

**Codes and Ordinances Committee**

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



04/26/2019

**CODES AND ORDINANCES COMMITTEE**

Of the Rochester City Council

**Thursday, May 2, 2019**

**31 Wakefield Street, Rochester, NH**

City Council Chambers

**6:00 PM**

**Agenda**

1. **Call to Order**
2. **Public Input**
3. **Acceptance of the Minutes: March 7, 2019**
4. **Rubbish and Refuse *(held in Committee)***
5. **Placement of “Donation Bins”**
6. **Discussion: Amendment to Ordinances (proposed changes)**
7. **Other**
8. **Adjournment**

---

*Intentionally  
left blank...*

---

City Clerk's Office

---

---

Codes & Ordinance Committee  
Draft Minutes  
March 7, 2019

**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, March 7, 2019**

**31 Wakefield Street, Rochester, NH**

City Council Chambers

**6:00 PM**

**Minutes**

**Members Present:**

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

**Others Present:**

Councilor Dave Walker  
Deputy City Attorney Andrea Mitrushi

**1. Call to Order**

Councilor Lachapelle called the meeting 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 opened public input at 6:01 PM. No members of the public came forward. Councilor Lachapelle closed public input at 6:02 PM.

**3. Acceptance of the Minutes: February 7, 2019**

Councilor Gates **MOVED** to accept the minutes with one amendment; to add Councilor Walker and Councilor Keans to the "Others Present" section. Councilor Bogan seconded the motion. The **MOTION CARRIED** by unanimous voice vote.

#### 4. Discussion: Amendment to Ordinances (proposed changes)

Councilor Lachapelle opened discussion on proposed changes to the current ordinances.

Councilor Walker spoke regarding section 75-8; B **Provisions for Rapid Entry**. The Committee discussed the matter.

Councilor Bogan **MOVED** to send to full City Council a recommendation to add to the description as follows, “The Fire Chief shall have authority to require any other type of building, not listed above, excluding single family homes, to install a Knox-Box ® to meet rapid entry requirements, if in his discretion public safety considerations require such installation.” Councilor Lauterborn seconded the motion. The Committee discussed the matter.

Councilor Bogan **WITHDREW** her motion. Councilor Lauterborn **WITHDREW** her second to the motion.

Councilor Bogan **MOVED** to send to full City Council a recommendation to add to the description as follows: “The Fire Chief shall have authority to require any other type of building, not listed above pursuant to the State Fire Code, to install a Knox-Box ® to meet rapid entry requirements, if in his discretion public safety considerations require such installation.” Councilor Abbott seconded the motion. The **MOTION CARRIED** by unanimous voice vote.

Councilor Walker spoke regarding Section 94-3 **Rubbish and Refuse**. He questioned whether the word “manure” in this section would affect working farms and their ability to compost on their property. The Committee discussed the matter. Deputy City Attorney Mitrushi said she would bring this item to City Attorney O’Rourke for clarification and get back to the committee with a determination. The topic was held in Committee.

Councilor Walker spoke regarding 135-4: E: 2 **General Construction: Requirements**. He questioned why the Planning Department is not included for approval of additions to mobile homes. Councilor Abbott explained the different types of manufactured homes carrying different types of loads and how they are designed to carry or not carry the weight of an addition. The Committee discussed the matter. Councilor Abbott explained the schematics of Mobile Home Licensing.

Councilor Walker spoke regarding 176-2 **Compensation; holding other municipal offices**. He stated that it does not mention anything about Councilor Representatives and inquired if those City Councilors holding positions on other commissions are doing so unlawfully. The Committee discussed the matter. Councilor Lauterborn mentioned that there are several house bills coming forward dealing with Planning Board members serving on other boards, so the Committee will want to follow up on the outcome of these bills. Councilor Abbott suggested that in the future, the Council could change this to reference the State statute, as there is a state statute that dictates who can be on the Planning Board. Councilor Lauterborn spoke further on the matter.

Councilor Lachapelle stated that the next meeting is scheduled for April 4, 2019, at 6:00 PM. If any committee members would like to bring forward proposed changes, they can do so at this meeting. Councilor Lachapelle also noted that this will be an ongoing agenda item; suggestions are not limited to solely this next meeting.

#### 5. Other

There was no other brought forward by committee members.

**6. Adjournment**

Councilor Gates **MOVED** to adjourn the Committee Meeting at 6:27 PM. Councilor Bogan seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

Respectfully Submitted,

Susan Morris  
Clerk Typist II

---

*Intentionally  
left blank...*

---

City Clerk's Office

---

---

## Chapter 94 HEALTH AND SANITATION

### ARTICLE I

#### General Public Health Regulations

- § 94-1. Overcrowded housing.
- § 94-2. Multifamily dwellings; posting of contact information required.
- § 94-3. Rubbish and refuse.
- § 94-4. Drains, privies and sewers.
- § 94-5. Nuisances in lots, buildings and other places.
- § 94-6. Swill house in compact part of City.
- § 94-7. Piggens, goat pens, chicken coops and barnyards.
- § 94-8. Nuisances to be reported; investigations.

§ 94-9. Service of notice to abate nuisance.

§ 94-10. Board of Health rules and regulations.

§ 94-11. Stockpiling or land application of septage and sludge.

### ARTICLE II

#### Removal or Transportation of Putrefied Animal or Vegetable Substances

§ 94-12. Periodic removal of putrefied animal or vegetable substances.

§ 94-13. Vessels to be used in transporting.

[HISTORY: Adopted by the City of Rochester 6-6-1995 as Ch. 25, Arts. 1 and 2, of the 1995 Code. Amendments noted where applicable.]

#### GENERAL REFERENCES

Building construction and property maintenance — See Ch. 40.  
Fires and fire safety — See Ch. 75. Food and food service — See Ch. 80.

Nuisances — See Ch. 149. Sewers — See Ch. 200.  
Solid waste — See Ch. 210. Water — See Ch. 260.

### ARTICLE I

#### General Public Health Regulations

##### § 94-1. Overcrowded housing.

No owner, lessee, or keeper of any tenement house, lodging house, or boardinghouse shall cause or allow any such house to be overcrowded or allow so great a number of persons to dwell or sleep in such house or houses or any portion thereof so as to cause danger to health, and no such place or room shall be so overcrowded that there shall be less than 500 cubic feet of air or a floor space of less than 50 square feet to each occupant of such place, building or room. No room as a living or sleeping room shall hereafter be built without direct opening to the outdoor air.

**§ 94-2. Multifamily dwellings; posting of contact information required.**

- A. Purpose. The provisions of this section are adopted pursuant to the authority granted by RSA 47:17 and are intended to promote public health, safety and general welfare by providing a means by which City officials, tenants residing in multifamily dwellings and others concerned with matters of public health and safety relating to multifamily dwellings shall be kept informed as to the name, address, and telephone number of the owner and/or individual responsible for addressing public health, safety and welfare issues arising with respect to such multifamily dwelling units.
- B. Definitions. As used in this section, the following terms shall have the following meanings:

**MULTIFAMILY DWELLING** — A building designated or used for more than one dwelling unit.

**OWNER** — The record title holder(s) of a multifamily dwelling as disclosed by the appropriate records of the Strafford County Registry of Deeds or Strafford County Probate Court and/or the records of the Rochester City Tax Collector. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**

- C. Posting of information regarding owner and individual responsible for multifamily dwelling required. The owner of any multifamily dwelling located within the City shall, at all times, have posted in a conspicuous place on the inside of the front door of each dwelling unit within a multifamily dwelling the name, current mailing address and current telephone number of the owner of said dwelling unit and the name, current address, and current telephone number of an individual designated by the owner as being responsible for matters of public health, safety and welfare arising with respect to such multifamily dwelling. The owner shall also be responsible for filing the information specified in the preceding sentence with the Department of Building, Zoning, and Licensing Services of the City of Rochester and for keeping said information current at all times. In the event that a multifamily dwelling is such as to contain a lobby or other similar common area open to the public and/or tenants of such multifamily dwelling, the owner shall also post the information specified in the first sentence of this subsection in said lobby or other similar area and shall keep said posted information current at all times. The provisions of this section shall not apply to owner-occupied multifamily dwellings of fewer than three multifamily dwelling units. **[Amended 10-15-2013; at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**

**§ 94-3. Rubbish and refuse. [Amended 1-15-2002]**

No person shall place or leave or cause to be placed or left, in or near any highway, street, alley, or public place, or in any pond or other body of water where the current will not remove the same, any rubbish, dirt, soot, ashes, hay, shreds, oyster, clam or lobster shells, manure, swill, tin cans, decaying fruit or vegetables, wastewater, seeds, or any refuse animal or vegetable matter whatsoever, nor keep in or about any vacant lot, dwelling house, barn, shed, store, shop or cellar any of the aforesaid substances after the same shall have become putrid or offensive or a menace to the public health.



**§ 94-4. Drains, privies and sewers.**

No person shall suffer or permit any cellar, vault, private drain, pool, sink, privy, sewer, or other place upon any premises or grounds belonging to or occupied by such person to become offensive or injurious to the public health.

**§ 94-5. Nuisances in lots, buildings and other places.**

No person or occupant or any person having control or charge of any lot, tenement, premises, building, or other place shall cause or permit any nuisance to be or remain in or upon said lot, tenement, building, or other place, or between the same and the center of the street, lane or alley adjoining.

**§ 94-6. Swill house in compact part of City.**

No person shall erect, maintain or use within the compact part of any ward of the City any swill house or building for rendering any offal, tainted or damaged lard, tallow, or any putrid animal substance, or for the deposit of green pelts or skins.

**§ 94-7. Pigpens, goat pens, chicken coops and barnyards.**

No person shall keep or use any pigpen, goat pen, chicken coop or barnyard so near to any highway, park or public place as to be offensive or a menace to the public health or offensive or a menace to any person residing on an adjoining or abutting lot, nor shall a pigpen, goat pen, chicken coop or barnyard be kept in such a condition as to allow the contents therefrom to be discharged upon any adjacent or abutting lot or upon any street, lane, park, alley or other public place.

**§ 94-8. Nuisances to be reported; investigations.**

All petitions for the cleansing, removal, or abatement of any nuisance or other activity prohibited in the foregoing sections shall be made to the Health Officer, orally or in writing, stating distinctly the character of such nuisance, the premises where the nuisance is situated, and the reason for its removal or abatement. The Health Officer shall cause an investigation of the alleged nuisance to be made and shall make an initial determination as to whether the matters described in the petition constitute a nuisance or violation of the foregoing sections and shall promptly serve notice to abate nuisance as set forth below. If it becomes necessary to institute legal proceedings against the party complained about, the complainants shall, before such proceedings are instituted, file a complaint in writing with the City Solicitor who shall prosecute the same in his/her discretion.

**§ 94-9. Service of notice to abate nuisance.**

A notice served on an owner, agent, or occupant of any property, or left at the private residence of the owner, agent, or occupant, or, if after due search neither can be found, posted on the front door or wall or fence of such property, and a like notice sent to the last

known post office address of such owner, agent, or occupant of the property, shall be considered sufficient and ample notice to abate nuisance.

**§ 94-10. Board of Health rules and regulations.**

The Board of Health shall make such rules and regulations for the prevention and removal of nuisances and for the control and restriction of infections and contagious diseases and such other regulations relating to the public health as, in its judgment, the health and safety of the people may require. Promulgation and publication of such rules and regulations shall be in accordance with the provisions applicable to other boards and commissions of the City.

**§ 94-11. Stockpiling or land application of septage and sludge. [Amended 10-15-2013; at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]**

- A. Purpose. The provisions of this section are adopted pursuant to the authority granted by RSA 47:17 and are intended to promote the public health, safety and general welfare of the people of the City of Rochester and to control noxious odors and/or other nuisances which may occur from the stockpiling and/or land application of septage or sludge, as the same are herein defined, within the City of Rochester through the promulgation of this section regulating such activities. The purpose of this section is to ensure that the beneficial use or disposal of septage and sludge does not pose a threat to public health and safety, by supplementing the requirements for removal, transportation and disposal of septage and sludge found in 40 CFR Part 503 and at New Hampshire Code of Administrative Rules Chapter Env-Wq 800, Sludge Management.
- B. Applicability of federal and state regulations. All stockpiling, land application, or other use, management or handling of septage or sludge within the City of Rochester shall be conducted subject to and in accordance with the requirements of all applicable federal, state and local statutes, rules, regulations and/or ordinances, including, without limiting the generality of the foregoing, the provisions of 40 CFR Part 503 and New Hampshire Code of Administrative Rules Chapter Env-Wq 800, Sludge Management. For the purpose of section, words defined in New Hampshire Code of Administrative Rules Chapter Env-Wq 800, Sludge Management, shall retain such meaning herein.
- C. Additional regulations of septage and sludge. In addition to the rules, regulations and restrictions imposed upon the stockpiling, land application and/or other use of septage or sludge referred to in Subsection B above, the stockpiling, land application and/or other use of septage or sludge within the City of Rochester shall be subject to the following restrictions and/or requirements:
  - (1) No use of septage or sludge requiring a facility permit as provided for in Chapter Env-Wq 801 shall be permitted.
  - (2) No stockpiling of sludge shall be permitted except in connection with land application of sludge; provided further, however, that no stockpiling of sludge in connection with land application of sludge shall be permitted between January 1 and April 1 or between November 15 and December 31 of any calendar year.

- (3) Any person stockpiling sludge for longer than 12 hours shall cover the stockpile with an odor control material, such as lime, wood ash or cement kiln dust, to minimize odors.
  - (4) Sludge shall be fully incorporated into the soil within eight hours of spreading,
  - (5) The practice of so-called "top dressing" of soil shall be prohibited.
  - (6) No land application or spreading of sludge shall be permitted on any hydric soil as defined in Section Env-Wq 1014.02 or in areas exhibiting seasonal ponding. (For the purposes of this subsection, the determination of the existence and/or location of hydric soils shall be made based upon the results of an order No. 1 soil study to be submitted to the Director of Building, Zoning, and Licensing Services by or on behalf of the site operator.)
  - (7) Every site operator shall file a copy of all materials required to be filed with the State of New Hampshire with respect to a site application pursuant to Section Env-Wq 806.01 with the Department of Building, Zoning, and Licensing Services at the time such documents are filed with the State of New Hampshire.
- D. Random testing. Any sludge used within the City of Rochester and subject to the terms of this section shall be subject to random collection and/or testing for the presence of fecal coliform at the discretion and under the direction of the Director of Building, Zoning, and Licensing Services.
- E. Permit fee. Before any operator shall receive sludge for stockpiling and/or land application purposes as permitted pursuant to this section in any calendar year, such operator shall pay to the Department of Building, Zoning, and Licensing Services an annual sludge land application permit fee of \$250.
- F. Exceptions.
- (1) This section shall not apply to any septage or sludge which is managed at a solid waste facility permitted by the Waste Management Division of the Department of Environmental Services pursuant to RSA 149-M and Chapters Env-Hw 100 to 1100, Env-Sw 200 to 1800 and Env-Or 300 to 700.
  - (2) This section shall not apply to exceptional quality domestic sludge, that is, sludge other than industrial sludge which meets all of the following:
    - (a) The pollutant concentrations contained in 40 CFR 503.13(b)(3);
    - (b) The Class A pathogen reduction requirements contained in 40 CFR 503.32(a); and
    - (c) One of the vector attraction reduction requirements contained in 40 CFR 503.33(b)(1) through (8).

§ 94-11

ROCHESTER CODE

§ 94-13

## ARTICLE II

**Removal or Transportation of Putrefied Animal or Vegetable Substances****§ 94-12. Periodic removal of putrefied animal or vegetable substances.**

The owner, agent, occupant, or other person having care of any stable, barn premises, or any other place where manure, swill, garbage, or any other animal or vegetable substances accumulate shall cause the same to be removed at such stated periods as the Health Officer may designate, and in the event the Health Officer shall have designated such stated periods, such substances shall be removed with such frequency and regularity that such substances shall not be offensive or a menace to the public health and welfare.<sup>1</sup>

**§ 94-13. Vessels to be used in transporting.**

No person shall transport fat, bones, or decayed, putrefied or vile smelling animal or vegetable substance within the City limits except in watertight, securely covered vessels from which no odor can escape.

---

1. Editor's Note: Original § 25.12, Licenses required, which immediately followed this section, was repealed 5-1-2007.94:6 09 - 01 - 2018