



City of Keene
New Hampshire

**PLANNING, LICENSES AND
DEVELOPMENT COMMITTEE
AGENDA
Council Chambers A
January 10, 2018
7:00 PM**

David C. Richards
Philip M. Jones
George S. Hansel
Bartłomiej K. Sapeta
Margaret M. Rice

1. Vicki Bacon, Body & Soul Road Runners - Request to Use City Property - Red Cap Run
2. Councilors Filiault and Clark - Recommending the City Take a Position on Net Neutrality Rules
3. Mayor Lane - Proposed Amendments to the City Council Rules of Order
4. Legislative Update

Non Public Session
Adjournment



City of Keene, N.H.
Transmittal Form

December 13, 2017

TO: Mayor and Keene City Council
FROM: Planning, Licenses and Development Committee
ITEM: 1.

SUBJECT: Vicki Bacon, Body & Soul Road Runners - Request to Use City Property - Red Cap Run

COUNCIL ACTION:

In City Council December 21, 2017.
More time granted.

RECOMMENDATION:

On a vote of 4-0, the Planning, Licenses and Development Committee recommends that the Request to Use City Property for the Red Cap Run be placed on more time to allow the necessary protocol meetings to be held.

BACKGROUND:

Kurt Blomquist, Public Works Director advised a protocol meeting is needed and that this application will be back before the Committee in January 2018. He also noted this is a Community Event.

Councilor Hansel made the following motion which was seconded by Councilor Jones.

On a vote of 4-0, the Planning, Licenses and Development Committee recommends that the Request to Use City Property for the Red Cap Run be placed on more time to allow the necessary protocol meetings to be held.



City of Keene, N.H.
Transmittal Form

December 20, 2017

TO: Mayor and Keene City Council

FROM: Councilors Filiault and Clark

THROUGH: Patricia A. Little, City Clerk

ITEM: 2.

SUBJECT: Councilors Filiault and Clark - Recommending the City Take a Position on Net Neutrality Rules

COUNCIL ACTION:

In City Council December 21, 2017.

Referred to the Planning, Licenses and Development Committee.

ATTACHMENTS:

Description

Communications - Filiault and Clark

BACKGROUND:

Councilors Filiault and Clark are recommending that the City take a position on the net neutrality rules being issued by the FCC.

In City Council December 21, 2017.

Referred to the Planning, Licenses and Development Committee.


City Clerk

December 19, 2017

To: The Honorable Mayor and City Council

Whereas the FCC has repealed the net neutrality rules, which required internet service providers to provide equal access to all web content without charging consumers for higher quality delivery, or giving preferential treatment to certain websites.

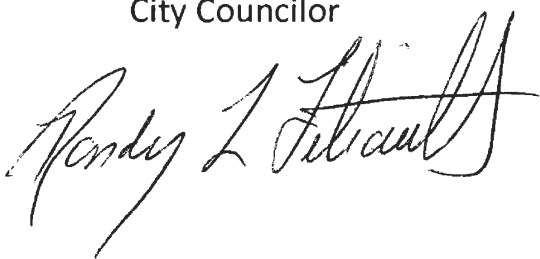
And whereas affordable high speed internet is an absolute must for positive economic development of New Hampshire communities.

We therefore request the Keene City Council endorse a resolution asking the New Hampshire Attorney General's Office to join other states in the lawsuit against the FCC, defending net neutrality positions.

Respectfully Submitted,

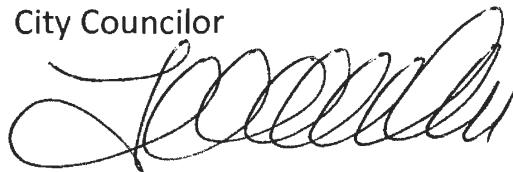
Randy L. Filiault

City Councilor



Terry M. Clark

City Councilor





City of Keene, N.H.
Transmittal Form

December 13, 2017

TO: Mayor and Keene City Council
FROM: Planning, Licenses and Development Committee
ITEM: 3.

SUBJECT: Mayor Lane - Proposed Amendments to the City Council Rules of Order

COUNCIL ACTION:

In City Council December 21, 2017.

The Mayor referred back to the Planning, Licenses and Development Committee for further consideration.

RECOMMENDATION:

On a vote of 4-0 the Planning, Licenses, and Development Committee recommends the adoption of the proposed amendments to the City Council Rules of Order.

ATTACHMENTS:

Description

Rules of Order_amended

BACKGROUND:

Chair Richards recognized Mayor Lane. Mayor Lane reported the Council's Rules of Order were being reviewed in preparation of the 2018-2019 City Council term of office. He and the Charter Officers have reviewed the Rules over several meetings. The majority of the proposed changes to the Rules of Order are housekeeping and are meant to clarify language or recognize current processes. In addition to these minor changes, there are more substantial changes such as the change to the responsibilities of the PLD Committee. Other significant changes include:

- Restricting the use of electronic devices during the Council and Committee meetings
- Adding new responsibilities for the Planning, Licenses and Development Committee and the Finance, Organization and Personnel Committee
- Clarifying the current opportunity for direct referral of communications by the City Manager to City staff
- Adjusting the timeline for submittal of proposed amendments to the annual operating budget
- Adjusting the timeline for filling City Council vacancies
- Transferring responsibility for updates to the Council Policies to the City Manager

Committee questions Sections 1-9

Referring to Section 9 Chair Richards said he thought that was already a provision regarding the City Manager's attendance at Council meetings. Mayor Lane explained there was no provision for the City Manager to attend all meetings so it was added.

Regarding Section 4 Councilor Jones commented if there is no quorum how could a temporary Chairman be elected and perhaps a reference should be made to having the meeting rescheduled by the City Manager. The Councilor stated if there was no quorum the Council could not elect a temporary chair. The Mayor agreed that

you could not at that meeting, but if the Mayor was vacant for a prolonged period of time, this provision would allow a temporary chair. Mayor Lane replied if the position of Mayor is vacant you would elect a temporary Chair; that person would have the same authority the Mayor would have.

Section 10

Chair Richards commented he is in favor of the restriction on using electronic devices during a meeting for web browsing, texting, etcetera. Mayor Lane shared a situation where a City Councilor posted to Facebook during a meeting and referred to that as troublesome.

Carl Jacobs, Ward 2 Councilor commented he is troubled by a blanket prohibition. He feels there may be information he can access to help him be a better participant in the discussion. Chair Richards asked if this information could be provided to everyone in the room while it is being looked at. Councilor Jacobs suggested it is no different than bringing in a piece of paper. Chair Richards clarified this does not pertain to audience members; only those sitting on the Committee. Chair Richards and Mayor Lane indicated Councilors should come to the meetings prepared and be focused on the meeting. Councilor Sapeta suggested changing the language to refer to devices that do not refer to the task at hand. Councilor Jones said he uses his calculator on his smart phone when people are talking about figures and he looks up past notes for facts. Councilor Hansel noted his confliction pointing out he feels this is rude and inappropriate behavior during a meeting. At the same time, he feels this is a weird area to be mandated.

Councilor Sapeta reiterated his suggestion to reword the language to suggest there be no web browsing that is not relative to the task at hand. Chair Richards asked how you would know what another Councilor is doing. Mayor Lane said you would have to rely on other Councilors to enforce this. Councilor Hansel asked if it was in the Mayor's purview to establish a certain level of meeting decorum. Mayor Lane replied in the affirmative noting he cannot see what all 15 people are doing at their desks.

Terry Clark, Ward 3 Councilor said this may be something that diminishes the standing of individual City Councilors. He continued there are other things in here that trouble him such as Section 18 "Permission to Address the Council." Councilor Clark agreed he does not think this has ever happened, but that does not mean it may not. Chair Richards clarified this only refers to full City Council meetings. He continued he does not feel this is about silencing anyone; it is about decorum. To the Councilor's point, Attorney Mullins explained there was no process for that. Attorney Mullins continued this becomes a ruling of the Chair; Councilors can challenge a ruling of the Chair without taking away the authority of the Council as a whole to act. Councilor Sapeta asked if this was in the rules. Attorney Mullins replied in the affirmative.

Chair Richards directed the discussion back to Section 10.

Councilor Hansel made a motion to remove the portion of Section 10 that reads "The Mayor and Council members shall refrain from engaging in electronic communications and general web browsing while Council meetings are in session. This includes but is not limited to phone calls, text messaging, emailing and posting to online social media platforms." Councilor Jones seconded the motion to get it on the table.

Chair Richards and Councilor Sapeta noted they would not support the motion. Councilor Sapeta suggested keeping it as it is while adding specific language to say electronic communications and general web browsing while Council meetings are in session are allowed only if they pertain to the particular task at hand. Chair Richards said we will not be amending amendments. He asked for public comments; there being none he asked for additional Committee questions or comments.

Councilor Jones said he agrees with Councilor Hansel, but he does not like the communication part. People should not be sending him a text asking how he plans to vote or Councilors posting on social meeting during the meeting. Councilor Jones continued he does not

mind someone looking up information. Councilor Hansel reiterated his suggestion to take the language out completely.

On a vote of 2-2 the motion to amend Section 10 failed. Chair Richards and Councilor Sapeta voted in opposition.

Attorney Mullins commented this is really an aspirational statement; like business attire. Attorney Mullins suggested changing the language to “the Mayor and the Council members should refrain from using electronic communication and general web browsing not germane to Council meetings while City Council is in session.”

Councilor Sapeta made the following motion which was seconded by Councilor Jones.

On a vote of 3-1 the Planning, Licenses, and Development Committee recommends the following language change “The Mayor and the Council members should refrain from using electronic communication and general web browsing not germane to Council meetings while City Council is in session.” Chair Richards voted in opposition.

Sections 11 through 14

Referring to Section 12, Chair Richards asked if this was only after a vote. Mayor Lane explained that once he announces “are you ready for a vote” a Councilor should not get up and walk out because they do not want to vote. Bathroom breaks should be taken before the vote is announced.

In Section 14 Mayor Lane noted at City Council meetings a Councilor can only speak twice. This has been changed to reflect the current practice of allowing a Councilor to speak three times.

Sections 15 through 20

Chair Richards asked for clarification on Section 15 “Voting and Conflict of Interest.” Attorney Mullins said the idea is you should not be out lobbying other Councilors if you have a conflict of interest.

Councilor Hansel referred to Section 17 “Motions” and asked for the reasoning behind eliminating the motion to adjourn. Attorney Mullins commented a motion to adjourn is not required under Robert’s Rules or otherwise.

Councilor Jones said he is unsure where this goes, but he has seen it twice where the MSFI Committee recommended approval of a project and then their recommendation goes to another Committee. There could be a conflict when MSFI approves a project and then FOP says “no” in terms of funding the project. Councilor Jones does not feel this is necessary and noted it is not addressed anywhere in this document. Mayor Lane agreed it is not in here. He continued we have on some occasions with issues about finances said the MSFI Committee can recommend whether they want to do something or not and then send their recommendation on to FOP to decide if there is money available somewhere to pay for it. We have tried to let FOP make the decision as to where the money would come from. Councilor Jones asked what happens if MSFI approves a project and FOP rejects it. Mayor Lane advised it would be decided by the full Council. Attorney Mullins referred to Section 19 “Motion to Adjourn” and suggested the language be changed from “A motion to adjourn shall be in order...” to “An adjournment shall be in order...” He also suggested changing the title to Section 19 to “Adjournment.” The recommended changes were accepted by Committee consensus.

Sections 21 through 25

Referring to Section 23 “Standing Committees” Councilor Hansel commented he is happy to see the legislative review placed with this Committee.

Section 25 Communications: the addition of “or directly to the City Manager” was discussed and outlined by the City Clerk. Chair Richards commented on how this will streamline the process; adding tonight’s first

agenda item was a perfect example. Chair Richards noted his only concern is that at some point this will have to come to Council, even if the communication is resolved. He pointed out that step is not listed here. The City Clerk provided Chair Richards further information on the process to alleviate his concern. She clarified any petitioner that is not satisfied with the decision has the opportunity to come back to Council. If the decision is satisfactory to the petitioner the communication will never hit the agenda. Councilors will receive notice in their boxes and this will close out as part of the Council process. The City Clerk continued not every sort of administration action will come back for the Council's endorsement. To keep you in the loop we will be adding a new section to the Novus agenda under the title Items Referred Directly to Staff. You will see this on the agenda; not in the packet, similar to more time items. Chair Richards said he would like to see it on the agenda and in the packet so he can at least take a look at it. The City Clerk suggested Novus has the capability to include it in the packet so it is only visible to the Councilors; so it is not confusing to the public. Chair Richards clarified he would like to see it in the packet when it first comes in. Carl Jacobs, Ward 2 Councilor suggested the first sentence is not clear that communications are submitted through the Clerk's Office. Attorney Mullins suggested adding "through the City Clerk's Office" after or directly to the City Manager. The City Manager referred to Section 26, second paragraph, second line where it already says that we can do this process. The City Manager explained she is working with the City Clerk to create a system that makes it easy for us to track, and to make it easy for Council to know when that is happening. She also noted the role Administrative Assistant, Helen Mattson has in this process.

Jan Manwaring, Ward 1 Councilor said her issue with this is that City Councilors are sidelined. She hopes the Clerk's Office would ask if the individual has contacted their City Councilor. She fears City Councilors will not be seen as being helpful. Mayor Lane asked if a Councilor would have the ability to pull the communication off the list and have everyone appear before the Committee. Attorney Mullins commented if it is going to be on the Committee agenda and intended to be acted upon administratively the Council has the right to pull anything from a Committee agenda. Chair Richards and Councilor Manwaring discussed the differences between the MSFI Committee and the PLD Committee. The City Manager said her hope is not to diminish the role of the Council in any way, but to make their job easier. Additionally she hopes to make the process more user-friendly for people writing the communications. Councilor Sapeta said he does support this and wanted to make sure the viewers understand this in no way will diminish their ability to petition their local government. The City Manager noted individuals still have the ability to go straight to Council. Councilor Jones asked if it really had to be on the agenda; he suggested a monthly notice of administrative actions. The City Clerk explained the actions that could be taken. Mayor Lane commented the Committee does not have to adopt this tonight; we can adopt the existing rules in January.

Sections 26 through 39

Councilor Manwaring referred to Section 39 "Council Policies" asking why it is just the City Manager that can bring questions forward. Chair Richards explained this is for existing policies and Councilors can write a letter at any time requesting a review. Councilor Clark clarified this was put in place in 2006 just to get us to start reviewing things; Mayor Lane concurred. Councilor Clark suggested if we have already reached the 20% then this can be eliminated. Chair Richards agreed with Councilor Clark. The City Clerk noted that although the 20% quota has been obtained yearly, there are still some policies that have not been reviewed since their initial adoption. Attorney Mullins clarified the Committee agreed by consensus to delete the entire last sentence in Section 39.

Councilor Jones made the following motion which was seconded by Councilor Hansel.

On a vote of 4-0 the Planning, Licenses, and Development Committee recommends the adoption of the proposed amendments to the City Council Rules of Order.

APPENDIX A - RULES OF ORDER OF THE CITY COUNCIL^{LI}

COUNCIL MEETINGS

SECTION 1. REGULAR COUNCIL MEETING. Regular meetings shall be held on the first and third Thursdays of each month (~~holidays~~ holidays, and summer City Council vacation excepted). The meetings shall take place in the City Council Chambers, City Hall, unless otherwise authorized by vote of the Council. The City Council shall meet at least once per month.

(Amended 3-20-1986)

SECTION 2. SPECIAL MEETINGS. Special meetings may be called by the Mayor, or at his or her refusal or absence from the City, by five (5) or more members of the Council, subject to Section 4, "Quorum," of these Rules of Order. The City Clerk shall prepare a notice of the special session stating time, place, and object, and this notice shall either be mailed or sent by cell phone text message at least forty-eight (48) hours before the time of the meeting, or in an emergency as determined by the Mayor, it shall be served personally upon each member of the Council, or left at their usual place of residence at least two (2) hours before the time of the meeting. It shall also be the duty of the City Clerk, immediately upon receipt of a request to do so, to make diligent effort to notify each member of the Council by telephone or otherwise of such special session.

(Amended 2-7-1980, 8-2-1984)

SECTION 3. ADJOURNED SESSIONS. Any session of the Council may be continued or recessed from day to day, or for more than one (1) day, but no recess shall be for a longer period than until the next regular meeting thereafter.

SECTION 4. QUORUM. The majority of the Councilors elected shall constitute a quorum. Roll call attendance will be taken before the start of all meetings of the City Council. In case that a less number than a quorum shall convene at a regular or special meeting, ~~the majority of the members present are authorized to send for all absent members~~ the meeting shall be rescheduled by the Mayor or the temporary chairman.

(Amended 8-2-1984)

OFFICERS

SECTION 5. PRESIDING OFFICER. The Mayor shall take the chair at the hour appointed for the Council to meet, and shall immediately call the members to order. The roll shall then be called by the Clerk, who shall enter in the minutes of the meeting the names of the members present. The name of any member entering after roll call shall be entered in the minutes.

SECTION 6. TEMPORARY CHAIRMAN. In case of the absence of the Mayor, the Clerk shall call the Council to order and call the roll of the members. If a quorum is found to be present, the Council shall proceed to elect a Councilor, by a majority vote of those present, as chairman of

the meeting to act until the Mayor appears. The temporary chairman shall have the obligation to vote in accordance with Section 14, "Voting and Conflict of Interest," of these Rules of Order.

SECTION 7. CITY CLERK. The City Clerk shall be the Clerk of the Council and shall perform such other duties as the Mayor and a majority of the Council may prescribe.

(Amended 2-7-1980)

SECTION 8. CITY ATTORNEY. The City Attorney shall attend all meetings of the Council unless excused by the Council or Mayor. Any member of the Council or the Mayor may at any time call upon the City Attorney for an opinion as to law, ordinances, or parliamentary procedure, but the final decision as to any matter of parliamentary procedure shall be the responsibility of the presiding officer, subject to the provisions of Section 12, "Right of Appeal," of these Rules of Order.

SECTION 9. CITY MANAGER. The City Manager shall attend all meetings of the City Council unless excused by the City Council or Mayor. The City Manager shall have all of the rights and restrictions for participation in City Council meetings as defined by the City Charter, applicable state law, and the Rules of Order.

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(Amended 4-20-1972)

SECTION 910. DECORUM AND ORDER. The presiding officer shall preserve decorum and if a member transgresses the rules of the Council, the presiding officer shall, or any member may, call him or her to order, in which case he or she shall be seated, subject to the member's right to appeal under Section 12, "Right of Appeal," of these Rules of Order. ~~There shall be no smoking within the Council Chamber while the Council is in session.~~ Appropriate dress during regular meetings of the City Council shall consist of professional business attire. The Mayor and Council members shall refrain from engaging in electronic communications and general web browsing while Council meetings are in session. This includes but is not limited to phone calls, text messaging, emailing and posting to online social media platforms. Cell phones are to be silenced while the City Council is in session. The Mayor and Council members are expected to devote their attention to the business of the City Council, and to refrain from the use of electronic devices during City Council meetings not germane to the business before the Council.

(Amended 2-20-1975)

DUTIES AND PRIVILEGES OF MEMBERS

SECTION 101. RIGHT OF FLOOR. When recognized by the Chair, a member shall rise in his or her place, respectfully address the presiding officer, shall confine himself or herself to the question under debate, avoid personalities, and refrain from impugning the motives of any other member's or participant's argument, stated position or vote. No member of the Council may speak for or against a petition at a public hearing thereon, but he or she may ask questions

concerning the petition or answer questions if he or she has special knowledge concerning the petition.

(Amended 6-5-1975)

SECTION 112. EXCUSAL DURING MEETING. No member may leave the Council Chamber ~~while in regular session- after the call for a vote~~ without permission from the presiding officer. There shall be, at a convenient point to be selected by the Mayor or presiding officer in the absence of the Mayor, a recess of approximately (5) minutes, after the Council has been in session for two (2) hours, including hearings.

SECTION 123. RIGHT OF APPEAL. Any member may appeal to the Council a ruling of the presiding officer. If the appeal is seconded the member making the appeal may briefly state his or her reason for the same, and the presiding officer may briefly explain his or her ruling; but there shall be no debate on the appeal and no other member shall participate in the discussion. The presiding officer shall then put the question, "Shall the decision of the Chair be sustained?" If a majority of the members present vote in the negative, the ruling of the Chair is overruled; otherwise, it is sustained. Such a vote shall be by roll call. The Chair shall not have a vote.

SECTION 134. LIMITATION OF DEBATE. No member shall be allowed to speak more than once upon any one question until every other member choosing to speak thereon shall have spoken, and no member shall speak more than ~~twice- three times~~ on any one question, nor for a longer time than ten (10) minutes in all, without leave of the Council.

(Amended 2-7-1980)

SECTION 154. VOTING AND CONFLICT OF INTEREST. Every member present when a question is put shall vote thereon, except when the member has a conflict of interest in the matter as defined by Section 25, "Conflicts of Interest," of the Charter of the City of Keene. A conflict may exist when a Councilor's spouse, ~~civil union partner~~, parent, child, or other member of the Councilor's immediate family has a conflict. A conflict shall also exist when a business or individual has a matter before the Council and a Councilor is employed by the business, or is otherwise a party in interest. If the conflict becomes known prior to a Council meeting, the Councilor shall file with the City Clerk the written particulars of the conflict of interest for inclusion on the Council agenda. If the conflict becomes known to a Councilor during a meeting, the Councilor should immediately disclose the particulars of the conflict of interest. The question of whether or not a conflict exists will then be decided by a majority vote of the Councilors present. ~~The Councilor claimed to have the conflict of interest shall not vote.~~ When such a conflict is determined by the City Council to exist, the member having the conflict shall be prohibited from participating in the discussion and voting. Except at a duly noticed public hearing, or a public meeting, in which the public is allowed to speak, no Councilor having a conflict of interest may discuss the issue in which he or she has a conflict with any other Councilor in any other place or any other time. If a Councilor with a conflict of interest wishes to speak at a public hearing, or in a public meeting, the Councilor shall do so from the audience section of the meeting.

Any Councilor having reasonable grounds to believe that another Councilor has a conflict of interest may raise the issue on his or her own motion. The question will then be decided as set forth above.

(Amended 6-5-1975, 4-15-1976, 4-20-1978, 4-17-1980, 6-18-1981, 8-2-1984, 4-18-1991, 2-17-2005, 6-5-2008)

SECTION 156. DEMAND FOR ROLL CALL. Upon the demand of any member, made before the ~~negative vote~~ has been ~~put~~ called for, the roll shall be called for yeas and nays upon any question before the Council. It shall not be in order for members to explain their vote during the roll call.

SECTION 167. MOTIONS. A long or complex motion shall be reduced to writing if the Chair so directs; or if any member of the Council requests it. When a main motion is under debate, the Mayor may receive the following subsidiary motions, which have their proper position in the order, taking precedence over the motions that rank below it and yielding to motions that rank above it.

Lay on the table	2nd required	Simple majority	Not debatable	Not amendable
Previous question	2nd required	2/3 majority	Not debatable	Not amendable
Limit or extend debate	2nd required	2/3 majority	Not debatable	Amendable
Postpone definitely	2nd required	Simple majority	Debatable	Amendable
Refer	2nd required	Simple majority	Debatable	Amendable
Amend	2nd required	Simple majority	Debatable	Not amendable
Postpone indefinitely	2nd required	Simple majority	Debatable	Not amendable
Main motion	2nd required	Simple majority	Debatable	Amendable

In addition to subsidiary motions, the Mayor may receive the following incidental and restoratory motions, which have no rank:

Adjourn	2nd required	Simple majority	Not debatable	Not amendable
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Recess	2nd required	Simple majority	Not debatable	Not amendable
Division of the question	2nd required	Simple majority	Not debatable	Amendable
Suspend Rules of Order	2nd required	2/3 majority	Not debatable	Not amendable
Take from the table	2nd required	Simple majority	Not debatable	Not amendable
Reconsider	2nd required	Simple majority	Debatable	Not amendable
Appeal from a decision of the Chair	2nd required	2/3 majority	Debatable only between Mayor and the member making the appeal	Not amendable
Call from Committee	2nd required	Simple majority	Debatable	Not amendable
Point of Order	None	Ruling by the Chair	Not debatable	Not amendable

(Amended 6-5-2008, [11-21-2013](#), [11-19-2015](#))

SECTION 1876. PERMISSION REQUIRED TO ADDRESS COUNCIL. Persons other than the Mayor, members of the Council or the City Manager shall not be permitted to address the Council except upon introduction by, and permission of the the Mayor, or a Council member and only after the person's name and address has been clearly stated. ~~If any Councilor objects to the person being permitted to address the Council, he or she shall be permitted to speak only by a majority vote of the Council.~~

SECTION 1987. MOTION TO ADJOURNMENT. ~~A motion to adjourn~~ Adjournment shall be in order at any time, except as follows:

1. When repeated without intervening business or discussion
2. When made as an interruption of a member while speaking

3. When the previous question has been ordered
4. While a vote is being taken.

A motion to fix the time to which to adjourn is debatable only as to the time to which the meeting is adjourned.

[\(Amended 11-21-2013\)](#)

SECTION 20198. RECONSIDERATION. After the decision of any question, any member who voted with the prevailing side may move for reconsideration for that action at the next regular meeting of the Council. For the purposes of this Rule, the next regular meeting of the Council shall be the next regularly scheduled meeting of the City Council which is at least ten (10) days after the meeting of the Council at which the decision to be reconsidered occurred. The Councilor shall submit a written notice and the question shall be placed on the agenda in accordance with these rules. A motion to reconsider shall require a majority vote of the Councilors present.

After a motion for reconsideration has once been acted on, no other motion for a reconsideration thereof shall be made. If the original vote is sustained at the next regular meeting as defined herein, the Council shall have no further right of reconsideration on the question.

(Amended 4-20-1972, 8-19-1993, 1-5-1995)

SECTION 210. TIE VOTE. In case of a tie vote on any proposal, ~~except an election by ballot vote,~~ the presiding officer shall cast his or her vote to dissolve the tie vote.

SECTION 224. SPECIAL COMMITTEES. All Special Committees of the Council such as the Council may establish, shall be appointed and announced by the Mayor. The appointment by the Mayor shall also include an indication of any funds or staff time to be utilized by such Special Committees and, if any, such funds and staff time to be approved by the City Council. Special Committees shall continue to exist until their charge has been completed or one year from the date of establishment, whichever comes first.

(Amended 4-20-1972, 7-17-1974, 12-16-1976, 2-7-1980, 3-26-1980, 2-15-1990, 4-18-1991, 11-20-1997, 6-5-2008, [11-19-2015](#))

SECTION 232. STANDING COMMITTEES. At the commencement of each municipal year, the following Standing Committees of the Council shall be appointed by the Mayor. All Standing Committees of the Council shall consist of five (5) members. No member shall serve on more than one Standing Committee of the Council at the same time. The first member named on each Committee to be Chairman; the second member named on each Committee to be Vice-Chairman. Items referred to Committee shall be in accordance with their areas of concern as set forth below:

Finance, Organization, and Personnel Committee

Assessment, budget, cable franchise, claims, purchase and sale of real property and its disposition, elections, finances, information technology, insurance, leases and lease management, organization, personnel, purchasing, and taxes.

Municipal Services, Facilities and Infrastructure Committee

Cemeteries, intermodal transportation facilities, infrastructure management and planning, fire, public health, human services, library, parks, police, recreation, public safety, trail system, traffic control, and youth services.

Planning, Licenses and Development Committee

Airport, Airport leases, Airport land use planning, broadband, college/city relations, enforcement of codes easements, economic development, floodplain, development, housing, intergovernmental relations, land use, permits, legislative review, licensing, management of open space, conservation, planning, Rules of Order, wetlands, and zoning.

A Councilor who is not a member of the Committee may ask questions and participate in the discussion, but may not participate in the deliberations after a motion and 2nd has been made concerning an item on a Committee agenda. If the Committee votes to remove a matter from more time, it shall be placed on the agenda for the next scheduled committee meeting and prior notice shall be provided to all interested parties. If the Committee votes to go into non-public session, only the members of the Committee, and required City Staff, shall attend the session. Non-public sessions by a Committee are discouraged, and shall only occur in extraordinary circumstances.

All Standing Committees, except Finance, Organization and Personnel, shall normally meet on the Wednesday following a regularly scheduled Council meeting. The Finance, Organization and Personnel Committee shall normally meet on the first Thursday following the regularly scheduled Council meeting. Items to be submitted for the agenda packet must be filed with the City Clerk by 1:00 p.m. on the Tuesday before the Committees hold their regular meetings. A majority of each Committee shall constitute a quorum. The City Manager and those department heads ~~needed~~ requested by the ~~City Manager~~ respective committees shall normally attend the regularly scheduled Standing Committee meetings. The City Manager may designate a department head or other suitable person to represent him or her unless he or she is requested by the Committee to attend a particular meeting, but the Committee Chairmen will make arrangements to avoid conflicting demands on the City Manager's time.

(Amended 8-3-1972, 2-1-1979, 3-15-1979, 10-1-1981, 5-17-1990, 6-7-1990, 11-20-1997, 11-18-1999, 6-5-2008; 11-1-2012, [2-18-2016](#))

SECTION 243. ORDER OF BUSINESS. The business of all regular meetings of the Council shall be transacted in the following order, unless directed by the Mayor or presiding officer.

1. Call to order

2. Roll call of attendance
3. Pledge of allegiance
4. Acceptance of minutes of the preceding meeting.
5. Public Hearings, proclamations and presentations
6. Nominations/confirmations/appointments
7. Communications
8. Reports of Committees/Boards/Staff
9. City Manager Comments
10. Legislation (Ordinances/Resolutions)
11. Non-Public Session
11. Adjournment

(Amended 8-2-1984, 6-5-2008, [11-19-2015](#))

~~**SECTION 24. ITEMS OF BUSINESS – OUT OF ORDER.** The presiding officer may permit any item of business to be taken up out of the regular order unless there is an objection by a Council member in which case a majority of the Council may vote to take the item out of order.~~

SECTION 25. COMMUNICATIONS. Communications to be introduced to the City Council ~~or directly to the City Manager, through the City Clerk's office,~~ must be signed by the person introducing the same and must give his or her residential address, mailing address, if different, at which he or she can be reached to be notified of committee meetings, etc. Communications containing a scanned image of the person's actual signature may be submitted electronically. Communications not containing all of the above will not be accepted by the City Clerk and will not be ~~directed to the City Manager or~~ placed on the agenda of the City Council. Communications addressed to a Councilor of a personal or argumentative nature shall not be introduced in Council.

(Amended 10-2-1980, 9-7-1981, 8-2-1984, 4-18-1991, [11-19-2015](#))

SECTION 26. REVIEW OF ITEMS OF BUSINESS. Every Ordinance, Resolution, Committee Report, and any other document to come before the Council for consideration must be filed with the City Clerk by 4:00 PM on the Tuesday before the Thursday on which the Council holds its regular meeting. ~~Ordinances, Resolutions, and documents, except Committee reports, to come before the Council for consideration shall be personally hand signed by those submitting same.~~

As soon as practicable after receipt of items of business by the City Clerk, the City Clerk shall review the items of business with the Mayor and City Manager. Items of business determined by the Mayor or Manager to be routine City business, or easily resolved by the City staff, or of a nature that investigation by the City would be desirable in order to better determine how to

proceed with that item of business, or of a nature that the matter be dealt with confidentially under applicable law, shall be referred, as appropriate, to the City officer, department, City Council, Council Committee, or other agency for disposition. In such cases, the sponsor of the item of business shall be given written notification of the referral of the matter and such other pertinent information as the Mayor or City Manager shall determine to be appropriate. The Council shall be provided with a summary of these items of business and their disposition. The City Manager shall take reasonable measures to insure that these referrals are followed up. Items of business not resolved to the satisfaction of their sponsor, shall be placed upon the Council agenda by the Mayor, any member, or the City Manager.

All items appearing on the Council agenda for the first time shall be referred by the Mayor to a Committee or Committees in accordance with its or their areas of concern as set forth in Section 22, Standing Committees, hereof for its or their consideration and report for the next meeting of the Council, unless more time is granted by the Council. Any item appearing on the Council agenda for the first time shall not be debated, and shall have no final action without suspension of the rules. ~~All petitioners, communications, reports and documents appearing before the Council shall be ordered filed with the records of the Council by the Mayor unless, after inquiry, he or she hears objection by any Councilor to that procedure. If there is objection, a motion as to disposition will be in order. After filing, motions will be in order for referral, for more time, or for such other action as the Council deems appropriate.~~ Once more time has been granted on a matter, it shall remain on more time until placed on the committee agenda for action or a motion to call it out of committee passes. Notwithstanding any other provisions of these rules, Resolutions of a congratulatory, aspirational or ceremonial nature and items referred directly to a committee under this Section and then reported out may be debated and acted upon when they first appear on the Council agenda without suspension of the rules.

(Amended 6-5-2008, 11-1-2012, [11-21-2013](#), [2-18-2016](#))

~~**SECTION 27. REVIEW AND INTRODUCTION OF ORDINANCES AND RESOLUTIONS.** All proposed Ordinances and Resolutions shall be introduced to the Council with the name of the Councilor introducing same being announced by the Clerk.~~

~~(Amended 3-15-1979, 2-7-1980, 4-18-1991)~~

SECTION 27~~8~~. **READINGS OF ORDINANCES AND RESOLUTIONS.** Resolutions calling for the appropriation of unbudgeted funds and all Ordinances shall be read twice. The first and second readings to be by title only. On the announcement of a second reading, the question shall be voted on by a roll call vote. Such documents are to be posted on the public bulletin board in the City Hall entry way for one (1) week following each reading in Council. No item which has been the subject of a public hearing may be considered by Council on the same day as the hearing.

(Amended 6-21-1973, 2-7-1980)

SECTION 289. AMENDED ORDINANCES. If an Ordinance is amended in Committee, it shall be reported as an amended Ordinance. The Committee report shall explain the recommended amendments.

(Amended 2-15-1990)

SECTION 2930. VOTES ON ORDINANCES OR RESOLUTIONS. On passage of a Resolution calling for the appropriation of funds, or on the passage of any Ordinance, the vote shall be taken by roll call and entered in full upon the record. Every member shall be required to vote unless excused for ~~cause- conflict of interest~~ by vote of the Council. The vote shall be for or against a pending Ordinance or Resolution and not on the report of the committee thereon.

SECTION 304. ANNUAL APPROPRIATION. If a Councilor wishes to make an amendment to the proposed annual operating budget during the budget adoption process, the Councilor shall submit the text of the proposed amendment, including the line item(s) to be amended, to the City Clerk for inclusion on the Council agenda no later than ~~five (5) days- 4:00 p.m. on the Tuesday~~ prior to the Council meeting scheduled for the adoption of the annual budget. After the annual appropriation has been passed, subsequent expenditures shall not be authorized for any purpose without special appropriation therefore by affirmative vote of a majority of City Council. In such case said subsequent expenditure creates a City debt the affirmative vote of two-thirds of City Council shall be required. All such votes shall be taken by roll call.

(Amended 6-5-2008, [11-19-2015](#))

SECTION 312. APPROPRIATION OF UNBUDGETED FUNDS. After adoption of the budget, Resolutions calling for the appropriation of funds shall not be accepted by the City Clerk, unless accompanied by an explanation of the purpose of the appropriation and the funds to which it is to be charged.

(Amended 4-20-1972, 3-15-1979, 2-7-1980)

SECTION 323. REPORT BY COMMITTEE. All matters referred to a committee must be reported out of that committee at the next regular meeting of the Council except a matter which is the subject of a pending public hearing or unless otherwise ordered by a majority of the Council Committee members present. Written testimony with regard to a public hearing shall be accepted by the City Clerk up until 1:00 p.m. on the Tuesday immediately preceding the committee meeting. Written testimony with regard to any other business before the committee shall be accepted by the City Clerk up until 4:00 p.m. on the Tuesday immediately following the committee meeting in order to be included in the agenda of the City Council meeting. A matter which is the subject of a public hearing must be reported out of a committee at the next regular meeting after the hearing unless otherwise ordered by a majority of the Council Committee members present. If not reported as above, or if immediate action is required, a motion by the City Council to call the matter out of committee will then be in order. Passage of that motion will place the matter before the Council for consideration. When the

Chair of the Committee or the designee offers a motion to carry out the intent of the Committee report, a brief explanation of the committee's recommendation shall be verbally shared with the Council. Moving to carry out the intent of the committee report does not restrict the maker of the motion from speaking against the recommendation of the Committee.

(Amended 12-16-1976, 11-15-2012; [11-21-2013](#), [2-18-2016](#))

SECTION 334. RESUBMISSION OF ITEMS ONCE CONSIDERED. Once a final vote has been taken by the Council regarding the disposition of an item of business submitted to it, except for a reconsideration vote under these rules [or the City Charter](#), the identical subject matter to that in the item of business so decided shall not be taken up again by the Council as an item of business during that calendar year, unless the circumstances pertinent to the item of business have changed substantially and a likelihood exists that a different disposition from that previously determined by the Council will result. During the course of review of items of business submitted to the City Clerk for presentation to the City Council, the Mayor shall, with the assistance of the City Manager, determine whether any of the items have previously been disposed of by the Council as set forth in this section and whether or not changed circumstances are present. In the event that the Mayor determines that an item of business has been previously disposed of by the City and circumstances are substantially unchanged, he or she shall refer the matter to the City Clerk for filing. The Council shall be so notified as in the case of other referrals under Section 26, "Review of Items of Business," of these Rules. Unless the Council shall cause additional action to be taken regarding the items of business so referred, the City Clerk shall notify the sponsor of the item of its disposition.

SECTION 345. NON-PUBLIC SESSION. As provided for in RSA 91-A:3, the vote on any motion to enter non-public session shall be by roll call, and shall require the affirmative vote of the majority of members present. All persons present except the Mayor, City Council, the City Manager, City Attorney and City Clerk, unless any are excused, shall leave the meeting, unless specifically requested to remain. [A motion to seal the minutes of a non-public session shall be by roll call vote and shall require a two-thirds majority vote in favor.](#)

(Amended 6-5-2008)

SECTION 356. SUSPENSION OF THE RULES. Any provision of these rules not governed by the Charter, Statute, or Ordinance, may be temporarily suspended at any meeting of the Council, by a two-thirds vote of all members present. The vote on any such suspension shall be taken by roll call and entered upon the records.

(Amended 6-5-2008)

SECTION 367. TO AMEND RULES. These rules may be amended or new rules adopted by a two-thirds vote of all members elected. Any such alterations or amendments shall be submitted in writing at the preceding regular meeting and shall be referred to the Planning Licenses and

Development Committee. This requirement shall be waived only by unanimous consent, with a recorded vote of all members elected. Changes shall become effective upon passage.

(Amended 11-20-1997)

SECTION 378. PROCEDURE TO FILL VACANCY. In the event that a vacancy occurs in the City Council or Office of the Mayor from any cause, the following procedure shall be followed to fill the vacancy.

- A. When a vacancy occurs, the Mayor or temporary chairman (in the case of a vacancy in the office of the Mayor), in accordance with Sections 8, "Vacancies," and 19, "Mayor," of the City Charter, shall declare the office vacant at the City Council meeting immediately following the discovery of the vacancy.
- B. When a vacancy is declared to exist, the Mayor or temporary chairman (in the case of a vacancy in the office of the Mayor) shall set a filing period no earlier than eight (8) days after the declaration. The Mayor shall cause publication notice of the vacancy in a newspaper of general circulation in the City and establish an eightfourteen (814) day period exclusive of the date of publication within which time candidates may file notice of their intent to seek election to the vacant office. The filing period shall end at the close of business of the City Clerk's office on the fourteenth day.
- C. ~~Following the declaration of the vacancy by the Mayor, the City Council shall choose a qualified person at the next regular meeting of the City Council after the close of the filing period, at which time an election shall be held. Following the declaration of the vacancy by the temporary chairman (in the case of a vacancy in the office of Mayor), the City Council shall choose a qualified person at the meeting after the next regular meeting of the City Council at which time an election shall be held.~~

The following procedure shall be followed on the date of the election:

1. The Mayor, or temporary chairman in the case of a vacancy in the office of the Mayor (see Section 6, "Temporary Chairman," of the Rules of Order), shall declare the field of candidates for the vacancy.
2. Each candidate will be given five (5) minutes to address the City Council relative to his/her candidacy. No questions will be asked of the candidates by the City Council and immediately upon completion of the last candidate's presentation, the City Council will proceed with the process of filling the vacancy.
3. In the event that there are more than two candidates, there shall be a primary vote of the City Council to narrow the field of candidates to two (2). The two candidates receiving the highest number of votes following an initial vote will be declared the finalists for election.
4. ~~The final vote will be conducted and the candidate receiving the votes of a majority of the elected City Council will be declared the winner.~~

5. Voting shall be by roll call vote, each City Councilor stating the name of his/her choice. In the event that a City Councilor does not wish to vote for any candidate, he/she shall vote "No."

In the event that no candidate for the vacancy receives a majority vote of the elected City Council, then the Mayor or temporary chairman shall establish an additional ~~eight fourteen (814)~~ day period within which candidates may file notice of their intent to seek election to the vacant office, and an election shall be held as provided above, -including publication notice.

6. Following the successful result of an election, the prevailing candidate shall take the oath of office.

(Amended 4-17-1997, 11-1-2012)

SECTION 389. RULES OF ORDER. "Roberts Rules of Order," as amended, shall govern points of order not covered herein.

SECTION 3940. COUNCIL POLICIES. Policies to be introduced to the City Council governing the operations of the City Council shall be in the form of a Resolution and, upon its adoption; they shall be indexed and appended to the Rules of Order for ease of reference. A Council policy shall remain effective until superseded by a vote of the City Council. When an issue comes before the City Council, which it believes has merit, but which is inconsistent with an adopted policy, the City Council shall first consider an amendment to the policy before considering the issue at hand. ~~The City Council shall annually review 20% of all adopted policies selected and presented by the City Manager to be certain that the intent of the policy remains valid, and if not, the City Council may vote to rescind the policy.~~ The City Council may, from time to time on its own initiative, or when so requested by City Staff, review adopted policies and determine whether to keep the policy, to revise the policy, or to rescind the policy.

(Amend. of 2-2-2006)



City of Keene, N.H.
Transmittal Form

January 8, 2018

TO: Planning, Licenses and Development Committee

FROM: Elizabeth A. Dragon, City Manager

ITEM: 4.

SUBJECT: Legislative Update

RECOMMENDATION:

Informational: Staff update regarding legislative session.

ATTACHMENTS:

Description

HB 92 & HB 168 Staff Position Letter

BACKGROUND:

Welcome to the 2018 Legislative season!

The House and Senate met on January 3rd and January 4th.

There are several bills staff has been actively weighing in on at the legislature.

House Bill 92 & HB 168- I sent in a letter in support of these bills encouraging the state to adopt the 2015 Building and Fire Codes. (copy of letter attached)

links to the bills:

http://www.gencourt.state.nh.us/bill_status/billText.aspx?sy=2018&id=47&txtFormat=pdf&v=current

http://www.gencourt.state.nh.us/bill_status/billText.aspx?sy=2018&id=244&txtFormat=pdf&v=current

House Bill 561- Impacts employees working after retirement. The bill puts further restrictions in place. As proposed the current 32-hour per week limit would change to 1,040 hours per calander year which averages 20 hours per week. It also creates a 60 day waiting period before a retired employee can be rehired. There is a public hearing Wednesday January 10, 2017, and we have staff testifying in opposition.

link to the bill:

http://www.gencourt.state.nh.us/bill_status/billText.aspx?sy=2018&id=695&txtFormat=pdf&v=current

If you are currently not signed up to received the New Hampshire Municipal Association Legislative Bulletin I would recommend you subscribe. Send an email request to newslink@nhmunicipal.org.



City of Keene

New Hampshire

Position Paper

The City of Keene requests that the Legislature adopt HB 168 which adopts NFPA 1-15 and HB 92 which adopts the 2015 International Codes (I-Codes). We believe that failure to adopt these codes effects the economy of the state and the City of Keene. Failure to adopt up to date codes and standards creates hidden costs to our citizens in manufacturing, materials, labor and insurance. We lose innovation and flexibility.

1. Artificially drives up the cost of insurance via changes in ISO ratings.
2. Victimizes communities where disaster relief can be withheld because of the failure of the state to stay current on adopted codes.
3. Places New Hampshire manufacturers at a disadvantage in the world marketplace.
4. Discourages the use of new methods and materials (usually with cost savings and increased levels of safety) within the state due to outdated codes.
5. Places all citizens of the state at a disadvantage in benefiting from the energy efficiencies of using an Energy Code that is out of date. New Hampshire energy costs are a factor in the location and retention of businesses in the state.
6. Creates gaps in use and knowledge among New Hampshire licensed Architects and Engineers to compete in the world market, and lose business to “out of state” design professionals who are also licensed in New Hampshire.
7. Diminishes the options for training for design professionals, code officials and contractors for continuing education.
8. Creates potentially unsafe conditions for first responders and the citizenry.

Adoption of Current Building and Fire Codes

There are two bills which would adopt updated versions of the Fire and Building Codes that have stalled in the Legislature due to opposition from special interest groups (Jordan Institute, NH Homebuilders etc.) and has unfortunately been captured by some Members of the Legislature who take positions not favorable to public safety in general. It is important that the Legislature understand the true ramification of outdated codes to the citizens of the state and the impact it will have on our economy; and the hidden costs that are incurred through higher insurance rates. The stalling of adoption (and proposed elimination of the adoption of future code editions) could cause the state of New Hampshire (and the City of Keene) economic hardship relative to the ability to compete in the modern marketplace, cost its citizens real dollars in increasing insurance rates and energy costs, provide the basis for denial by the Federal Government of disaster relief funds, and puts its citizens and first responders at risk with construction that has proved itself to be problematic in fires.

There are two bills that the City of Keene may want to take a position on. The first bill HB 168 adopts NFPA 1-15 (the City of Keene by ordinance has adopted NFPA-1 -15) and the second is HB 92 which would update the International Codes adopted by the state from the 2009 versions to the 2015. These bills were first introduced in 2015 when the 2015 International Codes were the most current edition. Due to the legislature’s failure to pass that legislation, the 2018 International Codes have already been published.



City of Keene

New Hampshire

Insurance

The City of Keene has been progressive in the adoption of progressive codes (for example Green Codes), and is a participant in the Federal CRS program and has been the victim of many natural disasters. The National Flood Insurance Program's (NFIP) Community Rating System (CRS) is a voluntary incentive program that recognizes and encourages community floodplain management activities that exceed the minimum NFIP requirements.

As a result, flood insurance premium rates are discounted to reflect the reduced flood risk resulting from the community actions meeting the three goals of the CRS:

1. Reduce flood damage to insurable property;
2. Strengthen and support the insurance aspects of the NFIP, and
3. Encourage a comprehensive approach to floodplain management.

For the purpose of risk analysis the City of Keene has a number of older wood frame buildings (and infrastructure), and when building new buildings or substantial improvements are proposed, they must show in the design, compliance to heavy snow load, high wind and earthquake as risk design factors.

Due to the adoption of modern codes and the enforcement mechanisms in place, the City has competitive Insurance Services Office (ISO) ratings, through the Building Codes Effectiveness Grading Schedule rating program (ISO - BCEGS).

Recent changes by the Federal Emergency Management Agency (FEMA) have created a direct correlation with BCEGS. FEMA now utilizes the information obtained in the ISO – BCEGS rating program to determine eligibility for its programs. FEMA Recovery Policy FP-104-009-4, signed on September 30, 2016, added a requirement that any mitigation grant, recovery grant or mitigation program utilize the most current code edition. Currently FEMA revenue is tied to the two most current editions of the International Codes (2015 or the 2018 editions), therefore, falling more than two code cycles behind will affect the BCEGS rating of all communities that participate. Another significant cost to the state and communities is the mitigation grants that are available through FEMA. FEMA requires jurisdictions that request and receive disaster recovery funding to reconstruct current code.

Additional support can be found in an article entitled “Moody's Warns Cities to Address Climate Risks or Face Downgrades” where it tied the ratings system that the state and municipalities use for setting ratings for bonding and other forms of credit will see scrutiny relative to the known risk from the climate. "What we want people to realize is: If you're exposed, we know that. We're going to ask questions about what you're doing to mitigate that exposure," Lenny Jones, a managing director at Moody's, said in a phone interview. "That's taken into your credit ratings." In its report, Moody's lists six indicators it uses "to assess the exposure and overall susceptibility of U.S. states to the physical effects of climate change." They include the share of economic activity that comes from coastal areas, hurricane and extreme-weather damage as a share of the economy, and the share of homes in a flood plain.



City of Keene
New Hampshire

New Hampshire manufacturers and the world marketplace

At the international level there are two main entities related to codes used throughout the United States; the International Code Council and the National Fire Protection Association. As described by the **Environmental and Energy Study Institute (EESI)** <http://www.eesi.org/papers/view/the-value-and-impact-of-building-codes> “The U.S code development process is unique in the way it brings together all interested parties to participate and decide what is needed and feasible for the construction of new buildings. This cost-conscious, triennial look at what a safe building can be and how it should perform provides savvy builders and building suppliers with critical information on what consumers want and where the market is headed. Model codes allow building suppliers to target a national market. Since markets for building materials and technologies are becoming increasingly international, U.S. manufacturers require a strong domestic base in which to develop the new products they need to compete. Regularly upgraded building codes ensure new products and practices make their way into buildings when the time is right and are no longer experimental. The code development process assesses the technology landscape and consumer demand, and creates a model code that can apply innovations gradually across the building sector, reducing the risk for individual builders and contractors. The process of updating model codes every three years is optimal to ensure new technologies, materials and methods, as well as better approaches to health and safety, can be incorporated into the next generation of buildings with sufficient time for proof of performance. Regular, incremental improvements help us continue to build better, and smarter, buildings as cost effectively as possible. Waiting longer between code updates means many buildings are not current when built, and innovative American building suppliers are without a domestic base to sustain their innovations.”

Unfortunately, several Members of the Legislature fail to grasp is that the code development process is national and that the movement of goods and service across state and national borders is to some extent regulated by the codes and standard adopted in these processes. If a product is made in Germany is not evaluated and approved here in the US by an accreted listing agency then jurisdictions will not approve its use in the US. Listed products allows for better manufacturing, or less expensive operations. There are products that we want to use and make but if it has not been listed for use with the 2015 and or 2018 set of codes and standards then its use is prohibited. ICC and NFPA codes and standards are used in several countries. They form the basis for those countries building regulations and practices for industries and American companies building overseas.

New Methods and Materials

Building codes evolve. They evolve based on new knowledge, new methods, new materials, emerging markets and understanding of how structures perform in real crisis...real disasters. Many, if not most codes changes historically originate with manufacturers and users of the code such as design professionals and home builders. A manufacturer may have a new product such as a wood frame anchor, or type of manufactured beam that when accepted as part of the code becomes marketable. The code development process is open and transparent, with the code process heard by committees and then finally accepted or



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not by the code enforcement community. The process for the ICC codes uses a cloud based mechanism called cdpACCESS which is open and driven by consensus. The process eliminates undue influence by vested interests and operates somewhat like a legislative body. If a code is “fossilized” as some in the New Hampshire Legislature would propose, then there is no active mechanism to incorporate changes to the code for new methods and materials, and no mechanism to accept code changes that create requirements less stringent than the presently adopted codes. Some examples of these contained in the 2012 and 2105 edition of the code from the 2009 include:

- Changes that revise health care requirements which in the 2009 Codes are not well addressed and as we know New Hampshire is becoming a center for health care for the aged and for those in need of therapy for opioid use.
- Clearer distinctions made between the various health care occupancies in the code (simpler, less cumbersome)
- Changes to the requirements for fly galleries, grid irons and other antique terms for stages, backstage and staff areas.
- Revised means of egress requirements to better permit live-work units.
- Revised shaft and duct requirements which for many buildings will make the provision of safe air passages much less expensive as still retain the required safety features.
- Revisions to the requirements for accessory spaces in schools that reduce confusion about mixed use requirements.
- Clarification about day care facilities that are related to places of worship, making the provisions simple.
- Revised high wind design standards based on research, that indicates the wind provisions of the IBC and ASCE 07 have been overly conservative. These have been modified to coordinate with updates to the 2010 Edition of ASCE/SEI 07. The Connecticut River Valley and coastal New Hampshire could be affected by high winds per ASCE/SEI 07.

Energy Independence

Implementing the changes necessary to develop resilient and responsive energy systems requires a fundamental re-thinking of the ways we plan and regulate, as well as a willingness to invest now in order to create long-term savings, independence, security and economic opportunity. The future for the state, for both where we work and live, has to center to great extent on energy. Energy costs, labor cost and taxes are all relevant to keeping our industries and citizens as well as attracting new industries. Very little is provided by the state in the way of incentive to produce energy, so energy costs are extractive, where the price for the energy leaves the state. Energy conservation has to be a factor for the long range cost of operations even when it may show a higher first cost.



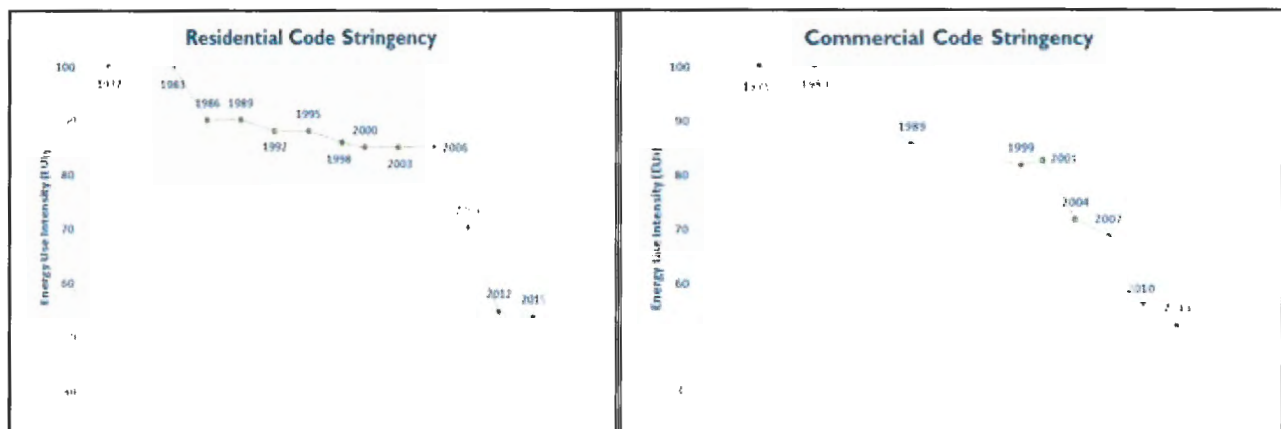
City of Keene

New Hampshire

Pursuant to the Office of Strategic Initiatives, in 2014 New Hampshire had the second highest energy prices in the country. Much of this spending left the state (over \$4.9 billion), as NH imports a significant portion (around 60%) of its primary energy sources. The state imports a large portion of its energy and exports almost \$5 billion dollars annually from the economy to pay for energy. Because New Hampshire is far from popular sources of energy like fossil fuels, and has only recently begun developing local generation capacity that stays in-state, energy costs have traditionally been some of the highest in the nation.

- New Hampshire is still importing a high percentage of its energy sources.
- New Hampshire wants to reduce its air pollution emissions.
- New Hampshire aims to build a new, in-state energy economy.

Part of the effort has to be conservation of the energy we use. The more efficient our buildings are the less energy costs are, the easier it is to build our economy. In addition to efforts by the state to create generation, all new buildings and renovated buildings need to be as efficient as possible.



Interstate Marketing of Design Services and Training

One aspect of standardized code adoption that is not usually discussed is the market for design services. Our state architects and engineers usually provide services in other states and in fact many from outside New Hampshire provide such services in state. To be able to provide such services reliably, the design professional needs to be fluent in the codes used throughout New England (and beyond) which have either already been adopted or are in the process of adopting the 2015 International Codes. There are other professions where knowledge of design and codes is central...inspectors and contractors. The inspectors can be local government inspectors, inspectors in plants, special inspectors for quality control. Some of our instate contractors are required to be tested and have continuing education, most of our



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contractors from out of state are required to have and maintain licenses. These can include mechanical, plumbing and electrical contractors as well as general and residential contractors. There is a growing industry of third party reviewers of plans and inspections. This industry will thrive as it becomes harder to find qualified local government staff. In fact, in other states many jurisdictions have chosen to contract completely with third party firms. The same issues outlined above will also affect these firms when NH is using an earlier code edition than its neighboring states. All these professionals must be either licensed and/or must obtain annual continuing education. If the state stays on the 2009 I-Code Editions, it will be harder for these professionals to stay current and expand their knowledge base, and it may even be difficult to even find training on the 2009 I-Codes. Try finding an accreted course to use Oakum and lead for pipe joints.

Safety

The purpose of building and fire codes is safety, safety for the occupants, visitors, users and purchasers of buildings. For purchasers, buildings inspected to the building and fire codes provide a floor of basic understanding of the condition of a building and its suitability for use. These codes are after all only minimums.

As codes evolve and as new technology are incorporated, issues with the technology become evident. In addition as old technologies age sometimes our understanding of the technology changes. The following is two examples where our understanding has changed. They both relate to wood frame. In a state like New Hampshire with its abundant forests, and long history of construction of homes, public buildings and industrial buildings has experienced a number of changes in construction. These include light frame, balloon frame, platform frame, timber frame and heavy timber.

Wood Framing:

For framed buildings reliance is placed utilization on ANSI/AF&PA NDS-2005 National Design Specification (NDS) for Wood Construction for the 2009 Code and ANSI/AWC NDS-2015 National Design Specification (NDS) for Wood Construction for the 2105 code when the frame is not constructed to the simple methods contained in the code. This means that most complex structures, cannot use lumber at "3 or utility grade, and that the capability of the lumbers to resist loads and the lumber grade become important.

So what is different between the ANSI/AF&PA NDS-2005 National Design Specification (NDS) for Wood Construction for the 2009 Code and ANSI/AWC NDS-2015 National Design Specification (NDS) for Wood Construction for the 2105 code?

According to the Southern Pine Inspection Bureau; "Design values provide guidance for designers to calculate the performance of a structural system and are assigned to six basic lumber properties. Design



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values for stiffness, as well as the major strength properties of bending, tension and compression parallel-to-grain, are based on data from destructive testing of samples of commercially-produced structural lumber. Design values for the minor strength properties of shear and compression perpendicular-to-grain are based on published clear-wood properties.

Design values have changed multiple times over the years based on available test data. The lumber industry conducts ongoing testing and invests millions of dollars to provide the most accurate and reliable design values for structural lumber. Comprehensive lumber testing is conducted as new technology becomes available or as warranted by changing resource data. The first significant lumber tests began in the 1920s, resulting in design values based on the strength of small clear-wood specimens. The last major change occurred in 1991 when design values for Southern Pine and other North American species were first published based on In-Grade testing of full-size samples of commercially produced lumber. SPIB did not specifically study why a change occurred this time, but a change in the timber resource mix is one of many variables that can affect the strength of structural lumber.”

Q: Which lumber properties have new design values?

A: Four lumber properties: - Bending (Fb) - Tension parallel-to-grain (Ft) - Compression parallel-to-grain (Fc) - Modulus of Elasticity (E and Emin)

Q: Which lumber properties have the same design values?

A: Two lumber properties:

- Shear parallel-to-grain (Fv) - Compression perpendicular-to-grain (Fc \perp)

Q: Did design values for Prime lumber grades change?

A: Yes. Design values for the Prime grades are tied to their corresponding dimension lumber grade. Therefore, No.2 Prime has new design values identical to No.2 dimension lumber. Similarly, No.1 Prime has new design values identical to No.1 dimension lumber.

Q: How do design value changes affect span tables and other prescriptive requirements in the building codes?

A: Prescriptive code requirements based on old design values need to be amended to reflect new design values. This includes ceiling joist, rafter and header span tables. AWC worked with the International Code Council to incorporate the new design values into span tables in the *2015 International Building Code* and *2015 International Residential Code*. AWC also developed recommended revisions to previous code editions.



City of Keene
New Hampshire

Engineered Floor Systems

It may take years or even decades to fully understand the benefits or the negative impacts of some products. Engineered floor systems, first commercialized by Trus Joist (now Weyerhaeuser) in the 1960's, the systems were not widely used in residential applications until the 1980's. They are still not widely used in NH, and in fact rarely seen in Keene and the problem with these systems is that they have little resistance for fire. These are the joists you see where there is a top and bottom chord usually a two by four with a plywood web.

It has taken decades to realize the dangers of unprotected engineered floor systems and that they burn and fail at more than two times the rate of traditional dimensional lumber. This creates a danger to the occupants and to our first responders who do not know when fighting a fire the danger that they might be in due to the light framed engineered floor trusses. The updated fire and building codes are intended to address this negative attribute by requiring some form of minimum protection. There are currently 11 options to comply. More options than typically seen in any code requirement and the American Plywood Association (APA) who develops the standards for these products also has recognized the dangers and has developed and received ICC-ES approval of seven systems to protect engineered floors.

The fact that there is a recognized problem and that there is a cost to protect the floor joists (with a layer of drywall) or other methods to create a safe complaint floor is the sticking point that has prevented the adoption of the entire code series.

Respectfully Submitted;

Elizabeth Dragon, City Manager
City of Keene

Mark F. Howard, Fire Chief
City of Keene

John Rogers, Acting Building Official
City of Keene