

CHAPTER 15

HIGHWAYS, BRIDGES, SIDEWALKS AND STREET LIGHTING

SECTION ANALYSIS

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15.1 Definitions.

The following definitions shall be applicable for the purpose of this Chapter.

(a) “Committee.” The Committee of the Council having responsibility for overseeing expenditures, maintenance and control of public buildings, street lights, public parks, sewerage, streets and highways and rubbish disposal. The Committee members shall be designated by the Mayor and shall enjoy membership according to rules and regulations as established by the City Council. The responsibilities of this Committee shall be enumerated by the City Council and shall further be as set forth within this Chapter, and shall be referred to throughout this Chapter as “Committee.”

(b) “Commissioner of Public Works.” The individual appointed by the City Manager to have overall supervision and control of the Department of Public Works and Highways. The duties of the Commissioner of Public Works shall be those normally granted to a department head and shall include but not be limited to those duties as set forth within this Chapter. The Commissioner of Public Works shall be referred to throughout this Chapter 15 as the “Commissioner.”

15.2 Repair of Highway, Bridge or Sidewalk. Whenever any highway, bridge, or sidewalk shall from want of necessary repair, or because of any repairs or construction

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being made therein by the Highway Division of the Department of Public Works, become unsafe for travel, the Commissioner, upon instruction of the City Manager, shall erect a suitable fence or railing to exclude all travelers from passing over the same and shall maintain at night such lights as may be necessary to warn the traveler of the hazard. If said repairs or construction are being made by any other department or person, the head of such other department or person shall erect and maintain the same guard fence, rails and lights.

15.3 Prohibition of Use. The Commissioner may make rules and regulations prohibiting the use of any or all highways to such vehicles as they may prescribe in order to prevent the use of said highways when said highways are unsuitable for travel thereon. Such rules and regulations shall be posted on each highway so regulated and at two other public places in the City. Any person violating the provisions of such posted rules and regulations shall be fined not more than \$100.00 and shall be liable for all damage occasioned thereby.

15.4 Elevation. The datum from which all elevations for street and other City work shall be calculated shall be that of the U.S. Geodetic Survey, as given on the standard discs of the survey.

15.5 Permit for Excavation Upon Highway or Sidewalk.

(a) No person shall break or dig up the ground, stone or concrete in any street, lane or alley, or in any sidewalk or common in the City, or erect any staging for building, or fence off any portion of said street or sidewalk, or place or deposit any stone, brick, timber, or other building material thereon, without first obtaining a written license from the Commissioner and complying in all respects with conditions said Commissioner may impose. Whenever any street, lane, alley, sidewalk, or other public place in the City shall, under any license granted, be dug up, obstructed or encumbered, and thereby rendered unsafe or inconvenient for travelers, the person so digging up, obstructing or encumbering, shall put, and at all times keep up, a suitable railing or fence around the section or parts of any street, lane, alley, or sidewalk or other public place so dug up, obstructed or encumbered, so long as the same shall be, or remain, unsafe or inconvenient as aforesaid, and shall also keep one or more lighted lanterns fixed to such fence, or in some proper place, every night from twilight in the evening and throughout the whole night so long as such railing or fence shall be kept standing. He/She shall also, at his/her expense, to the acceptance of the Commissioner, and within such reasonable time as the Commissioner shall direct, repair such street, lane, alley, sidewalk or public place.

(b) For a period of three (3) years, beginning with the date of the completion of the final paving of a public street or way relating to the construction or reconstruction of said street or way, no person, firm or corporation or any agent servant thereof shall excavate, construct or in any way encumber the paved or traveled portion of the street or way in the City of Rochester at any time, except for emergencies as may be deemed necessary by the Commissioner of Public Works and then only upon the posting by such entity of

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sufficient security, as determined by the Commissioner of Public Works and the agreement by such entity, to pay the cost of restoring such street or way to its original condition. For one (1) year after being notified of the completion of such restoration by such entity, the Commissioner may reduce the amount of the security posted by such entity, however, the Commissioner shall retain sufficient security to insure that such restoration has been performed in a manner that will insure that said street or way has been restored to its original condition. One (1) year after being notified of the completion of such restoration, the Commissioner shall inspect the area restored and shall release such security if, in the judgment of the Commissioner, such restoration is satisfactory.

(c) Any other provision of this Chapter notwithstanding, any person, firm or corporation or any agent or servant thereof that shall violate the provisions of this Section 15.5 shall be subject to a fine of not more than Five Hundred Dollars (\$500.00).

15.6 Fire Chief to be Notified. Any person or corporation or department of the City, before digging up, obstructing or encumbering in any way, any street, lane, alley, sidewalk, or other public place in the City shall, before beginning such work, notify the Fire Chief as to where such work is to be done and shall, immediately upon the completion of such work and the restoration of the place to its normal condition, notify the Fire Chief.

15.7 Moving of Buildings Through Streets. No person shall move, or assist in moving, any house, shop or other building through any street, lane, or alley without first obtaining a written license therefore from the Licensing Board. Whenever the Licensing Board shall as aforesaid grant permission to any person to encumber any street, sidewalk, or public squares, for the purpose of erecting, altering or moving buildings or to dig up or encumber the same in any other manner, it may, as a condition to granting such permission, require the party obtaining the same to furnish a Bond of Indemnity to the City of Rochester, in such sum and with such securities as the Licensing Board may deem proper.

15.8 Regulation of Conduct on Public Streets and Highways. The following conduct with respect to the use of the City streets and highways shall be regulated as more fully set forth below:

(a) No person shall place, establish, or maintain any sign, awning or shade before his or her place of business, dwelling house or tenement, over any part of any street or sidewalk, unless the same be safely fixed and supported so as in no way to endanger persons passing upon such street or sidewalk, and so that the lowest part of such sign, awning or shade, shall be at least seven feet above the sidewalk; nor shall any person hang, affix, fasten, place or allow to remain upon the outer edge of any sidewalk, any sign, or showcase whatever, or there display any goods, merchandise, or samples of any business calling, trade, art or craft, so as to obstruct the free passage and view to and from the street and sidewalk.

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(b) No person shall sell at auction or otherwise upon any street or public square in the City, any furniture, goods, wares or merchandise whatever, or place or in any manner encumber such street or square therewith, without first obtaining a permit from the City Manager and obtaining a second-hand dealer's/hawker's license from the Code Enforcement Department. [6]

(c) No person shall draw or cause to be drawn, move or cause to be moved, upon any public highway or street in said Rochester, any harrow, plow, or other instrument or implement, liable to cause injury to the surface of said public highway or street, unless the same is being carried or transported upon a drag, vehicle or other conveyance.

(d) No Theatrical or dramatic representation shall be performed or exhibited, and no parade or procession upon any public street or way, unless a special license therefore shall first be obtained from the City Manager. (See Chapter 26.7, Licensing Requirements.)

(e) Dumping on Highways. [1]

No person shall deposit or dump bottles, glass, crockery, cans, scrap metal, junk, paper, garbage, old automobiles, automobile parts, or any other stones, snow, rubbish, dirt, ashes, lumber or any other thing either in or upon any highway, street, lane, alley, sidewalk, or other public place within the City limits of Rochester.

15.9 Proposal for New Street or Highway. No Proposed new street or highway or new public sewer, water, street surfacing, or other public improvements, or any combination of the above, shall be laid out, accepted or constructed on behalf of the City by the City Council which is not subject to review by the Planning Board under Rochester Subdivision Regulations until the following requirements have in all respects been complied with:

(a) The person or persons offering said street or highway layout or requesting new public sewer, water, street surfacing or other public improvements, or any combination of the above, shall proceed as follows:

(1) Make written Petition to the Planning Board, which shall provide the following:

(A) A description of or reference to a map or plan, showing the starting points, courses, and termini of the street or highway, and requested sewer, water, street surfacing and other public improvements, as may be necessary.

(B) A description of the lands affected by said street and public improvements.

(C) The names of the owners of such lands.

(D) The estimated cost for the construction of said streets or highways and other necessary public improvements.

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(E) A separate form of sewer or water agreement, providing that a person shall pay for the total cost of any sewer or water extensions which said costs shall be determined by the Commissioner of Public Works and each agreement shall further provide for the payment of the total cost of said sewer or water extensions plus full payment of interest on account of any debt to be incurred by the City in the construction of said sewer or water extensions. Each agreement shall further provide that the total cost of said sewer or water extensions and payment in full of the interest on any debt to be incurred by the City in the construction of said sewer or water extensions shall be paid by the person desiring such construction by means of a special sewer or water assessment and shall constitute a lien on all land of said person. Said lien shall be transferable upon the conveyance of said improved land, provided, that all prior installments thereon have been paid. Each agreement shall further provide that said special sewer or water assessment shall be based upon the total cost of the construction plus the payment of interest on any debt incurred by the City, and may further provide that said cost and interest may be prorated over a period not exceeding ten (10) years. Each agreement shall further provide that in the event of a transfer or sale by the original Petitioner of the property serviced by said extension, the balance then owing to the City for said extension shall be paid in full. Said agreement shall be recorded in the Strafford County Registry of Deeds, and said lien shall have the full force and effect of a tax lien and collectable as such as provided by RSA 252:9-18 as presently enacted or the corresponding provisions of any recodification or amendment of this section. Said agreement shall also be signed and shall be duly witnessed and acknowledged. Any agreement for sewer or water shall be limited to individual owners of residential homes only, who shall be reimbursed for any payment made as above provided in the event that Phase II of the water pollution abatement program of the City of Rochester is adopted. Any commercial, industrial or real estate development owner shall pay their pro-rata share of such sewer and water improvements in cash prior to construction.

2. Said Street or highway shall be a minimum of fifty (50) feet in width.
3. Give a warranty or other satisfactory fiduciary deed of conveyance describing said property to the City of Rochester.

(b) The said Planning Board shall review said Petition and Agreement and shall report in writing to the City Council and to the Commissioner of Public Works, the following:

- (1) The need of such street or highway and any necessary public improvements.
- (2) The character of the proposed street layout and necessary public improvements and their relationship to the future development of the City as a whole.
- (3) The necessity, if any, for sewer, water, street surfacing and other public improvements.

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(c) The Commissioner of Public Works shall report in writing to the City Council the following:

- (1) The estimated cost of final surfacing for any of said street or highway by the City.
- (2) The estimated cost for any necessary sewer, water or other public improvements.
- (3) The estimated period of time required to complete said street or highway surfacing and to construct said sewer, water and other necessary public improvements.

(d) The City Council shall proceed as follows:

- (1) Review the Petition and Agreement of the person or persons offering said street or highway and each person desiring necessary sewer, water or other public improvements; review the action and recommendations of the Planning Board; and examine the report of the Commissioner of Public Works. The Petition of the person or persons; the action and recommendations of the Planning Board, if any; and the report of the Commissioner of Public Works shall be first accepted by the City Council by a majority vote of the entire membership of the Council.
- (2) If the above Petition, action and report are all accepted by a majority vote of the City Council, the City Council shall require each person to provide the City with a written agreement, signed and duly witnessed and acknowledged, in which each person agrees to pay his pro-rata share of the special assessment herein above provided. No agreement and no deed shall be accepted by the City without a two-thirds roll call vote of the Council. Said two-thirds roll call vote shall be based upon the entire membership of the City Council.

(e) Any persons who refuse to sign an agreement to pay his/her pro-rata share of the special assessment for new construction of said sewer or water extension prior to said construction or any other person who shall refuse to sign such an agreement at a later date to pay his/her pro-rata share of the special assessment, shall be prohibited from joining in any new sewer or water extensions in the City of Rochester without paying his/her or their pro-rata share of the special assessment, as the case may be for the construction of said sewer or water extensions in the City of Rochester.

(f) The pro-rata share of each person shall be determined by dividing the total cost of construction of said sewer or water extensions plus any necessary interest to be incurred in financing of said sewer or water construction by the number of lots as laid out on said plan or map in order to determine each person's pro-rata share of the special assessment.

(g) The funds received from the collection of such special sewer or water assessments shall be kept as separate and distinct funds and shall be known by their respective names as "The Sewer Fund" or "the Water Fund" as the case may be. Any surplus in any such

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fund or funds may be used for the enlargement or replacement of said sewer or water extensions but shall not be used for the extension of said sewer or water to serve unsewered or unwatered areas or for any purpose other than for cost of construction, payment of interest on any said newly constructed sewer or water extensions.

(h) A copy of this amendment to said Ordinances shall be recorded in the Strafford County Registry of Deeds under the Title of “City of Rochester Sewer or Water Liens” and any other indexing as the Register of Deeds may deem appropriate.

(i) Any lien created by this amendment or by said original Ordinance or other prior amendment thereto shall also be deemed to be in the form of a tax lien, and any default thereon shall also be collectable by an action in debt, or other appropriate action, and said lien shall also have the full force and effect of a real estate attachment, as well as a tax lien.

(j) This amendment shall take effect upon its passage and no Petition shall be considered without complete compliance with said chapter and all amendments thereto.

15.9-a Naming of Public Streets and Rights-of Way.

(a) Every highway, street or right-of-way under the control of the City and which is to receive, or has received, legal status by acceptance shall have a name which shall be given it by the City Council in accordance with the provisions of RSA 231:133, as presently enacted, or in accordance with the corresponding provisions of any recodification or amendment of such section. Said name shall be legibly marked on a suitable signboard or other marker and placed in at least two conspicuous places on said street. The City Council may change the name of any such street, highway or right-of-way at any time when in its judgment there is occasion for so doing.

(b) The naming of any new street, highway or right-of-way shall form a part of the return of the layout of the street or highway, or of the acceptance of any dedicated way. The City shall not be bound by any name previously assigned to the street, highway or right-of-way by any private owner, developer, or dedicator. No name for a highway, street, or right-of-way shall be selected which is already in use, or which is confusingly similar to any other existing name, or which otherwise might delay the locating of any street in an emergency.

(c) Whenever a name is assigned to any new street, highway or right-of-way, or a change is made in the name of any street, highway or right-of-way, the City Council shall make a return of the same to the City Clerk, who shall make a record of a new name or name change, and shall forward a copy of such record to the Commissioner of Transportation, in accordance with the requirements of RSA 231:133, as presently enacted or in accordance with the corresponding provisions of any recodification or amendment thereof. In the process of assigning names to streets, highways and right-of-ways, the City Council shall follow the following guidelines, to the extent possible:

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- (1) [Repealed 6/05/2001.] [2]
- (2) No name shall be assigned to a street, highway, or right-of-way which shall duplicate the name of any other proposed or existing street, regardless of the use of the suffix “street” “avenue” “boulevard” “drive” or the like.
- (3) The extension of an existing street shall have the same name as the existing street.
- (4) Before a new street name is assigned to a street, highway or right-of-way by the City Council, or an existing street is renamed by the City Council, the proposed name of such street shall be reviewed by a committee consisting of the City Clerk, Fire Chief, Police Chief, Planning Director, or their respective designees, and the Rochester Postmaster, or his/her designee, who shall submit their comments, if any, with regard to the proposed name to the City Council. No proposed name which receives a negative review by a member of the aforementioned committee shall be utilized.
- (d) The Planning Board shall have the authority to assign a provisional name to all streets, highways and/or right-of-ways shown upon subdivision or site review plans being considered for approval by the Planning Board, provided, however, that no such provisional name shall be assigned to such street unless and until such time as the Planning Board shall have followed the procedures set forth in subparagraph (c) above with respect to such proposed street name.

15.9-b Address Numbers on Streets, Highways and Rights-of-Ways.

- (a) Pursuant to the provisions of RSA 231:133, the Planning Director of the City of Rochester, or his/her designee, shall have the authority to assign numbers to all existing residential and/or commercial structures and/or to vacant lots. In assigning numbers to residential and/or commercial structures and/or vacant lots, the Planning Director, or his/her designee, shall employ the following criteria:
- (1) For every ten (10) feet of right-of-way frontage within the Special Downtown District of the City of Rochester, as defined in Chapter 42 of the General Ordinances of the City of Rochester, there shall be an individual number assigned.
- (2) For every fifty (50) feet of right-of-way frontage outside of the Special Downtown District of the City of Rochester, as defined in Chapter 42 of the General Ordinances of the City of Rochester, there shall be an individual number assigned.
- (3) Streets shall be numbered so that even numbers are located on the left side of the right-of-way and odd numbers are located on the right side of the right-of-way. The right and left sides of the right-of-way shall be determined by the relationship of the right-of-way to a person facing away from the center of the City of Rochester at the statue of Parson Main.

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- (4) The numbering for cul-de-sacs shall begin at the intersection of the cul-de-sac and the collector right-of-way and shall proceed from the right-hand side of the collector right-of-way from right to left around the cul-de-sac.
 - (5) Mobile Home Parks and condominium and apartment complexes shall, to the extent possible, as determined by the committee established in Section 15.9-a (c)(4) above, name their private streets and number each unit consistent with the E-911 standards set forth in this Section 15.9-b. [3]
 - (6) Each apartment building shall be given one (1) street number and each apartment unit within such building shall be assigned that street number and unit number.
 - (7) Existing numbering patterns for existing streets, highways and rights-of-way which do not allow for the assignment of additional numbers for future development may be assigned new numbers by the Planning Director or his/her designee.
 - (8) All new buildings and/or structures, as defined in Chapter 42, Section 42.6 of the General Ordinances of the City of Rochester, or additions to existing buildings and/or structures, shall be required to obtain and file with the Code Enforcement Department, a Foundation Certification Plan in accordance with the requirements of Chapter 40, Section 40.16. [5]
 - (9) The beginning of a street shall be that end which intersects with a collector street and, so far as possible, shall be that end closest in distance to the statue of Parson Main.
 - (10) Any building or structure for which a number has been designated shall have such number affixed thereto in such manner as to be plainly visible from the street which abuts the main entrance to the property. Such numbers shall be a minimum of 3.5 inches in height.
 - (11) The owner of any building or structure who shall fail to affix an assigned number to his/her mail box and building or structure within thirty (30) days of written notice from the Planning Director shall be fined not more than twenty-five Dollars (\$25.00) for each day that such number is not affixed. Any number affixed in accordance with this subsection shall be visible from the street. With respect to new structures, failure to display an assigned number in the manner set forth above shall be grounds for denial of a Certificate of Occupancy.
- (b) The assignation or alteration of numbers by the Planning Director pursuant to the provisions of subparagraph (a) above shall be provisional only until such time as such assignation or alteration of numbers shall be confirmed by the Planning Director after the holding of a public hearing by the City Council in accordance with the provisions of RSA 231:133-a.

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15.10 Construction of Sidewalks. All sidewalks built by the City of Rochester shall be constructed under the supervision of the Commissioner. Preference in order of construction of cement sidewalk shall be given to petitioners who by written application shall agree to pay a portion of the cost of construction of said sidewalk, said portion not exceeding one-half of the said cost, payment to be made over a period not to exceed ten (10) years. The portion of the cost to be borne by the petitioner shall be both reasonable and proportional to the benefits according to the land upon which such assessment is made.

15.11 Obstruction on Sidewalks. No person shall unnecessarily place any obstruction on any foot pavements or sidewalks. No person shall be permitted to construct a ramp up to and across the sidewalk adjacent to his property or place any other obstructions thereon without first securing a permit from the Commissioner to do so.

15.12 Regulation of Streetlighting. The Commissioner shall have supervision of all municipal lighting, location of electric light and telephone poles within the City limits, and is authorized to prescribe rules and regulations for the marking or painting of any poles, crossarms or supporting fixtures which are located within the public highway. All persons owning or using said poles, crossarms or supporting fixtures shall paint or mark at their own expense said poles, crossarms, or supporting fixtures in accordance with the rules, regulations and directions of said Commissioner.

15.13 Prohibited Use of Poles. No person shall use said poles for the posting of bills or other advertising purposes or for any other purpose except that for which permission is given by the Commissioner.

15.13-a Prohibited Use of “Adopt-A-Spot” Areas. [4] [7]

The City Manager, in the exercise of duties relative to the oversight of all real and personal property owned by the City of Rochester, as specified in section 14 of the Rochester City Charter, from time to time, designates certain areas of the City, primarily areas included within or closely related to the highways servicing the City of Rochester, as “Adopt-A-Spot” areas. “Adopt-A-Spot” areas are maintained, landscaped and/or otherwise beautified by designated individuals and/or entities that volunteer to perform such functions for the purpose of improving the appearance of the “Adopt-A-Spot” areas, as well as the appearance of the City of Rochester as a whole. The City Manager shall annually, on or about May 1st of each year, establish a list of “Adopt-A-Spot” areas for the ensuing calendar year beginning on such May 1st and ending on the following April 30th. A copy of such list shall be maintained in the City Manager’s office and in the office of the City Clerk. In the event that the City Manager fails to update the “Adopt-A-Spot” list on or about May 1st of a given year, the “Adopt-A-Spot” list then on file in the Office of the City Manager, shall be controlling for the purposes of this ordinance. No person shall, within any “Adopt-A-Spot” area, erect or maintain any sign or other advertising material whether for political purposes or otherwise, except for such advertising material and/or device and/or device as has been previously authorized in writing by the City Manager or his designee. Any person failing to comply with the provisions of this ordinance shall be guilty of a violation.

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15.14 Bonds. The Commissioner may require any person seeking to perform any work affecting any highway, bridge, sidewalk or other public property to furnish a bond of indemnity to the City of Rochester in such sum and with such sureties as the Commissioner may deem proper.

15.15 Penalties. Except as otherwise provided herein, whoever is in violation of any of the provisions of this Chapter shall be subject to a fine of not more than \$100.00.

- [1] Amended 12/5/95
- [2] Amended 6/5/01
- [3] Amended 6/5/01
- [4] Amended 3/2/04
- [5] Amended 6/15/99
- [6] [7] Amended 5/1/07

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