



City of Keene
New Hampshire

**PLANNING, LICENSES AND
DEVELOPMENT COMMITTEE
AGENDA
Council Chambers A
July 27, 2016
7:00 PM**

David C. Richards
Philip M. Jones
Bettina A Chadbourne
George S. Hansel
Robert B. Sutherland

-
1. Peg Bruce/Keene Kiwanis Club - Request to Use City Property - 350/400 Marlboro Street
 2. Relating to Food Service Establishment Permit Fees
 - Memorandum - Acting Health Director
 - Ordinance O-2016-10
 3. Relating to Dormitory, Lodging or Rooming Houses and Residential Board and Care
 - Report - PLD COM
 - Ordinance O-2016-09

MORE TIME ITEMS:

- A. Mayor Lane - Request to Use City Property- Fall Festival
- B. Ordinance O-2016-01: Creation of Residential Preservation District, a Business Growth District and Re-Use District
- C. Ordinance O-2016-02: Zone Change - Marlboro Street Project Area
- D. Ordinances O-2016-13, O-2016-14, and O-2016-15: Relating to the Establishment of the Main Street Historic Overlay District

Non Public Session
Adjournment



External Communication *Transmittal Form*

7/22/2016

TO: Mayor and City Council

FROM: Patricia Little, City Clerk

ITEM: 1.

TITLE: Peg Bruce/Keene Kiwanis Club - Request to Use City Property - 350/400 Marlboro Street

COUNCIL ACTION:

In City Council July 21, 2016.

Referred to the Planning, Licenses and Development Committee.

ATTACHMENTS:

Description

Kiwanis Communication

BACKGROUND:

The Keene Kiwanis Club is looking to store its decorations for both the Tree Lighting Celebration and the holiday season in one of the undesignated, storage spaces at 350/400 Marlboro Street. The use of this vacant space is covered under Resolution R-2012-06, which does provide for a nominal electrical fee for use of the space. The Kiwanis Club is seeking use of this space at no charge.

Petitioner Contact Information:

Peg Bruce
Keene Kiwanis Club
PMB Box 451
Keene, NH
762-7276



Kiwanis Club of Keene

www.keenekiwanis.org

PMB Box 451
63 Emerald Street
Keene, NH 03431

July 15, 2016

OFFICERS:

Peg Bruce
President

David Ganio
Past President

Susan Farrell
Treasurer

Janet Genatt
Co-Treasurer

Pamela Little
Secretary

DIRECTORS:

Carl Allen

Paul Bothwell

James Faux

Donald Flibotte

Kelly Pearson

Eli Rivera

PAST PRESIDENTS:

David Ganio 2014-15

Beth Healy 2013-14

Gary Grashow 2012-13

Carl Allen 2011-12

Michael Haines 2010-11

Jodi Turner 2009-10

Judy Kalich 2008-09

Art Trombly 2007-08

Michael Ward 2005-07

Don Hayes 2004-05

Ed Morenz 2002-04

David Richards 2001-02

Mayor Lane and the Keene City Council
3 Washington Street
Keene, NH 03431

Re: Use of City storage area for Tree Lighting supplies

Dear Mayor Lane and the Keene City Council:

The Keene Kiwanis Club is inquiring about the possibility of storing the lights, spare light bulbs, cables, electrical box and other supplies that are used each year to decorate downtown Keene for both the Tree Lighting event and for the Holiday Season in one of the City's storage units on Marlboro Street. We currently rent a second storage unit for our club because the supplies for Tree Lighting required more space than our regular storage unit could hold. That storage unit at FW Webb is \$55.00/month or \$660.00 /year.

I know that the storage units on Marlboro Street are normally used for 30 to 60 day time periods but since we work closely with the City both for the Annual Tree Lighting Event and for decorating the Square and downtown light poles I am hoping that the City would make an exception allow our club the use of a storage unit year round. This would be an exception to Resolution R-2012-05 and R-2012-06.

The Kiwanis Club of Keene is dedicated to improving the lives of children in our community and the money we currently spend on the second storage unit would then be freed up to benefit children directly.

I am happy to answer any questions and attend the appropriate meetings to have our request heard. My email is: bru.peg@ne.rr.com; phone: 603-762-7276.

Thank you for your consideration of this request.

Sincerely,

Peg Bruce, President 2015-2016
Kiwanis Club of Keene

Keene Kiwanis Foundation is a 501(c) 3 organization, tax exempt number: 020458160

REQUEST FOR USE OF 400 MARLBORO STREET

NAME OF ORGANIZATION: Kiwanis Club of Keene
APPLICANT NAME: Peg Bruce
ADDRESS: 151 Windsor Ct. CITY: Keene STATE: NH ZIP: 03431
DAYTIME PHONE: (603) 762-7276 EVE. PHONE: () Same FAX#: () NA
E-MAIL: bru.peg@ne.rr.com WEB PAGE: www.KeeneKiwanis.org
MANAGER ON SITE OF EVENT: Peg Bruce
CELLULAR: (603) 762-7276 HOME PHONE: () N/A

Any change in the above information, please notify the Parks & Recreation Department immediately.

<u>Room:</u>	<u>Dimension in Ft.</u>	<u>Flooring</u>	<u>Check if requesting</u>
Storage Space 1	20x18	Cement	<u>X</u>
Storage Space 2	20x30	Cement	<u> </u>
Storage Space 3	20x30	Cement	<u> </u>
Storage Space 4	25x30	Cement	<u> </u>
Storage Space 5	20x60	Cement	<u> </u>

Date(s) requested : from see attached letter for exception (date) to (date)

30 Days 60 Days 15 Day Extension(s)

Description of Activity: year round storage of supplies used to
decorate downtown Keene for Holidays and Tree lighting Celebration

Will you need electricity?

How many people would use the room at any one time (Maximum Capacity 15) 6

Is your organization non-profit? yes Does your organization have liability insurance? yes

INSURANCE REQUIREMENTS: Certificate of general liability insurances with per occurrence and aggregate limits of not less than \$1,000,000 dollars. **The city must be listed additionally insured on your certificate.** The city has the right to increase per-occurrence liability limits and require certificate of an accident insurance policy with limits determined by the city. will supply if request granted

Once approved, the renting party must pay a non-refundable deposit of 25% of the total estimated cost with the remaining balance due 1 week prior to the rental, unless otherwise approved by the Parks, Recreation and Cemeteries Director. The deposit will be applied to the final bill unless there is a cancellation of any part of the original rental agreement. If there is to be a change in the original agreement please notify the

Recreation Center in writing 1 week prior to the rental. If notification has not been received, all original rentals reserved will be charged.

All parties using the City of Keene facilities pursuant to this rental agreement shall possess any and all licenses, rights, or other permission required by law to prevent infringement and/or the unauthorized use of any trademarks, copyrights, and/or other intellectual property rights. Moreover, in consideration for granting permission to use the 400 Marlboro Street facilities, the user and his/her/its respective successors and assignees covenants and agrees to indemnify and hold harmless the City of Keene, its officers, agents, and employees, from and against any and all claims, damages, costs, losses, expenses, and fees, including but not limited to reasonable attorneys' fees, it may suffer as a result of any and all claims, demands, costs, liability, or judgments against it for alleged infringement and/or unauthorized use of any trademarks, copyrights, and/or other intellectual property rights arising from or related to the user's use of the facilities.

Peg Bruce President
Signature of Contact Person Kilwanis Club of Keene

_____ FOR DEPARTMENT USE ONLY _____

NUMBER OF DAYS _____ Sub Total _____

Custodial Cleanup (\$75 per rental-if needed) _____

Electricity Fee (\$15) _____

Total Cost _____

Application Received _____
Date and Time _____ By _____

Application Approved _____
Date and Time _____ By _____

Application Not Approved _____
Date and Time _____ By _____

Comments: _____

Copy to Police	Notified
Copy to Parks Maintenance	Calendar
Copy to Applicant	Outlook

City of Keene
New Hampshire

Date: February 7, 2012
To: Planning, License and Development Committee
Through: John MacLean, City Manager
From:  Andy Bohannon, Director Parks, Recreation & Cemeteries
Subject: Use of Vacant Space at 350/400 Marlboro Street

Background:

Move that the Planning, License and Development Committee recommend the adoption of Resolution R-2012-05 and Resolution R-2012-06 relating to vacant space at 350/400 Marlboro Street.

Background:

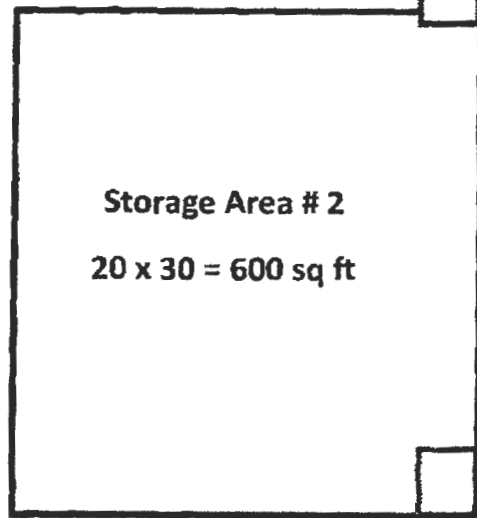
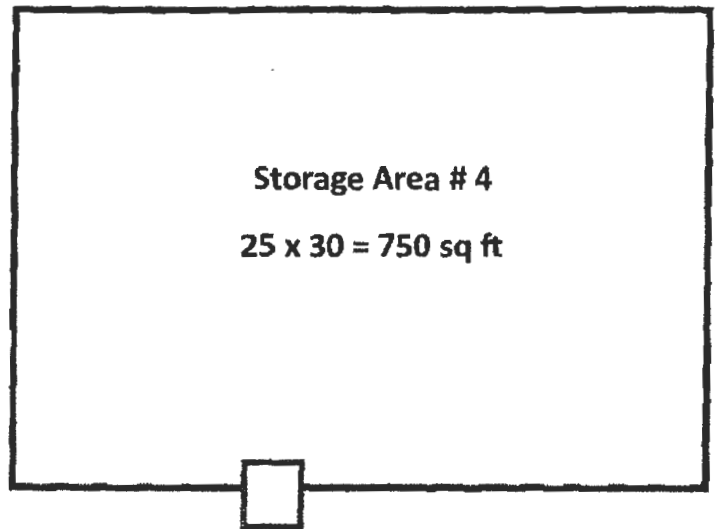
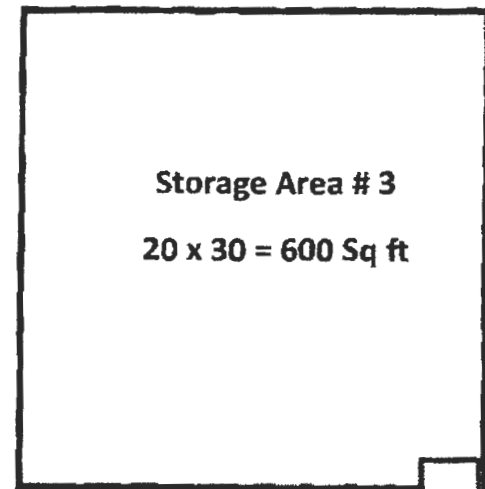
In November 2011, the Planning, License and Development Committee received a report from staff on the possible uses for the vacant space of 350/400 Marlboro Street. From this report, staff has developed policies regarding the fees and use for the Michael E. J. Blastos Community Room and the 8000 square feet of undesignated space. These policies reflect the requirements that have to be met for the State Fire Code, State Building Code, and City ordinances including the Zoning Code.

Each space would be reserved through separate reservation forms with designated fees for the desired location. The undesignated space would be divided into five rental areas depending on the size needed by the group. Only community non-profits would be able to utilize these warehouse spaces ranging in size from 360 to 1200 square feet. There would be no fees for the space other than a minimal electricity fee and a maintenance fee which would only be applied to the organization if the rented space was not properly cleaned upon the end of the agreement. The current practice of having the key provided through the dispatch at the Keene Police Department would remain the same. The recommended fee structure for the storage area would be:

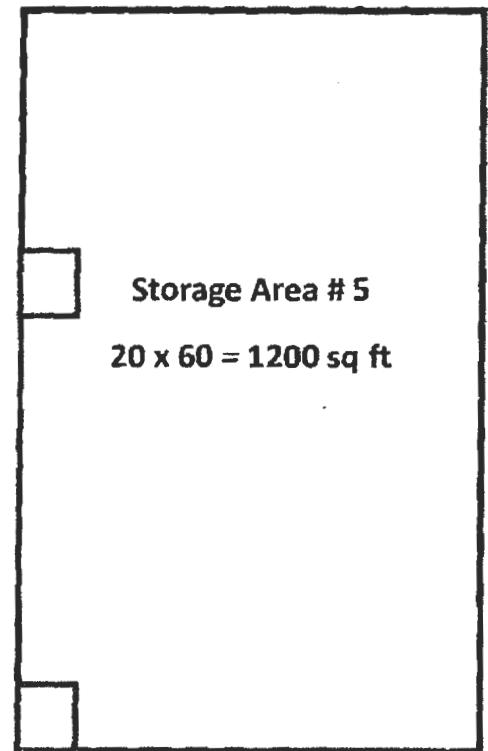
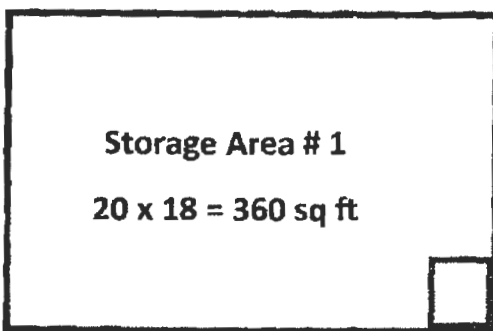
Maintenance Fee - \$75 (only if needed)
Electricity - \$15

The Michael E. J. Blastos Community Room would be similar in fee structure, but would be also open to for-profit agencies and a fee would be assessed to these organizations. The recommended fee structure for the Michael E. J. Blastos Community Room would be:

For-Profit - \$90 per hour
Maintenance Fee - \$75 (only if needed)
Building Supervisor - \$15 per hour (only if needed)
Key Deposit - \$25



10 ft pathway for forklift



**PUBLIC STORAGE SPACE AT
380 MARLBORO STREET**



City of Keene, N.H.
Transmittal Form

7/22/2016

TO: Mayor and City Council

FROM: John Rogers, Acting Health Director

THROUGH: Medard Kopczynski, City Manager

ITEM: 2.

TITLE: Relating to Food Service Establishment Permit Fees

COUNCIL ACTION:

In City Council July 21, 2016.
Referred to the Planning, Licenses and Development Committee.

RECOMMENDATION:

That Ordinance O-2016-11 be introduced to the City Council and referred to the Planning, Licenses and Development Committee for review and recommendation.

ATTACHMENTS:

Description

Ordinance O-2016-11

BACKGROUND:

Based on a recommendation from the Agriculture Commission and a motion from the Planning, Licenses and Development Committee, City staff have reviewed and prepared revisions to the Food Establishment Permits and Inspections Fee Schedule.

The State of New Hampshire Department of Health and Human Services Food Protection offers a "Class G" license which allows for "*sellers of prepackaged frozen USDA meat or poultry*" to obtain an annual license for a fee of \$100.

The City's Code of Ordinances fee schedule does not have this same class. Someone selling prepackaged frozen USDA meat or poultry currently is permitted in Class III of the City's food permit classification which states,

"Food service establishments having a seating capacity of less than twenty-five (25) persons, clubs, establishments and mobile food operations selling only prepackaged products, mobile food operations selling only hot dogs, commercial food processing operations of Non-Time/temp Control for safety bulk food and homestead kitchens." This licensing fee is \$200.

A review of the Food Establishment Fee Schedule was conducted in 2013 resulting in an Ordinance change (O-2013-04-A) to adjust the fees and classifications to meet the cost to conduct the inspections associated with the

different establishments. Class I and II establishments have food preparation areas, deal with temperature sensitive foods and require more time to conduct inspections than Class III establishments which have minimal food handling. The proposed class VI type operation will have no food preparation on site and there will only be storage of product that has come from a USDA inspected facility. The time for inspection of a class VI establishment will be minimal because the only area of inspection will be location and condition of freezers and checking the labeling of the product to ensure that it is coming from the required USDA inspected facility. The Class I and II and some of the Class V should also require more frequency than the other classes, so we are recommending the change to Section 46-421 of the City Code and the required inspections.



CITY OF KEENE

In the Year of Our Lord Two Thousand and Sixteen

AN ORDINANCE RELATING TO FOOD SERVICE ESTABLISHMENT PERMIT FEES

Be it ordained by the City Council of the City of Keene, as follows:

That the Ordinances of the City of Keene, New Hampshire, as amended, be and are hereby further amended by deleting the stricken text in Chapter 46- Licenses and Permits Article VII- Food Service Establishments Division 3 and inserting the bolded text in Appendix B., Section 46-387 entitled "Food Service Establishment Permit Fees" of Chapter 46 entitled "Licenses and Permits" as follows:

DIVISION 3. - INSPECTIONS

Sec. 46-421. - Required.

~~At least once every six months,~~ The health authority shall inspect each food service establishment located in the city or its police jurisdiction and shall make as many additional inspections and re-inspections as are necessary for the enforcement of this article.

APPENDIX B – FEE SCHEDULE

Chapter 46. Licenses and Permits

§ 46-387. Food service establishment permit fees:

Class I: Food service establishments having a seating capacity of 100 persons or more, supermarkets, establishments with more than one preparation area, and commercial food processing operations processing more than 100,000 or more packages of food/year	\$350.00
Class II: Food service establishments having a seating capacity of less than 100 persons, establishments with one preparation areas, commercial food processing operations processing less than 100,000 or more packages of food/year	\$300.00
Class III: Food service establishments having a seating capacity of less than 25 persons, clubs, establishments and mobile food operations selling only prepackaged products, mobile food operations selling only hot dogs, commercial food processing operations of non-time/temp control for safety bulk food and homestead kitchens.	\$200.00
Class IV: temporary food service establishments	\$50.00
Plus, per day of operation	\$10.00
Class V: nonprofit or charitable organizations not holding a liquor license, private and parochial schools, public schools funded by the city, governmental facilities	No Fee
Class VI: Sellers of prepackaged frozen USDA meat or poultry	\$100.00

§ 46-387. Food service establishment permit fees: (continued)

Late renewal fee: In addition to the above, for any renewal application received after October 10. 1/12 of the fee per whole month late	
Re-inspection fee: In addition to the above, any re-inspection required for reinstatement of a suspended permit, or for correction of violations shall require a fee equal to 25 percent of the applicable license class	
Determining seating capacity: For the purposes of determining seating capacities for drive-in food service establishments, each car space provided shall be counted as the equivalent of five seats. The health authority shall have the final say in determining which category is applicable to an individual food service.	

Kendall W. Lane, Mayor



City of Keene, N.H.
Transmittal Form

7/22/2016

TO: Mayor and City Council

FROM: Patricia Little, City Clerk and Mark Howard, Fire Chief

THROUGH: ACM Fox for Medard Kopczynski, City Manager

ITEM: 3.

TITLE: Relating to Dormitory, Lodging or Rooming Houses and Residential Board and Care

COUNCIL ACTION:

In City Council July 21, 2016.

Referred back to the Planning, Licenses and Development Committee.

RECOMMENDATION:

On a vote of 3-2, the Planning, Licenses and Development Committee recommends the adoption of Ordinance O-2016-09 relating to Dormitory, Lodging or Rooming Houses and Residential Board and Care. Councilors Jones and Sutherland voted in opposition.

ATTACHMENTS:

Description

Ordinance O-2016-09

BACKGROUND:

The City Clerk provided the background information noting as part of the continuing effort to shift licensing requirements from the City Council to the administrative staff; discussions have taken place between several departments to determine which department was the most appropriate to administer a lodging house license. Because it was determined that compliance with fire and life safety codes was the most important consideration for the licensing of a lodging house, the Fire Department was selected as the most appropriate department to administer the process.

Chief Howard addressed the Committee noting the City Clerk provided a good summary; Chief Howard then listed the City staff that was involved in the discussions. As a result of these discussions Article X of Sec. 46 has been moved to Sec. 42 Fire Prevention Code and Ordinances. Chief Howard explained it establishes a permit process which shortens that process by two weeks. He noted the facilities will be tracked within the database; the database generates inspection lists one and a half months in advance of the inspection date. The permitting process as far as the Fire Department's internal requirements hasn't changed; the license is changing. Chief Howard referred to Sec. 42-135 – Definitions noting we wanted to make it very clear there were no inconsistencies with how these facilities were defined. Chief Howard explained to comply with NFPA1 Fire Code and the NFPA 101 Life Safety Code, lodging houses will be referred to in the Ordinance as a "residence house." A "residence House" will also include dormitory, rooming houses, and residential board and care. Chief Howard indicated one step would be eliminated in this process. He also suggested the remaining sections are

self-explanatory.

Chief Howard reported the fees were not adjusted with the Ordinance (Attachment B); this will be coming back to the Committee with a recommendation to accept the 2015 NFPA standards. He advised we are currently operating within the 2009 standards.

Chair Richards clarified this is the last step in streamlining these processes so that the public has a much easier time.

Chair Richards asked for Committee questions.

Councilor Jones asked if staff has the same authority as Council to set conditions; he used the United Church of Christ/Hundred Nights as an example. After additional comments Chief Howard said from the Fire Chief's standpoint if they have a permit to have a shelter it is irrelevant to us what hours they operate. Councilor Jones noted this was not the part he was getting at. The City Attorney interjected noting the short answer to Councilor Jones' question is no. Discussion ensued with regards to whether or not conditions were set for the above license. The City Clerk verified conditions were set that will terminate at the end of the license (one year).

Councilor Hansel asked how many Lodging House licenses the City has out right now. Chief Howard indicated there are possibly two; we only know about those that have followed the City's permitting process. Chief Howard suggested more may be uncovered while conducting the occupancy inspections. Owners will be made aware and they will have to comply with the permitting process. Chief Howard explained the previous process and the Fire Department's involvement. Councilor Hansel then agreed the new process provides a huge benefit. Chief Howard summarized it is not about enforcement, it is all about compliance and life safety.

Councilor Sutherland referred to Sec. 42-138 Resident Agent and asked for clarification this means the resident agent has to reside on the premises. Attorney Mullins noted his understanding is that the person needs to reside at the location.

There being no additional questions/comments from the Committee or members of the public Chair Richards asked for a motion.

Councilor Chadbourne made the following motion which was seconded by Councilor Hansel. The Planning, Licenses and Development Committee recommends the adoption of Ordinance O-2016-09 relating to Dormitory, Lodging or Rooming Houses and Residential Board and Care.

Councilor Jones indicated he was opposed to the motion because it is taking away the transparency and public participation. Councilor Sutherland noted his agreement with Councilor Jones and suggested the matter should be given more consideration.

Chair Richards noted he understands the comments made by Councilors Jones and Sutherland, but is leaning in favor of this pointing out all the other processes that have been streamlined. Councilor Hansel noted his agreement with Chair Richards noting if a new lodging house were to be erected they would have to go through the site plan review process. Speaking for the Fire Department, Chief Howard noted if the public raises a complaint about a property it is investigated whether it's the Fire or Police Department.

Noting her favor of streamlining the processes Councilor Chadbourne and referred to Sec. 42-136 Enforcement Officer. She asked if there will still be a process for Code to go through those houses. Chief Howard advised the Fire and Code Enforcement Departments work together daily. Councilor Chadbourne added she agrees with the Chair's comments and supports this.

On a vote of 3-2, the Planning, Licenses and Development Committee recommends the adoption of Ordinance O-2016-09 relating to Dormitory, Lodging or Rooming Houses and Residential Board and Care. Councilors

Jones and Sutherland voted in opposition.



CITY OF KEENE

O-2016-09

Sixteen

In the Year of Our Lord Two Thousand and
 RELATING TO DORMITORY, LODGING OR ROOMING HOUSES
 AN ORDINANCEAND RESIDENTIAL BOARD AND CARE.....

Be it ordained by the City Council of the City of Keene, as follows:

That the Ordinances of the City of Keene, as amended, are hereby further amended by deleting Article X, Lodginghouses, of Chapter 46, Licenses and Permits, in its entirety, and adding a new Article VI, Dormitory, Lodging or Rooming Houses and Residential Board and Care, to Chapter 42, Fire Prevention and Protection, as follows:

ARTICLE VI. DORMITORY, LODGING OR ROOMING HOUSES, and RESIDENTIAL BOARD and CARE.

DIVISION 1. - GENERALLY

Sec. 42-135. – Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Permitting Authority shall mean the Fire Chief or his duly authorized designee.

Dormitory, Lodging, or Rooming Houses and Residential Board and Care (collectively “Residence House”) shall be as defined in the adopted NFPA1 Fire Code and NFPA 101 Life Safety Code.

Sec. 42-136. – Enforcement officer.

For the purposes of this article, the enforcement officer shall be the Fire Chief for Fire and Life Safety Codes; provided, however, that where compliance with building, plumbing, wiring and housing codes is concerned, the enforcement officer shall be the Health Director (collectively “Enforcement Officer”).

Sec. 42-137. – Fraternity and sorority houses.

Fraternity and sorority house shall mean a place of residence, with or without meals, for more than four persons attending a college or university, who are all members of, or pledged to, a local or national fraternity or sorority that is recognized by a college or university with a Keene campus. For purposes of this article, a fraternity or sorority shall be treated as a Residence House.

Sec. 42-138. – Resident agent.

Resident agent shall mean the owner or operator of a Residence House and/or his or her agent who resides on the premises. Each Residence House operator shall cause his resident agent to be readily available and shall authorize such agent to be responsible for the day-to-day operation of the Residence House, to receive notices in his name and to be responsible for the conduct of persons therein.

Sec. 42-139. – Penalties.

Any person who owns and/or operates a Residence House without having first obtained a permit in accordance with this article shall be fined \$275.00 for each day that such operation continues in violation of this article.

DIVISION 2. - PERMIT

Sec. 42-140. – Required.

From and after the effective date of the ordinance from which this article derives and notification by the city, no person shall keep, permit or suffer to continue a Residence House without first having filed an application with, and having obtained a permit from, the Permitting Authority. Such permit shall list the following:

- (1) The owner of the property;
- (2) The address of the property;
- (3) The operator of the Residence House;
- (4) The resident agent of the Residence House
- (5) The addresses and business and home telephone numbers of each;
- (6) The number of persons authorized to reside on the premises; and
- (7) The effective and expiration dates.

Sec. 42-141. – Certificates of compliance.

Prior to the issuance of an initial permit under this division, and any permit renewal, the Enforcement Officer shall make or cause to be made an inspection to determine if applicable laws, ordinances, codes and rules and regulations have been complied with.

Sec. 42-142. – Expiration.

Each permit issued under this division shall expire one year from its effective date, subject to inspection and renewal for the ensuing year. An issued permit that is eligible for renewal shall not require a new permit application.

Sec. 42-143. – Display.

The permit issued pursuant to this division shall be displayed in a prominent place on the ground floor near the front door of the Residence House.

Sec. 42-144. – Suspension or revocation.

A Residence House permit may either be suspended for a stated period of time, or revoked by the Permitting Authority, on complaint of the Enforcement Officer of violation of this article. Notice shall be sufficient if sent by certified mail to the owner of the premises and the Resident Agent of the Residence House at their addresses listed on the permit. A party aggrieved by the decision of the Permitting Authority may appeal the decision of the Permitting Authority to the Board of Appeal established under City Code Chapter 2, Article V, Division 6, if an appeal of the fire/life safety code, or to the Housing Standards Board of Appeal established under Chapter 2, Article V, Division 21, if an appeal of the housing code.

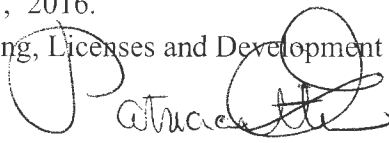
Sec. 42-145. – Fee.

The fee for each Residence House permit issued shall be set forth in the schedule of fees in Appendix B to this Code.

Kendall W. Lane, Mayor

In City Council July 7, 2016.

Referred to the Planning, Licenses and Development Committee.


Patricia
City Clerk