

Codes and Ordinances Committee

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

**CODES AND ORDINANCES COMMITTEE**

Of the Rochester City Council
Thursday, November 1, 2018
31 Wakefield Street, Rochester, NH
City Council Chambers
6:00 PM

Agenda

1. **Call to Order**
2. **Public Input**
3. **Acceptance of the Minutes: August 2, 2018 P. 3**
4. **Discussion: Amendment to Chapter 23 of the City of Rochester General Ordinances - forthcoming**
5. **Discussion: Operation of Ride Sharing Services in Rochester – forthcoming**
6. **Discussion: Chapter 42.12 Conservation Overlay District (Wetlands Delineation Manual) P. 7**
7. **Discussion: Neighborhood Compliance Inspections - forthcoming**
8. **Other**
9. **Adjournment**

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left blank...*

City Clerk's Office

Codes and Ordinances Committee

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

Others Present

Councilor Sandra Keans
George Pelletier, Landlord
Steve Beaudoin, State Representative
and Landlord
Aricky Bounds, Landlord
Lisa Stanley, Police Commission
Gerald Hanscom, Landlord
Cliff Newton, Resident
Pam Sawyer, Landlord
Fred Carter, Landlord

CODES AND ORDINANCES COMMITTEE

Of the Rochester City Council

Thursday, August 2, 2018

31 Wakefield Street, Rochester, NH

City Council Chambers

6:00 PM

Minutes

1. Call to Order

Councilor Lachapelle called the Codes and Ordinances Committee to order at 6:00 PM. Susan Morris, Clerk Typist II, took a silent roll call. All Committee members were present.

2. Public Input

Councilor Lachapelle invited the public to come forward to address the Committee at 7:01 PM.

George Pelletier of Walnut Street and local landlord addressed the Committee regarding Chapter 146 Disorderly Residence (*City of Franklin*).

Steve Beaudoin of Hemlock Street, landlord, and State Representative of District (9) addressed the Committee regarding Chapter 146 Disorderly Residence (*City of Franklin*).

Arickey Bounds of Strafford, NH and local landlord addressed the Committee regarding Chapter 146 Disorderly Residence (*City of Franklin*).

Lisa Stanley of 133 Sampson Road and Police Commissioner for the City of Rochester addressed the Committee regarding Chapter 146 Disorderly Residence (*City of Franklin*).

Gerald Hanscom of Lee, NH and local landlord addressed the Committee regarding Chapter 146 Disorderly Residence (*City of Franklin*).

Pam Sawyer of Somersworth and Landlord for property located in Rochester addressed the

Committee regarding Chapter 146 Disorderly Residence (*City of Franklin*).

Cliff Newton of Old Dover Road addressed the Committee regarding Chapter 146 Disorderly Residence (*City of Franklin*).

Fred Carter of Dover, NH and local landlord addressed the Committee regarding Chapter 146 Disorderly Residence (*City of Franklin*).

3. Acceptance of the Minutes: June 7, 2018

Councilor Lauterborn suggested that the Chairman amend the Agenda in order to hold a discussion regarding Chapter 146 Disorderly Residence – City of Franklin, NH. Councilor Lachapelle agreed to amend the agenda after the acceptance of the Committee meeting minutes (June 7, 2018).

Councilor Lauterborn **MOVED** to **ACCEPT** the June 7, 2018 Codes and Ordinances Committee meeting minutes. Councilor Bogan seconded the motion. Councilor Lauterborn **MOVED** to **AMEND** the meeting minutes to reflect that Councilor Abbott had been excused from that Committee meeting. Councilor Abbott seconded the motion. The **MOTION CARRIED** by a unanimous voice vote. Councilor Lachapelle called for a vote to accept the meeting minutes as amended. The **MOTION CARRIED** by a unanimous voice vote.

Councilor Lachapelle said if there is no objection the Agenda shall be amended to move up the discussion regarding Chapter 146 Disorderly Residence (City of Franklin) at the time. No objection had been stated.

Councilor Lachapelle informed the Committee that this item has been held in Committee and at this point it is uncertain who initiated the discussion. Lisa Stanley, Police Commissioner, recalled that the Police Commission, Councilor Gray, and the City Attorney had brought this discussion item forward to the Committee.

Lieutenant Swansberry explained that the Police Department had been reviewing this Ordinance with the City of Franklin, NH. It was noted that the ordinance has been used by the City of Franklin as a mechanism to generate conversations with landlords. To his best knowledge there have been no issues in Franklin that required any court action. He believed that the Rochester Police Department currently has a good relationship with the local landlords.

Councilor Lachapelle suggested that the matter be tabled until the City Attorney is available for comment. Councilor Abbott suggested that the matter be voted down at this meeting. He listed reasons he disagrees with the ordinance as written. Councilor Gates **MOVED** to **REJECT** the Amendment to the Ordinance as presented. The Police Department could create a policy to deal with some of the issues relative to disorderly residence. Councilor Bogan seconded the motion. It was noted that the landlords (in attendance) are seeking for notification from the Police Department regarding any police presence or police action on their rental properties. The **MOTION CARRIED** by a unanimous voice vote. Councilor Lauterborn suggested that the issue be sent back to the Police Commission in order to create a policy of notifying local landlords. It seems that the landlords who have attended the meeting this evening are seeking to be notified of any police related events happening on their rental properties. Commissioner Stanley agreed that the Police

Commission and Police Administration could work on a formalized policy to deal with some of the issues relative to disorderly residence.

4. **Amendment to Chapter 16 Private Wastewater Disposal**

Peter Nourse, Director of City Services, said prior to February, 2017, Chapter 16 read as follows: (e) *Existing structures within two hundred (200) feet of the public sewer and currently served by private wastewater disposal facilities shall connect to the public sewer at such time as the private wastewater system fails or the property is transferred whichever occurs first.* Mr. Nourse stated that the Rochester City Council adopted the following changes on February 14, 2017: (e) *Structures within one hundred (100) feet of the public sewer and currently served by private wastewater disposal facilities shall connect to the public sewer within ninety (90) days after an official notice to do so.*

Mr. Nourse stated that after February 14, 2017 there is a 100 feet requirement (for mandatory hook-up) and there is no longer the following second requirement: *sale of property or the failure to the sewer system.* He said the problem is that the State is only concerned with failed systems being restored and they are not concerned if the home is located within 100 feet of a local municipal hook-up, therefore, the State has made it clear that they are no longer required to receive documentation of local approval. *Please see Mr. Nourse's letter to Commissioner Scott, DES.*

A discussion ensued about homeowners that are not aware of the above requirements and the fact that homeowners hire a Water Disposal Designer. The homeowner depends/trusts the designer to follow City and State laws/requirements. The Committee debated if the proposed language would burden all homeowners when there are only approximately 300 homes that are within 100 feet of the local sewer system.

Councilor Abbott said it seems that DPW is not likely to find out about the plans for a septic design until the homeowner has already invested money into the design phase. The "designer" is already ignoring the current ordinance, which requires that a homeowner must hook-up to the City sewer system if they are within 100 feet. It does not seem practical that by adding another rule it will make the designer start to comply. It seems to be an ineffective way to correct this type of problem. Mr. Nourse agreed, however, in this case, the ordinance would allow for a specific notification to be sent to both the homeowner and local contractors. There would be no excuse for non-compliance. The Committee debated the matter. A few suggestions were made to the language of the proposed ordinance. Councilor Lauterborn said it sounds like the current State law covers the idea of sending out emails/notifications to the approximately 300 homeowners. It was determined that Mr. Nourse would review the idea of amending the ordinances or to seek an alternate way of resolving the issue. This will not be kept in Committee; however, Mr. Nourse may or may not bring forth a future solution to this problem.

5. **Discussion: Chapter 146 Disorderly Residence City of Franklin**

This agenda item had been taken up earlier in the meeting.

6. **Discussion: Operation of Ride Sharing Services in Rochester**

Councilor Lachapelle contacted the Building, Zoning, and Licensing Services Department to

find out information about what is currently required for a Taxi-Cab License and to have that department draft some type of amendment to the Ordinance to include language about “ride sharing” service in Rochester. This has not yet been received.

Councilor Lachapelle informed the Committee that a gentleman had recently been stopped by the Rochester Police Department for not having a Taxi license; however, there is no current ordinance to cover this type of cab license. Councilor Lauterborn noted that this is a different type of service, it would seem impractical if one was required to obtain a separate license from each town/city he worked with. It would make more sense if there were only one license and that it could be obtained by the State of NH. The Committee discussed the differences between a “taxi” service and the “share-ride” services, which are in many ways the same. It seems that this should actually be regulated at the State level. Councilor Lachapelle agreed to check with the legal department to obtain a legal opinion. Councilor Lauterborn asked Lieutenant Swansberry to bring this topic back to the Police Department to let them know there is nothing to follow in the local ordinances as of yet. This matter is being kept in Committee and shall be placed on the next available agenda.

7. Other

Councilor Lachapelle announced the next meeting is tentatively set for September 6, 2018 at 6:00 PM.

8. Adjournment

Councilor Bogan **MOVED** to **ADJOURN** the Codes and Ordinances Committee at 7:58 PM Councilor Gates seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Respectively Submitted,

Kelly Walters, CMC *for Susan Morris*
City Clerk

Rochester Zoning Ordinance

42.12 Conservation Overlay District

(d) Delineation Process.

The edge of wet of these wetlands shall be determined by the delineation process set forth in the *Corps of Engineers Wetlands Delineation Manual, 1987*, on file with this ordinance with the City Clerk. When there is a dispute in the boundary the landowner may appeal the decision to the Planning Board with written recommendations by the Conservation Commission.

Revised(d) Delineation Process.

The edge of wet of these wetlands shall be determined by the delineation process set forth in the *Corps of Engineers Wetlands Delineation Manual, 1987* **and the most recent version of the Regional Supplement to the Corp of Engineers Wetland Delineation Manual: Northcentral and Northeast Region**, ~~on file with this ordinance with the City Clerk.~~ When there is a dispute in the boundary the landowner may appeal the decision to the Planning Board with written recommendations by the Conservation Commission.

(f) Definitions.

(1) The term "wetland" as defined by *National Food Security Act Manual (Soil Conservation Service, 1994)* and the *Corps of Engineers Wetlands Delineation Manual (Environment Laboratory, 1987)* as amended, will mean those areas that are surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for a life in saturated soil conditions. Wetlands include, but are not limited to, swamps, marshes, bogs and similar areas.

Revised

(1) The term "wetland" as defined by *National Food Security Act Manual (Soil Conservation Service, 1994)* and the *Corps of Engineers Wetlands Delineation Manual (Environment Laboratory, 1987)* **and the most recent version of the Regional Supplement to the Corp of Engineers Wetland Delineation Manual: Northcentral and Northeast Region as amended**, will mean those areas that are surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for a life in saturated soil conditions. Wetlands include, but are not limited to, swamps, marshes, bogs and similar areas.