions and items which are held in committee which may make it worthwhile for the minutes to be accepted. She stated that it could be a discussion to add this to the rules of order the next time it is revised, but suggested that each committee accept their minutes at their meetings through the end of the year.

11. Old Business

11.1 Amendment To The Granite Ridge Development District (GRDD) Tax Increment Development Program & Financing Plan ("TIF Plan") Pursuant To RSA 162-K:9,IV *second reading and consideration for adoption*

Councilor Lachapelle **MOVED** to read the resolution for a second time by title only. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous roll call vote with Councilors Belken, Hutchinson, Rice, Gray, Lauterborn, Hamann, Hainey, Lachapelle, Lachance, Walker, Abbott, Bogan, and Mayor McCarley all voting in favor. Mayor McCarley read the resolution

for a second time by title only as follows:

**Amendment to the Granite Ridge Development District (GRDD) Tax
Increment Development Program & Financing Plan ("TIF Plan")
Pursuant to RSA 162-K:9, IV**

THE CITY OF ROCHESTER ORDAINS:

WHEREAS, the 2014 Adopted GRDD TIF Plan was crafted to rely on retail and office space development to generate tax increment for the GRDD;

WHEREAS, the original GRDD TIF concept planned for the development of retail and office space as the main drivers for incremental assessment within the TIF, but market trends over the last several years has seen the demand for office and retail rental space decline at an accelerated rate;

WHEREAS, these economic shifts, amid other more recent influences, are reshaping the traditional approach to retail and office space development; and

WHEREAS, it is acknowledged that increasing diversity is necessary to assure tax incremental revenues remain at adequate levels in order to carry out the development plans of the GRDD.

THEREFORE, the Mayor and City Council of Rochester ordain that mixed use commercial and residential developments, and associated public parks, parking lots, open spaces, and recreational opportunities is recognized as allowable development activities within the GRDD TIF Plan and the GRDD TIF Plan is hereby amended to allow the same.

The effective date of these amendments shall be upon passage.

Councilor Lachapelle **MOVED** to **ADOPT** the resolution. Councilor Walker seconded the motion. Councilor Gray said that the way he understood the resolution, it would allow for residential development at the Granite Ridge. Mayor McCarley said this would allow for the possibility of residential development in the future, but it does not approve any specific development. The process would still need to be followed through the planning board and potentially the ZBA. She said that if/when a developer comes forward with a request for residential development, it will still go before the Planning Board process for approval. Councilor Lachance said that this decision would not

circumvent the Planning Board's authority, it simply amends the TIF plan to allow for funds to be used toward infrastructure improvements like water and sewer if residential units were approved in the area.

Councilor Gray stated that he felt the City Manager should look at the zoning requirements for this area and he felt that approving it would be indicate a "right" for people to build houses in the TIF district, not as either a conditional use nor as an exception. These are functions of the Planning Board and Zoning Board of Adjustments, of which this approval falls under neither.

Mike Scala, Director of Economic Development, gave a brief overview of the request. He stated that this would be a two part process; changing the TIF as well as amending the zoning to allow residential development in the area. Mark Sullivan, Deputy Finance Director, gave some background on the financing aspect of this request. He explained that authorizing this change to the TIF plan did not make residential development a permitted right, there is still a whole separate process to be followed with the zoning change and planning board authorization.

Councilor Abbott stated that although changing the TIF to allow this type of funding was an important step in the process, he was more interested in the potential zoning change and the concept for what would be allowed in the area. He said he would be open to development that would be a benefit to tax payers in the future, but was not interested in large, multi-unit residential developments. Director Scala said the vision for potential development is being explored now and it will be well planned and thought out before any decisions are made. The **MOTION CARRIED** by a 12- 1 roll call vote with Councilors Hamann, Walker, Hutchinson, Belken, Lachance, Abbott, Rice, Bogan, Hainey, Lachapelle, Lauterborn, and Mayor McCarley all voting in favor and Councilor Gray voting opposed.

11.2 Amendment To Chapter 275 Of The General Ordinances Of The City Of Rochester Regarding The Location And Boundaries Of Zoning Districts *second reading and consideration for adoption*

Councilor Lachapelle **MOVED** to read the resolution for a second time by title only. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous roll call vote with Councilors Bogan, Abbott, Walker, Gray,

Hainey, Hutchinson, Lachapelle, Rice, Lauterborn, Lachance, Hamann, Belken, and Mayor McCarley all voting in favor. Mayor McCarley read the resolution for a second time by title only as follows:

Amendment to Chapter 275 of the General Ordinances of the City of Rochester Regarding the Location and Boundaries of Zoning Districts

THE CITY OF ROCHESTER ORDAINS:

WHEREAS, Chapter 275-1.10 establishes that the location and boundaries of zoning districts within the City of Rochester are established as shown on a map titled, "City of Rochester Zoning Map."

WHEREAS, Chapter 275-1.10 further declares that the City of Rochester Zoning Map is incorporated by reference as part of Chapter 275 of the General Ordinances of Rochester regarding zoning.

WHEREAS, the Mayor and City Council of Rochester desire to amend the City of Rochester Zoning Map to convert the property located at 13 Sawyer Avenue to the Downtown Commercial Zone.

THEREFORE, the Mayor and City Council of Rochester ordain that the property located at 13 Sawyer Avenue shall be converted to Downtown Commercial Zone in accordance with the Attached Exhibit. (Exhibit A).

The effective date of these amendments shall be upon passage.

Councilor Lachapelle **MOVED** to **ADOPT** the resolution. Councilor Walker seconded the motion. Councilor Hainey asked if this change in zoning had gone before the Zoning Board. Director Scala stated that it had been heard by the Zoning Board and had been approved unanimously. The **MOTION CARRIED** by a unanimous roll call vote with Councilors Lachapelle, Rice, Hainey, Gray, Abbott, Bogan, Hutchinson, Lachance, Hamann, Walker, Lauterborn, Belken, and Mayor McCarley all voting in favor.

12. Consent Calendar

No business on the consent calendar.

13. New Business**13.1 Resolution Authorizing Certain Renumbering on Tebbetts Road *first reading and refer to public hearing***

Councilor Lachapelle **MOVED** to read the resolution for a first time by title only and refer to a public hearing. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous roll call vote with Councilors Walker, Belken, Rice, Lachance, Abbott, Hamann, Gray, Bogan, Lauterborn, Hainey, Hutchinson, Lachapelle, and Mayor McCarley all voting in favor. Mayor McCarley read the resolution for a first time by title only as follows:

Resolution Authorizing Certain Renumbering on Tebbetts Road**BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF ROCHESTER:**

That the following addresses on Tebbetts Road will be renumbered as follows:

10 Tebbetts Road becomes 12 Tebbetts Road
12 Tebbetts Road becomes 14 Tebbetts Road
14 Tebbetts Road becomes 20 Tebbetts Road
36 Tebbetts Road becomes 46 Tebbetts Road
50 Tebbetts Road becomes 0 Tebbetts Road
42 Tebbetts Road becomes 56 Tebbetts Road
47 Tebbetts Road becomes 57 Tebbetts Road
44 Tebbetts Road becomes 58 Tebbetts Road
57 Tebbetts Road becomes 61 Tebbetts Road
53 Tebbetts Road becomes 63 Tebbetts Road
59 Tebbetts Road becomes 65 Tebbetts Road
70 Tebbetts Road becomes 76 Tebbetts Road
74 Tebbetts Road becomes 78 Tebbetts Road

76 Tebbetts Road becomes 82 Tebbetts Road
78 Tebbetts Road becomes 84 Tebbetts Road
81 Tebbetts Road becomes 91 Tebbetts Road
85 Tebbetts Road becomes 93 Tebbetts Road
86 Tebbetts Road becomes 94 Tebbetts Road
88 Tebbetts Road becomes 96 Tebbetts Road
87 Tebbetts Road becomes 97 Tebbetts Road
91 Tebbetts Road becomes 99 Tebbetts Road
94 Tebbetts Road becomes 100 Tebbetts Road
95 Tebbetts Road becomes 103 Tebbetts Road
97 Tebbetts Road becomes 105 Tebbetts Road
100 Tebbetts Road becomes 108 Tebbetts Road
106 Tebbetts Road becomes 116 Tebbetts Road
122 Tebbetts Road becomes 127 Tebbetts Road
125 Tebbetts Road becomes 131 Tebbetts Road
127 Tebbetts Road becomes 135 Tebbetts Road
131 Tebbetts Road becomes 137 Tebbetts Road
130 Tebbetts Road becomes 138 Tebbetts Road
133 Tebbetts Road becomes 143 Tebbetts Road
142 Tebbetts Road becomes 144 Tebbetts Road
141 Tebbetts Road becomes 155 Tebbetts Road
143 Tebbetts Road becomes 161 Tebbetts Road
145 Tebbetts Road becomes 165/173 Tebbetts Road
197 Tebbetts Road becomes 191 Tebbetts Road

These changes are made in order to be in compliance with the standards articulated by the National Emergency Number Association and RSA 231:133 and 133-a.

Councilor Lauterborn asked if the residents of Tebbetts Road who would be affected by the renumbering have been notified of the public hearing. Deputy Chief Wilder stated that notifications will be sent within the next few days to notify residents of the public hearing.

13.2 Resolution Authorizing Acceptance of an Emergency Management Performance Grant and Supplemental Appropriation of \$18,000,00 in Connection Therewith *first reading and consideration for adoption*

Councilor Lachapelle **MOVED** to read the resolution for a first time by title only. Councilor Walker seconded the motion. The **MOTION CARRIED** by a unanimous roll call vote with Councilors Belken, Rice, Walker, Bogan, Lachapelle, Lauterborn, Hamann, Hainey, Abbott, Huthinson, Gray, Lachance, and Mayor McCarley all voting in favor. Mayor McCarley read the resolution by title only for a first time as follows:

Resolution Authorizing Acceptance of an Emergency Management Performance Grant and Supplemental Appropriation of \$18,000.00 In Connection Therewith

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

WHEREAS, that a New Hampshire Emergency Management Performance Grant in the for the purpose of updating the City's Continuity of Operations Plan (COOP) and the Emergency Operations Plan (EOP), which are both managed by the Emergency Management Director/Fire Chief, is awarded to the City of Rochester's Fire Department, and is hereby accepted by the City of Rochester;

WHEREAS, the City Council acknowledges that the total cost of this project will be Eighteen Thousand Dollars (\$18,000.00), in which the city will be responsible for a 50% match of Nine Thousand Dollars (\$9,000.00), which will be fulfilled through In-Kind contributions of various staff time necessary to the formulation of the COOP & EOP plans.

THEREFORE, the sum of Eighteen Thousand Dollars (\$18,000.00) is hereby appropriated for the purpose of carrying out the COOP & EOP updates, 50%

of said appropriation shall be derived from the Emergency Management Performance Grant, and 50% shall be derived from staff In-Kind contributions.

FURTHER, that the City Manager is authorized to enter into a grant agreement and to sign any other documents that are necessary to receive and administer the grant funds detailed above; and

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

Councilor Lachapelle **MOVED** to **ADOPT** the resolution. Councilor Walker seconded the motion. Councilor Rice stated that the way he understood the resolution is that the City is putting up \$9000.00 of in-kind contributions and receiving \$9000.00 cash; not receiving a full \$18,000.00. He asked for clarification on what the money will be used for and if it will be split between a consultant and City staff salary. City Manager Cox stated that the \$9000.00 "in-kind" will be staff time spent working on the project. Chief Klose confirmed that the City would be contracting the services of an outside consultant, of which there are only two in the State who handle both EOP and COOP plans. He reported that the City had chosen the services of the same consultant who did the first plan and has prior experience with the City. Councilor Rice inquired about the life span of the plan and the likelihood of the Fire Department needing to come back in a few years to ask for funding to update it again. Chief Klose stated that the average is 5 – 7 years. The **MOTION CARRIED** by a unanimous roll call vote with Councilors Hamann, Gray, Belken, Lachapelle, Hainey, Lauterborn, Rice, Lachance, Walker, Hutchinson, Abbott, Bogan, and Mayor McCarley all voting in favor.

13.3 Discussion: Proposed Amendments to City Charter

Councilor Rice stated that he is in favor of 4-year terms for Councilors, but questioned what provisions would be instated for councilors who wanted to run for mayor mid-term. He said that there needed to be language added for this specific circumstance. Councilor Walker said that this is the reason for a staggered term; so that a councilor could run for mayor without losing their council seat. Councilor Rice said that he felt this should not be the process and that if a mid-term councilor did want to run for mayor, they should give up their council seat which should then be decided on by the people of their ward. Councilor Walker clarified that if staggered terms were adopted and a mid-term councilor won the seat of mayor, their open council seat would be appointed by the City Council. Councilor Rice reiterated that he felt the people

of that councilor's ward should have a say in the person who represents them for the next two years. There was a discussion about the process of filling vacancies on council.

Councilor Lauterborn speculated that if a sitting councilor won the seat of mayor when there were still two years left on their term, there would need to be a Special Election to fill the remainder of their council term. Councilor Rice agreed that this would be a good process to follow, but said that there is no language in the charter which would direct this action and explain how the process works. Councilor Lauterborn said that she thought there might already be wording within the charter regarding extended vacancies. Attorney O'Rourke said there is no language in the charter dealing with extended council vacancies.

Councilor Gray said rather than staggered 4-year terms, he is in favor of having the two candidates who receive the highest number of votes fill both seats A and B rather than running for a specific seat. Councilor Hamann spoke in favor of 4-year staggered terms to avoid an entirely new council being elected and erasing any institutional memory held within the board.

Councilor Hainey referenced the section on removal of elected officials which states that the mayor and councilors can be removed for "cause" and lists several reasons. Councilor Hainey asked if "cause" was defined somewhere within the charter. Attorney O'Rourke said that the statute does not define cause and there is limited case law on the topic. He said the way the Supreme Court interprets this is that "cause" would need to relate to the ability to carry out job duties and the job itself. Councilor Hainey stated that the section only relates to removal of City councilors. Attorney O'Rourke answered that the State has not granted authority to the City Council to remove members of other elected boards. The School Board and Police Commission are governing bodies over which city council does not have authority. There was a discussion regarding State law and the removal of members of elected boards. It was stated that the School Board and Police Commission do not have provisions in place for the removal of members. Attorney O'Rourke speculated that the way the State law is written was for municipal charters, which the school board and police commission do not have. He said this is a hole in State legislation.

Councilor Lachance asked if any of these changes require a public hearing. Attorney O'Rourke confirmed that there is a public hearing required after the Council makes any changes and there would be additional hearings required if there are subsequent changes.

There was a discussion of the selectmen (election officials) being elected for 6-year terms.

Councilor Belken asked about section 5, Election of Councilors, and asked what had driven the conversation for change. Mayor McCarley said it has mainly been people who have served as elected officials. Councilor Walker and Councilor Lachapelle spoke about the history of staggered terms appearing on the municipal ballot and the turmoil resultant from prior elections introducing entirely new, inexperienced officials.

Councilor Walker asked what the next step would be in the process. Mayor McCarley said that the Council could make motions and take action this evening if there was consensus, or they could review further and come back at the workshop meeting for more discussion. Attorney O'Rourke said he would work on some language regarding extended vacancies and it can be discussed at the April workshop meeting.

14. Other

No Discussion.

15. Non- Public/ Non-Meeting

15.1 Non-Public Session – Land, RSA 91-A:3, II (d)

Councilor Lauterborn **MOVED** to enter into a Non-Public Sessions under RSA 91-A:3, II(d) Land at 8:21 PM. Councilor Walker seconded the motion. The **MOTION CARRIED** by a 13 to 0 roll call vote with Councilors Hamann, Lauterborn, Bogan, Rice, Gray, Abbott, Lachance, Belken, Hutchinson, Hainey, Lachapelle, Walker and Mayor McCarley all voting in favor of the motion.

Councilor Lachapelle **MOVED** to exit the Non-Public Session at 10:03 PM. Councilor Walker seconded the motion. The **MOTION CARRIED** by a 13 to 0 roll call vote with Councilors Bogan, Abbott, Hainey, Walker, Hutchinson, Lachapelle, Rice, Gray, Lachance, Lauterborn, Hamann, Belken, and Mayor McCarley all voting in favor of the motion.

Councilor Lauterborn **MOVED** to seal the minutes for the Non-Public Session under Land, RSA 91-A:3, II (d) because disclosure could render the proposed action ineffective. Councilor Lachapelle seconded the motion. The **MOTION CARRIED** by a 13 to 0 roll call vote. Councilors Lachapelle, Rice, Gray, Hainey, Abbott, Bogan, Hutchinson, Lachance, Hamann, Lauterborn, Walker, Belken, and Mayor McCarley all voting in favor of the motion.

16. Adjournment

Mayor McCarley **ADJOURNED** the Regular City Council Meeting at 10:06 PM.

Respectfully Submitted,

Cassie Givara
Deputy City Clerk

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

THE CITY OF ROCHESTER ORDAINS:

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

Chapter 22

Amusements and Entertainment

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

GENERAL REFERENCES

Adult-oriented establishments — See Ch. 11.

Parks, recreation and arena — See Ch. 158.

Article I Theaters

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

~~§ 22-1 Blanket licenses; fees.~~

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

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

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

Article II Boxing and Wrestling Exhibitions

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

§ 22-2 Exhibitions authorized.

[Amended 3-5-2019]

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

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

Article III

Public Dances, Circuses and Parades

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

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

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

~~Article IV~~

~~Bowling Alleys and Billiard Tables~~

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

~~**§ 22-4 Licensing.**~~

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

~~Article V~~

~~Pinball and Video Games and Machines~~

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

~~**§ 22-5 Definitions.**~~

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

~~**MECHANICAL AMUSEMENT DEVICE**~~

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

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

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

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

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

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

~~§ 22-7 License required.~~

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

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

~~§ 22-8 Application for license.~~

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

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

~~§ 22-9 Inspection.~~

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

~~§ 22-10 License fees.~~

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

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

~~§ 22-11 Display of license.~~

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

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

~~§ 22-12 Transfer of license.~~

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

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

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

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

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

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

~~§ 22-15 Revocation of license.~~

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

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

~~§ 22-16 Appeals.~~

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

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

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

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

§ 22-18 Violations and penalties.

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

§ 22-19 Severability.

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

Amendments effective upon passage.

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

Chapter 110

Junk and Secondhand Dealers

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

GENERAL REFERENCES

Pawnbrokers — See Ch. 162.

Peddling and soliciting — See Ch. 171.

Zoning — See Ch. 275.

§ 110-1 Definitions.

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

JUNK DEALER

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

SECONDHAND DEALER

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

§ 110-2 License required.

[Amended 10-15-2013]

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

§ 110-3 Procedure for issuance of license.

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

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

application shall:

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

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

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

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

§ 110-5 License expiration and revocation.

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

§ 110-6 Purchases from minors.

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

§ 110-7 Records.
[Amended 10-15-2013]

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

§ 110-8 Exclusions.

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

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

§ 110-9 Violations and penalties.

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

§ 110-10 Severability.

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

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

Chapter 162

Pawnbrokers

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

GENERAL REFERENCES

Junk and secondhand dealers — See Ch. 110.

§ 162-1 **Pawnbroker's license.**

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



City of Rochester Formal Council Meeting

AGENDA BILL

NOTE: Agenda Bills are due by 10 AM on the Monday the week before the City Council Meeting.

AGENDA SUBJECT

COUNCIL ACTION ITEM <input type="checkbox"/> INFORMATION ONLY <input type="checkbox"/>	FUNDING REQUIRED? YES <input type="checkbox"/> NO <input type="checkbox"/> * IF YES ATTACH A FUNDING RESOLUTION FORM
RESOLUTION REQUIRED? YES <input type="checkbox"/> NO <input type="checkbox"/>	FUNDING RESOLUTION FORM? YES <input type="checkbox"/> NO <input type="checkbox"/>

AGENDA DATE		
DEPT. HEAD SIGNATURE		
DATE SUBMITTED		
ATTACHMENTS YES <input type="checkbox"/> NO <input type="checkbox"/>	* IF YES, ENTER THE TOTAL NUMBER OF PAGES ATTACHED	

COMMITTEE SIGN-OFF

COMMITTEE	
CHAIR PERSON	

DEPARTMENT APPROVALS

DEPUTY CITY MANAGER	
CITY MANAGER	

FINANCE & BUDGET INFORMATION

FINANCE OFFICE APPROVAL	
SOURCE OF FUNDS	
ACCOUNT NUMBER	
AMOUNT	
APPROPRIATION REQUIRED YES <input type="checkbox"/> NO <input type="checkbox"/>	

LEGAL AUTHORITY

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SUMMARY STATEMENT

RECOMMENDED ACTION



City of Rochester, New Hampshire
Office of Economic & Community Development
33 Wakefield Street, Rochester, NH 03867
(603) 335-7522, www.RochesterEDC.com

MEMO

TO: Mayor Caroline McCarley

CC: Kelly Walters, City Clerk, Cassie Givara, Deputy City Clerk

FROM: Michael Scala, Director of Economic Development

DATE: February 22, 2021

RE: Expansion of the Downtown Commercial (DC) zone to include 13 Sawyer Avenue (0125-0088)

Mayor McCarley:

The Department of Economic Development is requesting a Zoning Map Amendment that would rezone 13 Sawyer Avenue (0125-0088) from Residential-2 (R2) to Downtown Commercial District (DC).

13 Sawyer is a city-owned, 3-acre parcel zoned as R2 that abuts the DC at both 11 Sawyer Avenue (0125-0089) and 15 Sawyer Avenue (0125-0087). Those two lots, as well as 161 South Main (0125-0085), 7 Sawyer Avenue (0125-0090), and 17 Sawyer Avenue (0125-0086) combine to make up the "Care Pharmacy" parcels.

The goal behind the rezone is to create a group of lots, with a combined area of over six acres, primed for both commercial and residential redevelopment. This action would follow with both the recommendations of the Downtown Masterplan and the objectives listed for the Downtown Commercial District (§ 275-6.3).

Thank you,

Michael Scala
Director of Economic Development



Planning & Development Department
City Hall - Second Floor
31 Wakefield Street
ROCHESTER, NEW HAMPSHIRE 03867-1917
(603) 335-1338 - Fax (603) 335-7585
Web Site: <http://www.rochesternh.net>

Planning and Development
Conservation Commission
Historic District Commission
Arts and Culture Commission

PROCEDURES FOR AMENDING THE ZONING ORDINANCE (CHAPTER 42)

1. **Procedure.** The procedure for amending this chapter is specified in RSA 675:2 and 675:7. Amendments to this Zoning Ordinance may be initiated by any citizen, the Planning Board, the City Council, the Mayor, the City Manager, or any department or other City board or commission in accordance with this chapter. The chronological steps for enacting zoning amendments are as follows:

A. **Petition Form.** A blank petition form is obtained from the Planning Department.

B. **Submission.** The petition is completed and returned to the City Clerk's office along with a fee of \$100.00 and any other pertinent materials. In the case of text amendments (See subsection 2, below) the petition shall include specific proposed language.

The fee is not charged, and the formal petition form need not be used, for amendments initiated by any board, commission, department, or other City official acting in an official capacity.

C. The City Clerk's office forwards a copy of the petition to the Planning Department.

D. **Deadline.** See RSA 675:2 and 675:7.

E. **Council Consideration.** The petition is placed on the City Council agenda for consideration. At its discretion, the Council may deny the petition at this stage. If acceptable, it is sent to the City Attorney to place it into legal form. .

At the discretion of the City Manager, this step may be skipped and the petition may be sent directly to the City Attorney to place into legal form.

F. **Legal Form.** The City Attorney places the petition into legal form.

G. **First Reading.** City Council holds first reading on the petition. At its discretion the Council may deny the petition at this stage. When a petition is denied at any stage, the Council may elect to initiate an alternative amendment or to request that the Planning Board formulate an alternative amendment.

H. **Planning Board Recommendation.** The Planning Board makes a formal recommendation on the petition. The board must make its recommendation within 45 days of first reading. At its discretion, the City Council may extend this timeframe up to an additional 30 days.

If the Planning Board recommends against a zoning amendment, a 2/3 vote of the City Council shall be required to adopt the amendment. If the Planning Board does not submit a recommendation within 45 days

of first reading (or as may be extended by the City Council) or if it does not make a recommendation, then it shall be deemed a favorable recommendation for the purpose of this paragraph herein. Where the Planning Board initiates an amendment, the proposal shall not be sent to the board for a recommendation.

- I. Public Hearing. A public hearing is held, either by the full City Council or by a subcommittee of the City Council. The public notice must be placed in a newspaper of general circulation at least 10 days prior to the public hearing and it must be posted in at least 2 public locations. The full text of the proposed amendment need not be included in the notice if an adequate statement describing the proposal is included. *
- J. Second Reading. Second reading is held and the amendment is either adopted or denied. Any proposed amendment shall require a majority affirmative vote of Council members present in order to pass except where the Planning Board has recommended denial (as discussed above). The City Council shall take final action on any petition within 120 days of first reading (except in the case of protest petitions; See Subsection 3, below).

The Council may make minor changes to the proposed amendment at second reading/adoption, provided the amendment remains substantially the same as that which was advertised for the public hearing.

- K. Filing. A copy of any approved zoning amendments is placed on file with the City Clerk for public inspection. A copy is also sent to the New Hampshire Office of Energy and Planning.
2. Types of Amendments. There are two types of zoning amendments as follows. The procedure for amendments is the same except where noted.
- A. Map amendment (also called a "rezoning"), where the zoning district for a lot, parcel, multiple lots, or a part of a lot is changed.
 - B. Text amendment where written language in this chapter is changed.

3. Protest Petition.

- A. In accordance with RSA 675:5, adoption of an amendment that is the subject of a protest petition shall require a favorable vote of 2/3 of all the members of the City Council present and voting. In order to qualify as a protest petition, a protest against a proposed map amendment must be signed by either:
 - i. The owners of 20% of the gross land area included in the proposed change; or
 - ii. The owners of 20% of the land area situated within 100 feet immediately adjacent to the land contained in the proposed change or land across a road from the land contained in the proposed change.
- B. The address of the subject property must be included on the petition and the property owners signing the petition must identify themselves on the petition by name and address so that the City Clerk may identify them as interested and affected parties.
- C. The protest petition must be submitted to the City Clerk at least 7 days prior to the date at which second reading is scheduled. Copies of the protest petition will be distributed to City Council members.
- D. Any individual protest petition may apply to only one proposed zoning amendment. Separate protest petitions must be submitted for multiple amendments.
- E. In the case of a protest petition, the City Council shall act within 120 days of the date of first reading.

* The City Clerk's Office will notify the petitioner of the Public Hearing

Petition for Zoning Ordinance Amendment

Date: 1/19/2021

The fillings of this petition and payment of the required fees, hereby propose a change in Chapter 42, Section 275 - 15.1, of the General Ordinances of the City of Rochester.

It is respectfully requested that the Honorable Mayor and City Council amend the above as follows:

(Note: Please give a completed description of the change requested; if a zoning change is proposed supply full legal description of the affected parcel or areas).

13 Sawyer Avenue is a 3.0 acre, city-owned parcel (lot # 0125-0088-0000 /Book 1359 Pg.587) abutted by 11 (0125-0087-0000) Sawyer Avenue and 15 (0125-0089-0000) Sawyer Avenue. Both 11 and 15 are located within the Downtown Commercial zoning district.

The Department of Economic Development is requesting the incorporation of 13 Sawyer Avenue into the Downtown Commercial District.

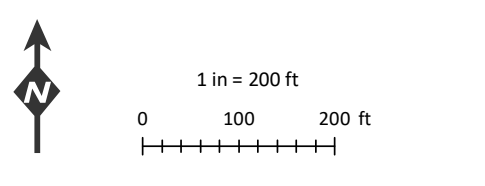
(Please see attached memo for the reasoning associated with this request)

Each petitioner must supply, printed name, signature, street address, and Map and Lot Number.

	<i>Printed Name</i>	<i>Signature</i>	<i>Street Address</i>	<i>Map & Lot Number</i>
1	Michael Scala		13 Sawyer Avenue	0125-0088
2				
3				
4				
5				
6				
7				
8				
9				
10				

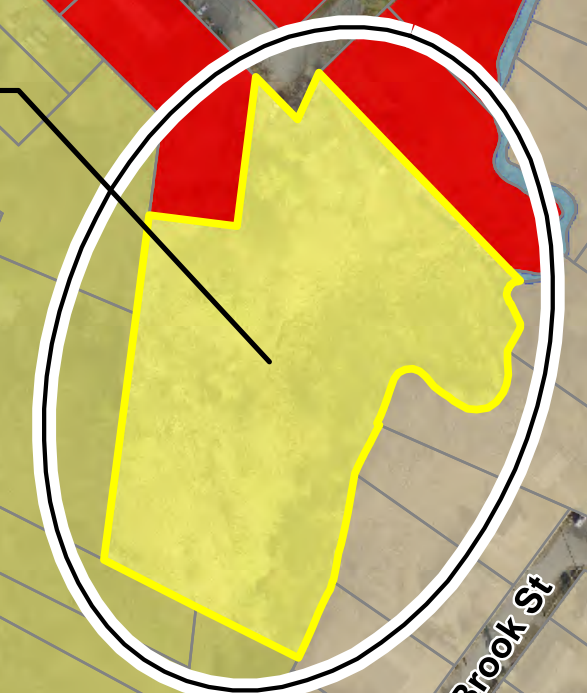
**Proposed
Zoning Change
13 Sawyer Ave**

- Legend**
- Tax Parcels
- Zoning Districts**
- Agricultural
 - Residential - 1
 - Residential - 2
 - Neighborhood Mixed Use
 - Downtown Commercial
 - Office Commercial
 - General Industrial
 - Hospital Special
 - Water



Data Sources
City of Rochester - Parcels (2020)
NHDOT - Roads (2020)
Pictometry - Imagery (2020)
ArcGIS Online - Inset Base (2021)

13 Sawyer Ave
Existing Zone: R-2
Proposed Zone: Downtown Commercial



Amendment to Chapter 275 of the General Ordinances of the City of Rochester
Regarding the Location and Boundaries of Zoning Districts

THE CITY OF ROCHESTER ORDAINS:

WHEREAS, Chapter 275-1.10 establishes that the location and boundaries of zoning districts within the City of Rochester are established as shown on a map titled, "City of Rochester Zoning Map."

WHEREAS, Chapter 275-1.10 further declares that the City of Rochester Zoning Map is incorporated by reference as party of Chapter 275 of the General Ordinances of Rochester regarding zoning.

WHEREAS, the Mayor and City Council of Rochester desire to amend the City of Rochester Zoning Map to convert the property located at 13 Sawyer Avenue to the Downtown Commercial Zone.

THEREFORE, the Mayor and City Council of Rochester ordain that the property located at 13 Sawyer Avenue shall be converted to Downtown Commercial Zone in accordance with the Attached Exhibit. (Exhibit A).

The effective date of these amendments shall be upon passage.



City of Rochester, New Hampshire
Office of Economic & Community Development
33 Wakefield Street, Rochester, NH 03867
(603) 335-7522, www.rochesterredc.com

January 27, 2021

Mr. Lionel "Nel" Sylvain
Chair
Rochester Planning Board
33 Wakefield Street
Rochester, NH 03867

Re: Rezoning of 13 Sawyer Avenue to Downtown Commercial

Dear Chairman Sylvain:

The Rochester Economic Development Commission (REDC) is submitting this letter in support of the proposed rezoning of 13 Sawyer Avenue from Residential-2 to Downtown Commercial (DC). The REDC understands adding 13 Sawyer to the DC may allow for the future residential development of the site.

The commonly accepted value for a "healthy" residential vacancy rate is between 5-6%. The most recent analysis from the Workforce Housing Coalition of the Greater Seacoast places Rochester's at 1.6%. These numbers take into account all sizes and levels of housing. The REDC recognizes that this housing deficit is detrimental to both employees wishing to live close to work, and employers interested in hiring local.

REDC is supportive of the addition of housing units on any level, and feels that benefits such as the proximity to downtown, public transportation, and area employers, position the property as a prime location for residential development.

Sincerely,

A handwritten signature in black ink, appearing to read "Jonathan Shapleigh", written in a cursive style.

Jonathan Shapleigh
Chairman, REDC



Rochester Main Street Program is a non-profit, volunteer organization devoted to the preservation, growth, and vitality of downtown Rochester.

Participate - Volunteer - Donate

Feb 1, 2021

Mr. Lionel "Nel" Sylvain
Chair
Rochester Planning Board
33 Wakefield Street
Rochester, NH 03867

Re: Rezoning of 13 Sawyer Avenue to Downtown Commercial

Dear Chairman Sylvain:

Rochester Main Street (RMS) is submitting this letter in support of the proposed rezoning of 13 Sawyer Avenue from Residential-2 to Downtown Commercial (DC).

RMS understands adding 13 Sawyer to the DC would allow for the possible development of either that lot, or as part of the redevelopment plan for Care Pharmacy. This property is adjacent to the DC zone and a rezone to include 13 Sawyer makes sense as and would serve as a useful development tool.

RMS recognizes that the current vacancy rate of 1.6% in Rochester is making it difficult for people to relocate to the city, and this rezone could allow for the construction of additional housing in the area.

RMS feels that this rezone is a great step in promoting development within the downtown district and supporting the businesses within.

Michael Guillette
President
Rochester Main Street