

**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, June 7, 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: May 3, 2018 P. 3**
4. **Remote Participation During Council and Board Meeting(s) P. 5**
5. **Amendment to Chapter 22 of the General Ordinances of the City of Rochester Regarding Fire Department Organization P. 9**
6. **Amendment to Chapter 23 of the General Ordinances of the City of Rochester Regarding Fire Safety Measures P. 13**
7. **Discussion: Chapter 146 Disorderly Residence (*City of Franklin*) P. 23**
8. **Other**
9. **Adjournment**

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City Clerk's Office

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**Thursday, May 3, 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, City Clerk Typist, took a silent roll call. All Committee members were present except for Councilor Abbott who was excused. Also present were Michelle Mears, Planner I, Planning Department and Kyle Pimental from Strafford County Regional Planning Commission, Fire Chief, Mark Klose, Deputy Chief, Tim Wilder and Government Channel Coordinator, Celeste Plaia.

**2. Public Input**

No one addressed the City Council.

**3. Acceptance of the Minutes: March 1, 2018**

Councilor Gates **MOVED** to **ACCEPT** the minutes of the March 1, 2018 Codes and Ordinances Committee meeting. Councilor Bogan seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

**4. Remote Participation During Council and Board Meetings**

Celeste Plaia spoke on this matter. Blaine Cox asked for her to research what other Cities have handled remote participation. He requested a draft policy for review. Councilor Lachapelle stated that he would reach out to Attorney O'Rourke to draft a policy to be discussed at the June 7<sup>th</sup> meeting.

**5. Chapter 22 & Chapter 23 Fire Department Organization**

Chief Marc Klose spoke about guidance from the Committee about how to amend Chapter 22 and 23 of the General Ordinances. He said some of the current practices are either outdated

*DRAFT MINUTES*

and/or no longer practiced in the fire department currently.

Councilor Gates suggested that Chief Klose mark-up the ordinances to indicate which practices are no longer applicable. Councilor Lauterborn requested that all changes would be marked clearly.

Chief Klose is seeking to find out the history of Chapter 22. Councilor Lachapelle agreed to look into the matter with his own books. Councilor Lauterborn advised that the Chief should make sure State RSA's used as a guide if any verbiage is added or deleted. She added that the State RSA's should be available when the Chief presents the draft ordinance. Councilor Lachapelle asked that Chief Klose to come back to the June 7<sup>th</sup> meeting with a draft.

**6. Other – 17.31 Regulations of Water Usage During an Emergency**

Michelle Mears, Planning and Development, introduced Kyle Pimental from Strafford Regional Planning Commission. Mr. Pimental gave a power point presentation of what changes to 17.31 are being suggested for restriction of water usage. A draft copy of 17.31 was handed out at the meeting. Councilor Lauterborn **MOVED** to send Amendment Chapter 17.31 to the full City Council for a First Reading at the June 5, 2018 Regular City Council meeting. This will require a Public Hearing which could be scheduled at the June Workshop meeting held on June 19, 2018. Councilor Gates seconded the motion. The **MOTION CARRIED** by unanimous voice vote.

Ms. Mears gave an update to the Committee about some of the changes in the Planning Department. The Planning Department has hired a consultant to look at the density regulations for the downtown. They will be working with the Planning Department from now until September to come up with some changes to the current Zoning Ordinance. During this time they will be doing a lot of community listening events to hopefully get the community involved.

**Discussion of Chapter 146; Disorderly Residence (City of Franklin 4-4-2011).**

Councilor Lachapelle suggested that Attorney O'Rourke give a status update for the June 7, 2018 Codes and Ordinances meeting.

**7. Adjournment**

Councilor Lauterborn **MOVED** to **ADJOURN** the meeting at 6:35 pm. Councilor Gates seconded the motion. The **MOTION CARRIED** by unanimous voice vote.

Respectfully Submitted,

Susan Morris  
Clerk Typist II

**DRAFT*****Working title:* (REMOTE PARTICIPATION DURING COUNCIL AND BOARD MEETINGS)****1) INTRODUCTION / PURPOSE**

The City Council strongly encourages board members to be physically present for all board and committee meetings. The Council recognizes, however, that extenuating circumstances may occasionally prevent a member from being physically present at a meeting. Therefore, to promote full participation of board members while ensuring access and transparency for the public as required by NH RSA 91-A:2 Access to Governmental Records and Meetings, the Council authorizes remote participation in board meetings subject to the following procedures and requirements.

**2) PERMISSIBLE REASONS FOR REMOTE PARTICIPATION**

Remote participation is not to be used solely for a board member's convenience or to avoid attending a particular meeting in person. Any Board member who is unable to physically attend a meeting of the board may make arrangements to remotely participate in the meeting under the following conditions:

- a. personal illness or disability;
- b. out-of-town travel;
- c. unexpected lack of child-care;
- d. family member illness or emergency;
- e. weather conditions;
- f. military service;
- g. employment obligations; or
- h. a scheduling conflict.

No board member may participate remotely more than three times during a calendar year; However, in justifiable circumstances, the board may, by two-thirds vote, agree to waive this limitation.

**3) CONDITIONS per (state NH RSA 91-A:2) / Authority**

(State NH RSA 91-A:2):

III. A public body may, but is not required to, allow one or more members of the body to participate in a meeting by electronic or other means of communication for the benefit of the

public and the governing body, subject to the provisions of this paragraph.

(a) A member of the public body may participate in a meeting other than by attendance in person at the location of the meeting only when such attendance is not reasonably practical. Any reason that such attendance is not reasonably practical shall be stated in the minutes of the meeting.

(b) Except in an emergency, a quorum of the public body shall be physically present at the location specified in the meeting notice as the location of the meeting. For purposes of this subparagraph, an "emergency" means that immediate action is imperative and the physical presence of a quorum is not reasonably practical within the period of time requiring action. The determination that an emergency exists shall be made by the chairman or presiding officer of the public body, and the facts upon which that determination is based shall be included in the minutes of the meeting.

(c) Each part of a meeting required to be open to the public shall be audible or otherwise discernable to the public at the location specified in the meeting notice as the location of the meeting. Each member participating electronically or otherwise must be able to simultaneously hear each other and speak to each other during the meeting, and shall be audible or otherwise discernable to the public in attendance at the meeting's location. Any member participating in such fashion shall identify the persons present in the location from which the member is participating. No meeting shall be conducted by electronic mail or any other form of communication that does not permit the public to hear, read, or otherwise discern meeting discussion contemporaneously at the meeting location specified in the meeting notice.

(d) Any meeting held pursuant to the terms of this paragraph shall comply with all of the requirements of this chapter relating to public meetings, and shall not circumvent the spirit and purpose of this chapter as expressed in RSA 91-A:1.

(e) A member participating in a meeting by the means described in this paragraph is deemed to be present at the meeting for purposes of voting. All votes taken during such a meeting shall be by roll call vote.

#### **4) Additional Conditions**

A board member considered present through remote participation will be permitted to vote on any action item at the meeting except:

Any item for which the member was not participating remotely during the entire discussion and deliberation of the matter preceding the vote; and

Any item that was being discussed when an interruption to the electronic communication occurred, if the board's discussion was not suspended during the interruption. A brief loss of simultaneous communication, such as a few seconds, will not disqualify the member from voting on the matter under discussion.

Per RSA 91-A:1 All votes taken during such a meeting shall be by roll call vote.

A board member may participate remotely in a closed session of the board provided the member provides assurance to the board that no other person is able to hear, see, or otherwise participate in the closed session from the remote location. (option to be considered by City Council, please see notes at end)

The City of Rochester staff will not be held liable for failed technology or things beyond our control that would interfere with the remote communication.

Board member wishing to engage in remote participation shall adhere to following procedures: section 4.

## **5) PROCEDURE FOR REMOTE PARTICIPATION**

1. a. *With the exception of an emergency*, a member of the board who desires to participate in a meeting remotely shall notify the board chair at least one week in advance of the meeting.
2. At the time of this writing, because current mode of phone call in only allows one member at a time, remote participation will be on first come first serve basis, when criteria is met.
3. Meeting Chair will contact the City Manager's office as soon as possible and state they have allowed board member to participate remotely (state meeting date) based on criteria laid out in this document.
4. City Manager's office will send participant call in phone number along with a copy of this policy / procedure document and arrange tentative "test date" for phone call. City Manager's office shall notify Government Channel Coordinator.
5. Previous to the meeting, the Chair will inform board members of the request and intention to allow remote participation of such board member.
6. A test a few days prior to the meeting should be performed to ensure that the caller's device will suffice, and that they can hear on their device at their remote location. While not always possible, it is recommended a land line phone be used with external speaker.
7. The participant shall initiate the phone call in to designated phone number at 6:45pm eastern standard time or 15 minutes prior to the meeting start. Caller should be aware of not to be near televised or live streaming audio during the meeting.
8. The chair shall announce the remote participant after the Call to Order and follow suggested script: "Board member (name) is participating in this meeting by telephone. (name) are you there?"

(participant– “yes I am here”) (name) was it reasonably impractical for you to be physically present at this meeting? (participant) – yes, it was impractical for me to be physically present).”

9. The meeting chair may decide how to address technical difficulties that arise when utilizing remote participation, but whenever possible, the chair should suspend discussion while reasonable efforts are made to correct any problem that interferes with a remote participant’s ability to hear or be heard clearly by all persons present at the meeting location. If, however, the technical difficulties distract from or impede the orderly progress of the meeting, a majority of the members physically present may vote to end the remote participation.

9. A member participating remotely shall notify the chair if leaving the meeting before it is adjourned or rejoining the meeting after a period of absence.

10. All votes taken will be by voice vote. \*(NH RSA)

11. Remote participant may partake in non-public and non-meetings sessions, but in most cases will require participant to end the call to Council Chambers, call into Council conference room, and call back into Council Chambers, if required to do so per voting reasons of Council rules of Order.

12. Participation by remote communication will be noted in the official board minutes. Any interruption to or discontinuation of the member’s participation will also be noted in the minutes. (RSA??)

13. Any telephone costs associated with remote participation shall be borne by the remote participant.

**END**

## **OTHER**

### **Section “4 Additional Conditions” in this document:**

#### **Shall Council allow or not allow remote call in member to participate in non-public session?**

*One example of a town’s non-public participation policy states:*

Since the privacy, confidentiality, and security of remote communications and participation by a Board member utilizing electronic means cannot be assured with currently available technology, remote participation by board members in executive sessions are NOT permitted.

### **Section 2) PERMISSIBLE REASONS FOR REMOTE PARTICIPATION**

*Please comment if you would like to restrict reasons or limit number of times per year.*

**Amendment to Chapter 22 of the General Ordinances of the City of Rochester  
Regarding Fire Department Organization**

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 and additions in italics):

**CHAPTER 22**

**FIRE DEPARTMENT ORGANIZATION**

**SECTION ANALYSIS**

~~22.1 Board of Firewards Established~~

~~22.2-1~~ Appointment and Requirements of the Fire Chief

~~22.3 Organization of Companies~~

~~22.4 Rules and Regulations of Fire Department~~

~~22.5-2~~ Rank of Assistant Chief Transfer of Authority in the absence of the Fire Chief

~~22.6 Rank of Deputy Chief or Fire Marshal in Charge~~

~~22.7 Captain in Charge~~

~~22.8 Hose and Ladder Company Captains~~

~~22.9-3~~ Equipment and Apparatus

~~22.10 Conflict of Interest~~

~~22.11 Payrolls~~

~~22.12 Penalty Clause~~

**22.1 Board of Firewards Established.**

~~The Chief of the Department, Assistant Fire Chief, Deputy Chief and the Fire Marshal shall constitute the Board of Firewards, and they shall have such powers and duties as are granted to the Firewards by Chapter 154, as amended, of the New Hampshire Revised Statutes Annotated.~~

**22.12 Appointment and Requirements of the Fire Chief.**

Upon appointment, the Fire Chief shall within six (6) months establish residence within the City's boundaries. The Fire Chief shall work under the direct supervision of the City Manager in accordance with the provisions of Section 18 of the Rochester City Charter. The Fire Chief shall manage, consult with and advise the City Manager on all matters pertaining to the equipment and control of the Fire Department. *Subject to the approval of the City Manager, the Fire Chief shall make rules and regulations for the internal operation of the Fire Department as he/she shall deem necessary and shall keep the same posted in the Fire Station and other buildings of the Department.*

**22.3 Organization of Companies.**

~~The call firefighters shall be organized into the following companies: Engine 1, Engine 2, Engine 3, Engine 4, Engine 5 and Ladder 1.~~

**22.4 Rules and Regulations of Fire Department.**

~~Subject to the approval of the City Manager, the Fire Chief shall make rules and regulations for the internal operation of the Fire Department as he/she shall deem necessary and shall keep the same posted in the engine house and other buildings of the department.~~

**22.5-2 Rank of Assistant Chief. Transfer of Authority in the Absence of the Fire Chief.**

The Assistant Chief shall be senior in rank to the Deputy Chief and Fire Marshal and in the absence of the Chief shall perform all the duties and have the powers of the Chief. ~~The rank of Assistant Chief shall be appointed by the Fire Chief. In the absence of the Fire Chief and Assistant Fire Chief, the Fire Chief shall designate an Acting Chief who shall perform all the duties and accept all the responsibilities of the Fire Chief per RSA 154:5 and 154:7 until such time as the Fire Chief or Assistant Fire Chief returns and assume his/her duties.~~

**22.6 Deputy Chief and Fire Marshal in Charge.**

~~In the absence of the Fire Chief and Assistant Fire Chief, the Deputy Chief or Fire Marshal shall perform all the duties and have all the powers of the Chief.~~

**22.7 Captain in Charge.**

~~In the absence of the Chief, Assistant Chief, Deputy Chief and Fire Marshal, the ranking Captain shall perform all the duties and have all the powers of Chief.~~

**22.8 Hose and Ladder Company Captains.** [1]

~~Each Call hose or ladder company shall have one (1) member assigned as the Company Captain. All Company Captains shall be appointed by the Fire Chief~~

**22.9-3 Equipment and Apparatus.**

~~No hose or ladder equipment or any other fire apparatus shall be taken to a fire, emergency or other business outside of the City without the permission of the Fire Chief or his designee. The Fire Chief or his/her designee shall be notified by dispatch whenever an apparatus responds to an incident outside of the City.~~ The Chief shall notify the City Manager whenever practical and convenient when an apparatus is to be outside the City for extended periods or other circumstances determined by the Chief

**The effective date of these amendments shall be upon passage.**

**22.10 Conflict of Interest.** [1]

~~No member of the Fire Department shall hold the office of Chief of Police, Deputy Chief of Police, Sergeant or regular Police Officer in the City.~~

**22.11 Payrolls.** [1]

~~The secretary of the department shall make up the call force payroll semi-annually in June and December and turn into the Fire Chief for approval and after the action of the Fire Chief payments thereon shall be made immediately after.~~

**22.12 Penalty.** [1]

~~Any person failing to comply with a lawful order of the Fire Chief or his/her designee shall be fined not more than \$100.00 for each offense and each 24 hours of maintenance of prohibited conditions shall constitute a separate offense.~~

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**Amendment to Chapter 23 of the General Ordinances of the City of Rochester Regarding  
Fire Safety Measures**

THE CITY OF ROCHESTER ORDAINS:

That Chapter 23 of the General Ordinances of the City of Rochester and currently before the Rochester City Council, be amended as follows (deletions struck out and additions in italics):

**CHAPTER 23**

**FIRE SAFETY MEASURES**

**SECTION ANALYSIS**

23.1 Fire Safety Rules and Regulations

23.2 Smoke Detector Wiring

23.3 Enforcement Officer

~~23.4~~ *Control of Outdoor Fires*

~~23.5~~ ~~23.4~~ *Knox Box Installations*

~~23.6~~ ~~23.5~~ *Public Safety Amplification System Required in Large Facilities*

~~23.7~~ ~~23.6~~ *Administration and Enforcement*

~~23.8~~ ~~23.7~~ *Means of Escape*

~~23.9~~ ~~8~~ *Fire Department Access*

~~23.9~~ ~~23.10~~ *Control of Fire Hazards*

~~23.11~~ ~~23.10~~ *Penalty*

~~23.12~~ ~~23.11~~ *Sprinkler Requirements for Certain Single-family Dwelling Units*

~~23.13~~ ~~23.12~~ *Prohibition and Regulation of Fireworks*

~~23.14~~ ~~23.13~~ *Listed Agent Program*

~~23.15~~ ~~23.14~~ *Regulation of Fire Alarms*

**23.1 Fire Safety Rules and Regulations.**

*The rules and regulations of the State Fire Marshal as they are now constituted and as they are from time to time amended are hereby adopted as and for the Fire Safety Rules and Regulations of the City of Rochester. The full text of such rules and regulations may be obtained by any person at the office of the Chief of the Fire Department of the City of Rochester.*

*This Chapter incorporates the New Hampshire Fire Code as adopted by the State of New Hampshire pursuant to RSA 153:4-a and 153:5, and is hereby adopted and incorporated as if fully set out at length herein. Whenever the New Hampshire Fire Code and these Fire Safety Rules and Regulations address an identical issue, the more stringent fire protection measure will apply. To that effect, the City of Rochester adopts the provisions of NFPA 1: Fire Code (2015) and NFPA 101: Life Safety Code (2015), exempting any requirements therein per RSA 153:5, IV that would constitute being less restrictive than the New Hampshire Fire Code.*

**23.2 Smoke Detector Wiring.**

When installing 120 volt, hard-wired smoke ~~detectors~~ *alarms* in any type occupancy, the smoke detector shall be wired to a lighting circuit.

**23.3 Enforcement Officer.**

The words “officer” and/or “local authorities” wherever used in the laws, administrative –rules and regulations of the State Fire Marshall and adopted in the foregoing section shall be deemed to refer to the Chief of the Rochester Fire Department.

### **23.4 Control of Outdoor Fires.**

~~No person shall kindle, light, or otherwise start an outdoor fire in the City of Rochester for any purpose whatsoever without first having obtained a written permit, without cost, from the Chief of the Rochester Fire Department. All such permits shall be in writing and in such form as the Chief of the Rochester Fire Department shall prescribe and shall set forth any conditions or restrictions which, in the opinion of the Fire Chief, shall be reasonably necessary and prudent to insure the safe performance of permitted activities.~~

### **23.45 Knox Box Installations.**

For purposes of rapid entry in cases of emergencies or required access to buildings after hours, any new construction, the change in occupancy/ownership of an existing building or any existing building with a fire alarm or sprinkler system installed on all buildings ~~the following type occupancies, excluding single family homes,~~ occurring after the date of the adoption of this ordinance will require a KNOX BOX, ~~to be installed on such premises:~~

- ~~1. Assembly~~
- ~~2. Educational~~
- ~~3. Mercantile~~
- ~~4. Business~~
- ~~5. Industrial~~
- ~~6. Apartment Complex~~

The Fire Chief shall have authority to require any other type of building, not listed above, to install a KNOX BOX to meet rapid entry requirements, if in his discretion public safety considerations require such installation.

### **23.6-5 Public Safety Amplification System Required in Large Facilities**

The purpose of this system is to provide minimum standards to insure a reasonable degree of reliability for emergency services communications from within certain buildings and structures within the City to and from emergency communications centers. It is the responsibility of the emergency service provider to get the signal to and from the building site.

#### (a) Applicability

The provisions of this article shall apply to:

- (1) New buildings greater than fifty thousand (50,000) square feet;
- (2) Existing buildings over fifty thousand (50,000) square feet when modifications, alterations or repairs exceed fifty percent (50%) of the value of the existing building(s) and are made within any twelve (12) month period or the usable floor area is expanded or enlarged by more than fifty percent (50%); and
- (3) All sublevels, regardless of the occupancy, over ten thousand (10,000) square feet.

(b) Radio coverage

- (1) Except as otherwise provided in this article, no person shall erect, construct or modify any building or structure or any part thereof, or cause the same to be done, which fails to support adequate radio coverage for firefighters and police officers.
- (2) The City's fire department with consideration of the appropriate police, fire and emergency medical department services shall determine the frequency range or ranges that must be supported.
- (3) For the purposes of this section, adequate radio coverage shall constitute a successful communications test between the equipment in the building and the communications center for all appropriate emergency service providers for the building.

(c) Inbound into the Building

- (1) A minimum average in-building field strength of 2.25 micro-volts (-100 dbm) for analog and five (5) micro-volts (-93 dbm) for digital systems throughout eighty-five percent (85%) of the area of each floor of the building when transmitted from  
  
the City's police dispatch center and the appropriate emergency service dispatch centers which are providing fire and emergency medical protection services to the building.
- (2) If the field strength outside the building where the receive antenna system for the in-building system is located is less than (-100 dbm) for analog, or (-93 dbm) for digital systems, then the minimum required in-building field strength shall equal the field strength being delivered to the receive antenna of the building.
- (3) As used in this article, eighty-five percent (85%) coverage or reliability means the radio will transmit eighty-five percent (85%) of the time at the field strength and levels as defined in this article.

(d) Outbound from the Building

A minimum average signal strength of 112 micro-volts (-6 dbm) for analog and five (5) micro-volts (+1 dbm) for digital systems as received by the City's Police dispatch center and the appropriate emergency service dispatch centers, which are providing fire and emergency medical protection services to the building.

FCC authorization. If amplification is used in the system, all FCC authorizations must be obtained prior to use of the system. A copy of these authorizations shall be provided to the City's Fire Department.

(e) Enhanced amplifications systems

- (1) Where buildings and structures are required to provide amenities to achieve adequate signal strength, they shall be equipped with any of the following to achieve the required adequate radio coverage; radiating cable system(s), internal multiple antenna system(s) with an acceptable frequency range and an amplification system(s) as needed, voting receiver system(s) as needed, or any other City approved system(s).

- (2) If any part of the installed system or systems contains an electrically powered component, the system shall be capable of operation on an independent battery or generator system for a period of at least eight (8) hours without external power input or maintenance. The battery system shall automatically charge in the presence of external power.
- (3) Amplification equipment must have adequate environmental controls to meet the heating, ventilation, cooling and humidity requirements of the equipment that will be utilized to meet the requirements of this code. The area where the amplification equipment is located almost must be free of hazardous materials such as fuels, asbestos, etc.

All communications equipment, including amplification systems, cable and antenna systems shall be grounded with a single point ground system of five (5) ohms or less. The ground system must include an internal tie point within three (3) feet of the amplification equipment. System transient suppression for the telephone circuits, ac power, radio frequency (RF) cabling and grounding protection are required as needed.

- (4) The following information shall be provided to the Fire Department by builder:
  - (A) A blueprint showing the location of the amplification equipment and associated antenna systems which includes a view showing building access to the equipment; and
  - (B) Schematic drawings of the electrical, backup power, antenna system and any other associated equipment relative to the amplification equipment including panel locations and labeling.

(f) Testing procedures – Method to Conducts Tests

- (1) Tests shall be made using frequencies close to the frequencies used by the Police and appropriate emergency services. If testing is done on the actual frequencies, then this testing must be coordinated within the City's Fire Department. All testing must be done on frequencies authorized by the FCC. A valid FCC license will be required if testing is done on frequencies different from the Police, Fire or emergency medical frequencies.

(g) Measurements Shall be Made Using the Following Guidelines

- (1) With a service monitor using a unity gain antenna on a small ground plane;
- (2) Measurements shall be made with the antenna held in a vertical position at three (3) to four (4) feet above the floor;
- (3) A calibrated service monitor (with a factory calibration dated within twenty-four (24) months may be used to do the test);
- (4) The telecommunications unit representative for the City may also make simultaneous measurements to verify that the equipment is making accurate measurements. A variance of 3 db between the instruments will be allowed; and

- (5) If measurements in one location are varying, then average measurements must be used.
- (A) All testing shall be done in the presence of a Fire Department representative at no expense to the City or appropriate emergency services department.
  - (B) Signal strength, both inbound and outbound as defined above, shall be measured on each and every floor above and below ground including stairwells, basements, penthouse facilities and parking areas of the structure. The structure shall be divided into fifty (50) foot grids and the measurements shall be taken at the center of each grid.

(h) Annual Tests

Annual tests will be conducted by the City's telecommunications unit or appropriate emergency services department. If communications appear to have degraded or if the tests fail to demonstrate adequate system performance, the owner of the building or structure is required to remedy the problem and restore the system in a manner consistent with the original approval criteria. The re-testing will be done at no expense to the City or the appropriate emergency services departments as required in the original testing procedures.

(i) Field Testing

Police and Fire personnel, after providing reasonable notice to the owner or his/her representative, shall have the right to enter onto the property to conduct field testing to be certain the required level of radio coverage is present. Certificates of Occupancy may be denied for new and existing buildings for failure to comply with these requirements.

**23.7-6 Administration and Enforcement.**

The authority having jurisdiction for the administration and enforcement of this chapter shall be Fire Prevention of the City of Rochester. The fee schedule under this chapter shall be as follows:

Tank Removal	\$25.00
Blasting	\$25.00
Incident Report	\$5.00
Fire Marshal's Investigation Report	\$25.00
Photographs (Fire Scene)	\$15.00
CD Photos (Fire Scene)	\$15.00
Fire Alarm System Plan Review	\$1.00 per device or \$50.00 minimum
Sprinkler System Plan Review	\$1.00 per device or \$50.00 minimum
Commercial Hood Fire Suppression	\$1.00 per device or \$50.00 minimum
Clean Agent	\$1.00 per device or \$50.00 minimum

Initial Inspection	Free of Charge
Re-Inspections (Sprinkler Systems, Fire Alarm Systems, Commercial Hood Fire Suppression, Clean Agent)	\$50.00 per person with \$100.00 minimum
Fine	\$175.00 (working without a permit or license)
Listed Agent	\$25.00 per year, per restriction
False Alarm, Fire Alarm Activation	\$175 after 2 Consecutive, per calendar year

### **23.8 Means of Escape.**

~~All factories, hotels, tenement houses, public halls, schoolhouses and other buildings used as places of public resort in the City shall be provided with ample means of escape in case of a fire and adequate facilities for entrance and exits on all occasions; and be so erected as not to endanger the health and safety of persons who occupy them.~~

### **23.9.7 Fire Department Access**

Before construction on commercial buildings, a residential street or a private street with two (2) or more duplexes or single-family dwellings may begin, Fire Department access roads shall be designed and maintained to support the imposed loads of fire apparatus and shall be provided with a surface suitable for all-weather driving capabilities.

### **23.10.8 Control of Fire Hazards**

The Chief of his/her designee shall examine, or cause to be examined, at regular intervals, all places where combustible material may be collected or deposited and cause the same to be removed by the tenants, occupants or owners of such place, at their expense, whenever, in the opinion of the Fire Chief, such removal is necessary for the security of the City against fires. A record of all such inspections shall be kept by the Chief or his/her designee.

### **23.11.9 Penalty**

Any person, persons, firm, corporation or partnership who shall violate any provision of Chapter 23 shall be guilty of a violation punishable by a fine of not less than one hundred dollars (\$100) or not more than five hundred dollars (\$500). Each day that the violation continues to exist shall constitute a separate offense. The owner of record of any property upon which a violation of this Chapter occurs shall be held strictly liable for any violation occurring on their property and shall be guilty of a violation in the same manner as stated above.

### **23.12-10 Sprinkler Requirements for Certain Single-family Dwelling Units.**

In addition to sprinkler requirements for structures under the provisions of the applicable N.F.P.A. (National Fire Protection Association) Code and/or any other applicable law or regulation all newly constructed duplexes, triplexes and single-family dwelling unit combination structures that are attached to each other, shall be sprinkled in accordance with National Fire Protection Association (N.F.P.A.) Code standards as contained in the New Hampshire State Fire Code.

### **23.13-11 Prohibition and Regulation of Fireworks.**

- A. In accordance with the provisions of RSA 160-C, it shall be illegal for any person, firm, partnership or corporation to offer for sale, expose for sale, sell at retail, purchase, possess, use, explode or display any permissible fireworks within the City of Rochester, except as specifically provided for in this ordinance.

## B. As used in this ordinance:

- i. “Display” means the use, explosion, activation, ignition, discharge, firing or any other activity which is intended to cause or which causes a firework to do what it was manufactured to do.
- ii. “Permissible fireworks” means those consumers firework devices defined as “permissible fireworks” in RSA 160-C, as the same currently exists or as, from time to time, hereinafter amended.
- iii. “Fire Chief” means the Fire Chief of the City of Rochester or his/her designee.
- iv. “Police Chief” means the Police Chief of the City of Rochester or his/her designee.

## C. Permit Required. No Person shall use discharge or explode any permissible fireworks without a permit issued by the City of Rochester.

- i. Any person wishing to obtain a permissible fireworks display permit shall apply to the ~~Police Chief and the Fire Chief~~[Licensing Board](#) at least 15 days prior to the display. The time frame may be waived at discretion of the Police and Fire Chief.
- ii. The applicant shall provide the following information:
  - a. Date of application
  - b. Name, address, and telephone number of applicant
  - c. Address of location where the display will be held
  - d. Diagram of the display location, showing the location of all nearby property lines, nearby buildings, public ways, nearby trees, electrical and telephone lines or other overhead obstructions, and the location of any nearby storage of flammable or combustible liquids or gases
  - e. Name of the owner of the property where the display will be held
  - f. Intended date and time of display, including a possible rain date
  - g. Written authorization of the property owner, if different from the applicant
  - h. Signature of the applicant
- iii. Permit fee. The fee for a permissible fireworks display shall be five dollars (\$5.00) per event. The fee shall be paid at the time of application and is non-refundable.
- iv. Site Inspections;
  - a. Prior to issuing a permit, the Police Chief or the Fire Chief may conduct an inspection of the display site to determine whether a permissible fireworks display can be held in a safe manner.
  - b. If, in the opinion of the ~~Police Chief or Fire Chief~~[Licensing Board](#), the proposed site is not suitable for the safe display

of permissible fireworks, the application for a permit shall be denied.

- D. Subject to, and in accordance with the provisions of Chapter 160-C of the New Hampshire Revised Statutes Annotated it shall be lawful to possess and/or display permissible fireworks upon compliance with the following requirements:
- i. A person who is 21 years of age or older may display permissible fireworks on private property with the written consent of the owner or in the owner's presence, subject to the provisions of this ordinance and RSA Chapter 160-C, and any other applicable ordinance regulation or statute.
  - “ii No display of permissible fireworks shall be permitted within the City except between the hours of 6 PM and 11 PM on the following holiday: Fourth of July (including the evening of July 3<sup>rd</sup> beginning at 6PM, including from such time until midnight on any rain date established for the annual city-wide fireworks display held at the Rochester Fairgrounds), after obtaining a permit.
  - iii The display of permissible fireworks shall be of such a character, and so located and conducted, that it shall not be hazardous to property or endanger any person. In accordance with the provisions of RSA Chapter 160-C no permissible fireworks shall be permitted on public property and must be at least 50 feet from nearby buildings, nearby trees, electrical and telephone lines or other overhead obstructions, and the location of any nearby storage of flammable or combustible liquids or gases.
  - iv No permissible fireworks may be used, discharged, exploded, or displayed during periods of very high or extreme fire danger as determined by the Fire Chief or the NH Division of Forests and Lands.
  - v. Permissible fireworks may be used, discharged, exploded, or displayed in a manner such that any all discharge debris shall remain within the property lines of the lot on which the display originates.
  - vi. Anyone using permissible fireworks shall be responsible for removing any debris accumulated due to the discharge of fireworks that fall onto the public way, public property, and any private property within twenty-four hours. Anyone failing to remove such debris shall be financially responsible for its clean up.
  - vii. Display of permissible fireworks shall be permitted on public property the evening of July 3<sup>rd</sup> beginning at 6 PM, including from such time until midnight on any rain date established for the annual city-wide fireworks display held at a the Rochester Fairgrounds provided that such display shall be authorized in a duly issued Block Party Application/Permit from the City's Licensing Board covering the public property on which the display is to occur.
- E. A violation of this ordinance shall be subject to the penalties provided for in Chapter 23, Section 23.11, Penalty, of the City of Rochester General Ordinance.
- F. This ordinance shall be construed consistently with NH Code of Administrative Rules Saf

- c 2600, as made applicable by state statute and as adopted by reference in Section 23.1, of the General Ordinances of the City of Rochester, and is not meant to repeal any section thereof. Nothing in this ordinance shall be interpreted so as to conflict with the provisions of Chapters 160-B or 160-C of the New Hampshire Revised Statutes Annotated, as currently written, or as from time to time hereafter amended. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such provision shall be deemed a separate, distinct independent provision and such holding shall not affect the validity of the remaining portions thereof. 11-9-10
- G. The Police Chief or Fire Chief may suspend the use of permissible fireworks for any of the following reasons:
- i. Unfavorable weather conditions, including but not limited to, lightning storms or high wind conditions exceeding 20 miles per hour or higher.
  - ii. If any person under the age of 21 possesses, uses, discharges or explodes, used, discharged or exploded any permissible firework device.
  - iii. If any person who is using, discharging, exploding, or displaying the permissible fireworks appears to be under the influence of alcohol or drugs;
  - iv. If, in the opinion of the Police Chief or Fire Chief, the use, discharge, exploding, or display of permissible fireworks would create a threat to public safety.
- H. The Police Chief and/or Fire Chief are authorized to seize, take, remove or cause to be removed, at the expense of the owner, all firework devices that are being discharged in violation of this ordinance.”
- I. The City Manager, Mayor, and/or the City Council may declare a Special Event of cultural or civic significance and authorize the display of fireworks on the same terms as Section D. ii. On particular days to celebrate those Special Events.

#### **23.14-12 Listed Agent Program**

In accordance with NFPA 1:2009 1.13, or the applicable adopted section of the current Code, the Rochester Fire Department enacts the Listed Agent Program. The Fire Chief or his designee shall promulgate administrative rules for the management of the Listed Agent Program.”

#### **23.15-13 Regulation of Fire Alarms**

The Fire Chief or his designee shall promulgate administrative rules for the management of the installation and maintenance of Fire Alarms.

**The effective date of these amendments shall be upon passage.**

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## Chapter 146: Disorderly Residence

[HISTORY: Adopted by the City Council of the City of Franklin 4-4-2011 by Ord. No. 06-11. Amendments noted where applicable.]

### GENERAL REFERENCES

Curfew — See Ch. **143**.

Loitering — See Ch. **207**.

Chapter 146 :Disorderly Residence

*§ 146-1Purpose.*

*§ 146-2Definitions.*

*§ 146-3Documentation and classification of complaints.*

*§ 146-4Notice and enforcement procedures; fines, violations and penalties.*

*§ 146-5Legal action against owner for cost recovery; alternative enforcement actions.*

*§ 146-1Purpose.*

[Amended 8-1-2011 by Ord. No. 05-12]

This chapter is adopted in accordance with RSA 47:17, RSA 31:39I(n), and RSA 644:2, and all other relevant statutory authority. It is hereby declared a valid public purpose of the City of Franklin that in order to promote and protect the health and general welfare of the City of Franklin, its residents and its neighborhoods, a process needs to be in place to properly and adequately control and manage chronic and unlawful nuisance and disorderly activities that might occur in the neighborhoods of the City. It is the public policy of the City to utilize this chapter to control and manage the disorderly activities and properties described below, and to appropriately assign financial liability for enforcement actions to the owners of the property where such activities occur in repeated fashion. There is an obligation on the part of the property owners to take all appropriate actions to reduce or eliminate these types of events from occurring. Ongoing disorderly events consume time and energies of the Police Department, thus reducing the amount of time that can be spent on more significant crimes and community affairs. While fines and enforcement actions may be necessary, this chapter is not adopted to create a mechanism to solely impose punitive punishments on the property owners; instead the goal of this chapter is create a dialogue with property owners and engage them in a process of eliminating these disorderly activities to the greatest degree possible.

*§ 146-2Definitions.*

As used in this chapter the following terms shall have the meanings outlined below:

**DISORDERLY ACTIVITIES**

Situations created within or in the immediate vicinity of a building by a building's owner, occupants, or tenants, or the invitees of an owner, tenant or occupant, which would have a tendency to unreasonably disturb the community, the neighborhood or an ordinary individual occupying property in or near the disorderly activity, including but not limited to loud music; boisterous parties; excessively loud or unnecessary noises emanating from within or near the building which are audible outside the building; fights within the building, or in its vicinity, involving occupants of the building or their invitees; occupants of the building or their invitees being intoxicated outdoors in the vicinity of the building; and other similar activities in the building or in the vicinity of the building.

**DISORDERLY EVENT**

An activity to which the Police Department responds on the basis of a complaint and determines to be disorderly. Multiple responses to a single building that occur within a twelve-hour period may be deemed a single disorderly event at the discretion of the Police Department. The Police Department shall be the final arbiter on how events are classified and counted towards the enforcement procedures in this chapter. If the disorderly events occur at a multifamily property (more than two units) and the events are taking place at individual units on different dates and times, the Police Department, in consultation with the City Manager, shall determine how these events will be classified in reference to the notice and fine provisions of § 147-4B through D below. The type and frequency of the events, and the degree of threat to public safety, will be factors in how the events are classified.

[Amended 8-1-2011 by Ord. No. 05-12]

**HABITUAL DISORDERLY RESIDENCE**

A residence which has been identified and classified by the Police Chief or a designee as being either the subject of eight or more police responses for any disorderly events in any twelve-month period; or the subject of 10 or more police responses for any disorderly events in any eighteen-month period.

**OWNER**

The person or persons having the right of legal title to, or the beneficial interest in, a building or parcel of land, as their interest is recorded in the tax records of the City of Franklin. For the purpose of all notifications and related communications, the term "owner" shall also be defined as the landlord's agent, as provided to the City by the owner of the property subject to the provisions of RSA 540.

## **RESIDENCE**

Any type of residential unit or building, including but not limited to a single- or two-family dwelling, a multifamily dwelling unit, family apartment, boardinghouse, condominium, rooming house or unit, or leased units in a manufactured housing park (hereinafter jointly and severally "building"). The term "residence" also includes any property (yard, driveway or parking area, etc.) associated with the residence.

### *§ 146-3 Documentation and classification of complaints.*

The Police Department shall document all responses to complaints of disorderly activities and classify each complaint as either substantiated or unsubstantiated.

### *§ 146-4 Notice and enforcement procedures; fines, violations and penalties.*

#### **A.**

When the Police Department determines that the first incident at a property will be subject to the provisions of this chapter, it shall notify the owner of the property and provide a copy of this chapter. The owner may voluntarily contact the Police Chief and/or City Manager to schedule a meeting to discuss the violation; if such a meeting is scheduled, the owner may, if he or she so chooses, present the City with a plan to take proactive steps to prevent future events.

[Added 8-1-2011 by Ord. No. 05-12<sup>14</sup>]

#### **[1]**

*Editor's Note: With the addition of this subsection, former Subsections A through H were redesignated as Subsections **B** through **I**, respectively.*

#### **B.**

Whenever a residence has been visited by the police two times in any thirty-day period, in relation to incidents involving a disorderly event, the Police Chief, the City Manager, or any other agent designated by the City Manager (hereinafter referred to as the "City") shall send a notice to the owner. The owner shall be provided with a copy of this chapter and shall be informed that a fine of \$100 shall be imposed for the event. If the owner contacts the Police Chief and/or the City Manager and schedules a meeting, within 10 calendar days of the receipt of the notice, to discuss the events, and said owner satisfactorily outlines a mechanism to prevent future disorderly events, then the fine may be waived.

#### **C.**

Whenever a residence has been visited by the police for a third event in any sixty-day period, in relation to incidents involving a disorderly event, the Police Chief, the City Manager, or any other agent designated by the City Manager (hereinafter referred to as the "city") shall send a notice to the owner. The owner shall be subject to a fine of

\$1,000. If the owner contacts the Police Chief and/or the City Manager and schedules a meeting, within 10 calendar days of the receipt of the notice, to discuss the events, and said owner satisfactorily outlines a plan to prevent future disorderly events, then the fine may be waived. The plan shall demonstrate that the owner agrees to take effective and immediate measures to prevent future disorderly events. The implementation of the plan shall begin within one week of the meeting. The plan shall be in writing and shall be signed and acknowledged by the City and the owner. The owner shall submit a report to the Police Chief and the City Manager, no later than three weeks after the meeting, reporting the steps taken to prevent future events. If the City determines that the plan is not being implemented in good faith, then the full fine of \$1,000 shall be reinstated.

[Amended 8-1-2011 by Ord. No. 05-12]

**D.**

For any fourth disorderly event within any 60 days from the third event, or for any subsequent event within 180 days from the date of the first event, the Police Chief, the City Manager, or any other designated agent shall send a notice to the owner. The owner shall be subject to a fine of \$1,000 for the fourth event and for each subsequent event. The fine for the fourth event may be reduced or waived by the City Manager if the owner demonstrates a good-faith effort to prevent future disorderly events.

[Amended 8-1-2011 by Ord. No. 05-12]

**E.**

The notices described above shall include a brief narrative outlining the circumstances of the disorderly events [date, time, and nature of the event(s)]. The notice shall be delivered to the owner or the appropriate representative by hand or by first-class mail. Service of such notice in the foregoing manner upon the owner's agent or upon the person responsible for the structure shall constitute service of notice upon the owner.

**F.**

At the time of any meeting between the owner and the City, the City may request documentation including but not limited to:

**(1)**

A copy of the names of all tenants or other persons authorized to reside or presently residing in the building and the units they occupy;

**(2)**

Management contracts with any building supervisor or other person responsible for the orderly operation of the building.

**G.**

Failure to meet with city officials or enter into such an agreement at the conclusion of said meeting will be deemed a violation of this chapter, and the city shall file a complaint in a court of competent jurisdiction seeking all compensatory and equitable relief permitted by law.

**H.**

If a residence that has been the subject of enforcement action under the provisions outlined above becomes subject to a second round of enforcement under this chapter, then the city is under no obligation to meet with the owner but may proceed directly with a complaint to a court of competent jurisdiction, seeking all compensatory and equitable relief permitted by law

**I.**

The provisions of Subsections **B** through **H** above notwithstanding, if a specific residence becomes identified as being a habitual disorderly residence by the Chief of Police or a designee, then the City is under no obligation to issue any notices or meet with the property owner. The City may, in these cases, issue a notice of violation and assess fines of \$1,000 for each event.

*§ 146-5 Legal action against owner for cost recovery; alternative enforcement actions.*

[Amended 8-1-2011 by Ord. No. 05-12]

In addition to any notice or enforcement provision outlined above, the city may file a legal action against the owner seeking court costs, response charges, and all damages and remedies to which it is entitled pursuant to state and local laws. The City of Franklin also reserves the right to take any other enforcement action allowed by any other local ordinance or state statute as an alternative to this Disorderly Residence Ordinance.

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