

Good evening members of the Codes and Ordinances Committee,

I am writing today to express my concerns and objections to the proposed Disorderly Residence Ordinance. While I think the entire ordinance may have numerous pitfalls, my biggest concern is the fact that we are potentially trying to hold property owners responsible for the actions of persons other than themselves. This puts all of our City property owners in a very precarious position, including single family homeowners, landlords, tenants, condominium owners, etc.

While I'm sure many of us may agree with the intent of this type of regulation, as written I'm concerned that this ordinance appears to open the door for all kinds of abuse and surely unintended consequences. As a landlord in Rochester, I have been told by the police department, that if we are having an issue with a tenant that may involve criminal or disorderly behavior, we should call the police department for assistance and not attempt to intervene on our own. This ordinance will certainly discourage landlords or innocent tenants from calling the police department for assistance for fear of fines or retribution. It also would give a tenant, neighbor, previous tenant, disgruntled employee or other person the opportunity to cause disruption and financial hardship to a property owner by repeatedly calling the police to that property.

We have also spent the better part of the past year under different types of moratoriums and outright bans on evictions. This completely ties the hands of the property owner and leaves them vulnerable to being punished with no avenue for recourse.

Of course I realize this is not the intent of the writers of this ordinance and you may believe safeguards have been put in place to avoid these situations, but I am concerned that the potential for abuse and unintended consequences far outweighs any potential benefit.

Please consider all of the possible ramifications before voting to pass this ordinance.

Sincerely,

Tim Fontneau
NH State Representative
Strafford District 7 / Rochester Ward 1
603-312-0607

Good Morning,

I am a property owner/landlord in Rochester. I have owned 2 multi family properties for 20 years. It seems this ordinance has come and gone and been kicked around for years. It has been tried in other jurisdictions and has been found to be unconstitutional. It is unconstitutional to hold one individual, whoever they are, for the actions of another. How can I be responsible for another's behavior? And what value is there in imposing fines on responsible, law abiding property owners? Personally, I don't have disorderly tenants and I am very grateful for that. I am a very hands on landlord and proud to say that my 10 units in the not so great area of our fair city have great tenants. There are already statutes in place to hold individuals responsible for their actions. Please do the right thing and put this to bed once and for all.

Thank You,
Penny Boucher
President Rental Property Owners Association
603-312-5107

As the landlord of a residential apartment building in Rochester, namely 125 North Main Street, I am strongly opposed to the creation of the subject Disorderly Residence chapter. I believe it would be unconstitutional to place such a responsibility on any individual such as a landlord. I cannot be held responsible for the actions of my own adult children, so how could I ever be held responsible for the actions of unrelated tenants'? I not only do not have any control of ANY other person(s), there are many laws and ordinances etc. which prohibit me from discriminating against certain individuals, or so-called protected classes of individuals, that may include felons and/or sexual offenders when it comes to who I rent to. Obviously, I screen and strive to accept only financially responsible individuals with clean reputations and of good moral character to inhabit my rental apartments. Experience has taught me a lot, but my decisions have not always been without flaws. Legal remedies available to me are few. I can evict tenant(s) for a few good reasons outlined in RSA 540, but none are easy and only one or two involving gross violent and/or criminal behavior are allowed without a usual lengthy court process. In short, I am not "where the buck stops."

Furthermore, several years ago I had a particularly troublesome tenant. I requested a copy of any and all public police records regarding this individual, I think for a period of 6 months. I don't recall how many days till I received the requested documents, but it didn't happen overnight. When I did receive the 15 pages relating to this individual, there was so much content blacked out that I couldn't tell who had done what to whom or where the incidents even took place. And you expect ME to be responsible to discipline that individual? That is just plain ludicrous, if not bordering on insane.

Please throw the subject Chapter in the trash where it belongs!

Thank you for considering my objections.

Truly,

Gerald Hanscom cell: (603) 312-7469
17 Clement Way
Lee, NH 03861

Good Afternoon,

I am writing in opposition to the once again currently proposed "Nuisance/Disorderly Conduct Ordinance" in Rochester, NH.

Please consider the following key points and stop this and any future rendition of this ordinance immediately.

1. This idea has been before Rochester many times and has always failed to be adopted.
2. These types of ordinances have been determined by HUD to be discriminating and could easily result in loss of HUD funding in Rochester.
3. It opens a case for tenant abuse of the system to cause fining to be placed on property owners. At no fault of the property owner.
4. Many jurisdictions across the United States have put in place prohibitions on these types ordinances and laws.
5. It is easily unconstitutional to penalize one party for the actions of another. This fact alone, to our

knowledge, has resulted in NO enforcement capability by the mere fact that NO jurisdiction has litigated any of these type ordinance issues because they know they will loose in court.

6. There are already in place laws and ordinances directed at the people causing the disorderly conduct. It is not reasonable to fine properties owners for police not handling the situation.

7. If properties are taken off the market or landlords are fined, the ordinance has the potential, to decrease housing supply and increase housing cost.

Attached is the HUD document relating to their opposition to “Nuisance Ordinances”.

The proposed ordinance or any of its type causing one party to be penalized for the actions of another should be immediately stopped and never again allowed to be even considered.

Please stop this ordinance immediately.

(we, the people, can end the pandemic by all wearing face masks in public indoor places or large gatherings of people,
following careful safety protocols with touched surfaces &
avoiding touching our face.

Be Safe)

Love & Light,

Nick Norman

Member NH Rental Property Owners Association (largely Rochester property owners)

Director of Legislative Affairs

AANH Government Affairs Chair

603-432-5549

Steve Beaudoin

24 Hemlock St.

Rochester

603-312-8111

I am writing to you about the proposed disorderly residence ordinance. This is the second time in the past two years this proposal has come up for debate. It seems little if nothing has changed since the first time this was denied.

As a landlord, I fully understand the city’s frustration in dealing with unruly tenants that are disturbing others. But this isn’t the solution.

Since as landlords our only recourse is eviction, our hands tied by state statute. With the exception of non payment of rent, all other violations of law or rental contract require a 30 day notice of INTENT TO EVICT. To be clear, that does not begin the eviction process, it is merely a notice to do so. After filing, the plaintiff then has 7 days to return the writ to the court and request a hearing, the court then has a maximum of 10 days to schedule a hearing. After the

hearing, the court then issues a finding at later date. The tenant then has 7 days to file an intent to appeal the District Court's decision. Most often they do. If you've followed along, we are at 54 or more days at the District Court level. The tenant then has 30 more days to actually file with the Supreme Court. This adds more time to the process. I have seen it take up to 6 months to get a ruling from the court. Typically the SC denies the tenant's request and at that point the writ is issued and must be served by the Sheriff. Only then can the landlord gain possession of his property.

Since the unruly tenant knows he is facing eviction on day one, he has little or no incentive to act responsibly; his unruly behavior will likely increase. Meanwhile the landlord is faced with a \$100 fine for the first violation, a second \$100 fine for a subsequent violation within 30 days, and an additional \$1000 fine for more violations at 60 days.

This ordinance will hold someone responsible for the actions of others, people he has little or no control over. This approach to a problem is simply going after the low hanging fruit and ultimately won't solve the problem.

Though the ordinance does state that the city may waive the penalties, it fails to identify what remedy the landlord would have in meeting any requirement to get those penalties waived.

I would also like to point out that this ordinance applies to all residences, not just rental properties. This ordinance could easily be abused as an opportunity for people to harass a neighbor.

Finally, it is against NH law RSA 644:2 III (a) to disturb the peace. This is a misdemeanor (RSA 644:2 VI) if the offense continues after a request BY ANY PERSON (emphasis added) to desist. Otherwise it is a violation. Why isn't this statute adequate to achieve the intent of this proposal? If it isn't, the legislature is currently in session and I would suggest that a better approach would be to strengthen state statute.