



PLANNING, LICENSES AND DEVELOPMENT COMMITTEE  
Council Chambers A, Keene City Hall  
April 10, 2024  
6:00 PM

**A. AGENDA ITEMS**

1. Animal Control Program - Animal Control Officer
2. Farmers Market of Keene - Request to Use City Property - 2024 Farmer's Market
3. Cathedral Ledge Distillery - Request to Participate in the Keene Farmer's Market - WITHDRAWN
4. Copper Cannon Distillery - Request to Participate in the Keene Farmer's Market
5. Brewbakers Cafe - Request to Use City Property - Adjacent to Wilson Street - Outdoor Dining
6. Keene Pride - Request to Use City Property - Keene Pride Festival - September 15, 2024
7. Pathways for Keene - Request to Use City Property - 4 on the 4th Road Race - July 4, 2024
8. Keene Young Professionals Network – Request to Use City Property – 2024 Taste of Keene Food Festival
9. Cellular Tower Lease Agreement - Assistant Public Works Director/Operations Manager
10. Councilor Madison - Potential Changes to Council Disciplinary Process

**B. MORE TIME ITEMS**

1. Relating to Amendments to the City of Keene Land Development Code, Definition of Charitable Gaming Facility – Ordinance O-2023-17-A

**NON PUBLIC SESSION**

**ADJOURNMENT**



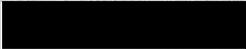
March 19, 2024

Attn: Honorable Mayor and city council of Keene, New Hampshire  
From: The Farmers Market of Keene

The Farmers Market of Keene would like to respectfully request a license to vend starting on April 20th, 2024 through October 31st, 2024. We would like to continue to use our present location on Gilbo Ave. / Commercial Street parking lot, which includes 40 parking spaces. Our hours of operation will continue to be the same, Saturdays from 9am - 1pm, and we are requesting to use the space from 8am - 2pm to accommodate set up and break down time. In addition, we would like to continue discussing public restroom options and access for the vendors and patrons of the Farmers Market of Keene.

Sincerely,

Bruce Bickford



A handwritten signature in cursive script that reads "Bruce Bickford".

The Farmers Market of Keene  
PO Box 425  
Keene, NH 03431

Copper Cannon Distillery  
2 Lyman Way  
West Chesterfield, NH 03466

Keene City Council,

We have received permission to be a vendor at the Keene Farmers Market in 2024. We are Copper Cannon Distillery located in West Chesterfield, NH. We would like to do tastings and retail at the Keene Farmers Market.

We are asking the council to give us approval to take part in the Keene Farmers Market. We will have all of the appropriate safe guards in place when doing tastings per the liquor commission.

Thanks you for your time,

Kevin Blake Amacker

A handwritten signature in black ink, appearing to read 'Kevin Amacker', written in a cursive style.



**NEW HAMPSHIRE LIQUOR COMMISSION**

Please submit form to:  
 New Hampshire Liquor Commission  
 50 Storrs Street, Concord, NH 03301  
 603-271-3521  
*License & Fee required before operating*

<i>For NHLC Use Only</i>	
Date Received:	
Date Approved:	
CFS:	
Approved By:	

**FARMERS MARKET**

**BUSINESS INFORMATION**

Business Name		Trade Name		License Number	
Business Street Address			City	State	Zip Code
Business Phone Number			Business Email		
Requesting Agent Name			Requested License Type		Date Requested

**MARKET INFORMATION**

Name/Location of Market					
Street Address Where Market is Being Held			City	State	Zip Code
Date From	Date To	Time From		Time To	
Days of the Week Sunday <input type="checkbox"/> Monday <input type="checkbox"/> Tuesday <input type="checkbox"/> Wednesday <input type="checkbox"/> Thursday <input type="checkbox"/> Friday <input type="checkbox"/> Saturday <input type="checkbox"/>					

**Attach/Include Diagram (Required Only for Tastings)**

Sign and print this form (or digitally forward) and have it signed by City/Town Official where the Farmers' Market is being held.  
 Once signed, please email form to: ENFaudit@liquor.nh.gov.

-----City/Town Use Only Below-----

**CITY / TOWN APPROVAL**

The City/Town of:	
Governing Body, or other Appointed Designee, hereby approves:	
to attend the Farmers Market for:	
Name Authorized Agent for City/Town	Title of Authorized Agent for City/Town
Date Signed	Signature of Authorized Agent for City/Town

Begin forwarded message:

**From:** Keene Farmers' Market <[keenefarmersmarket@gmail.com](mailto:keenefarmersmarket@gmail.com)>

**Date:** April 6, 2024 at 8:17:10 PM EDT

1

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**To:** Market Manager <[keenefarmersmarketmanager@gmail.com](mailto:keenefarmersmarketmanager@gmail.com)>

**Subject:** New Vendor The Farmers' Market of Keene

Good evening,

The Farmers Market of Keene held our annual meeting this morning and we are happy to share with you that you have been accepted as a new full-time vendor.

Please send your \$75 annual membership fee, made payable to  
The Farmers' Market of Keene  
PO Box 425  
Keene, NH 03431

Our opening day is Saturday, April 20th, which is also Earth Day Weekend. A market map will be sent via e-mail before the event.

Please e-mail our market manager, Jen, with your estimated start date. Jen's contact information is:  
[keenefarmersmarketmanager@gmail.com](mailto:keenefarmersmarketmanager@gmail.com)

We require at least 48 hours notice if you are unable to attend a market. If you have specific dates you know you cannot attend, please share those dates with Jen in advance. Please let me know if you have any questions, and we look forward to your participation in the market!

Thanks,  
Kati

--

The Farmers' Market of Keene  
PO Box 425  
Keene, NH 03431  
<http://facebook.com/keenefarmers>

March 14, 2024

Dear Mayor Kahn and City Council Members,

I am writing to petition for use of the City of Keene's Right of Way, as it abuts my business's property on the corner of Emerald Street and Wilson Street. In 2020, we renovated our building and created outdoor cafe seating in the front (Emerald Street) and side (Wilson Street). During the first 2 years, the licensing for both fell under the COVID emergency guidelines. We were unaware at the time that this was a special exemption for COVID protocols. We invested in beautifying the Willson Street seating area last year (2023) with Village Roots Permaculture. We have beautiful planters growing native flowers and herbs, and use rain water through a rain catchment system to water the units. It is quite a beautiful enhancement to an otherwise drab part of the building.

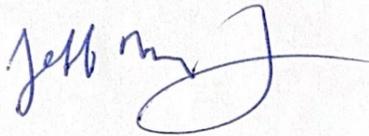
When we applied for the sidewalk license last year, we were informed that we'd have to apply for special exemption for use. The City Clerk's office and Department of Public Works were very helpful in helping us find a temporary solution to the permitting by using temporary jersey barriers from DPW.

We have worked with these folks to help us build a seasonal solution that addresses the issues brought forth primarily; safety and access to the right of way. With guidance from the City Clerk's office and DPW, and reference to the Parklet guidelines we have worked out a beautiful, safe, and seasonal/temporary build out with Village Roots Permaculture, that I trust will meet and exceed your expectations. We are fully insured and licensed for outdoor beverage service (the City Clerk has all of our current information on file). The outdoor seating is only open during daylight hours (we close at 5pm daily), and be taken down at the end of the season and can be taken down if the city ever needs access to the right of way. We have been in this building since 2017, and have never had any safety issues as it pertains to outdoor seating. This new design will be rigid and anchored with 1000 lb weights at the end units. No customer can walk through the fencing to the road, no parking spaces are encumbered and the parameters will be very obvious.

We have already begun the planning and building, so I am hoping that we can work through this in a timely manner. As with most dining establishments, the warm seasons where we can expand to outdoor seating has a huge impact on our business- so the use of these 16 seats is very important to us.

If you or any counselors are interested in meeting with my and my builders to walk the space and see in-person what we are looking to get approved, I would welcome the opportunity.

Thank you in advance for your consideration,

A handwritten signature in blue ink that reads "Jeff Murphy". The signature is stylized with a large, sweeping flourish at the end of the name.

Jeff Murphy  
Brewbakers Cafe/ Terra Nova Coffee  
603-313-8632  
brewbakerskeene@gmail.com  
48 Emerald Street  
Keene NH 03431

# BREWMAKERS OUTDOOR SEATING

WALL OF BUILDING

EXISTING RAISED GARDEN BED

TOP VIEW



ROAD DRAINAGE  
WILSON STREET

1000 LB  
and  
planting  
units

2 Sided benches  
w/ planters

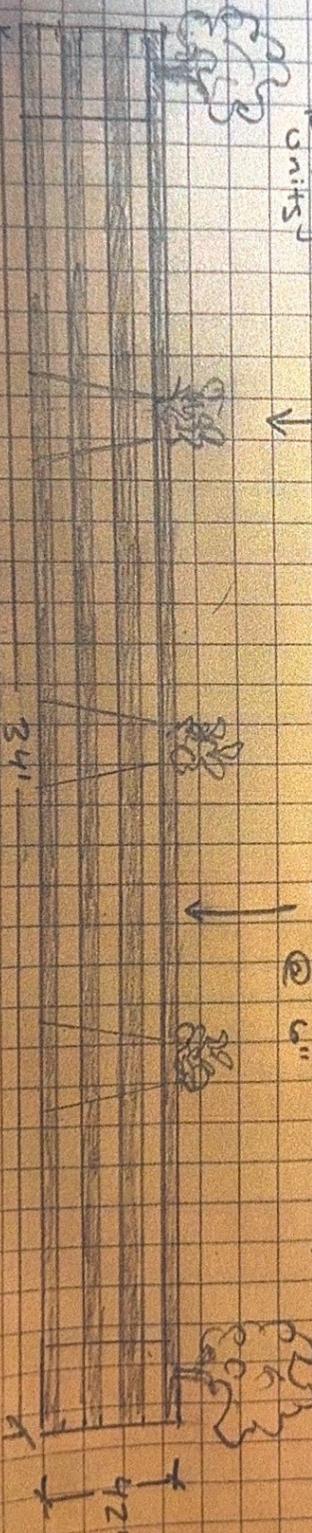
6" wooden slats spaced  
@ 6"

SPECS

• 4 Booths  
• End units

1000 lb (2000 lbs total)  
Planters = 2400 lb

SIDE VIEW



□ = 1"



February 16, 2024

Attn: Jeff Murphy  
Brewbakers Café  
48 Emerald Street  
Keene, NH 03431

Dear Mr. Murphy,

The City Clerk's Office will be sending out renewal applications for Sidewalk Café Licenses shortly, and before this application is provided to you, we wanted to send a separate notice regarding the seating that was permitted on the Wilson Street side of your building. You may recall, it was determined by City staff that the area on this side needed to be considered separately from your Sidewalk Café in front of the building.

A stipulation of the 2023 license was that any future licenses for this space would be contingent on your ability to demonstrate compliance with the City's Parklet Guidelines, including installation of proper protections for your patrons from vehicular traffic on Wilson Street. The City Clerk's Office is authorized to *require additional licensing stipulations which are deemed necessary to ensure public health, safety and welfare in connection with a licensed activity* under Chapter 46 of the City Code.

Chapter 46 also provides that the City Clerk may require licenses to be routed to the City Council for approval in lieu of the issuance of an administrative license from staff when deemed necessary. The location you have been using does not fit nicely into the definition of a Parklet, and there are some concerns with public safety that our office has determined warrant a review by the City Council. If you would like to pursue a license for 2024, it will be necessary that you petition the City Council for permission to use this area. We have provided a Use of City Property Application with this letter, as well as another brief questionnaire to assist with reviewing your request. In addition, we have provided the Parklet Guidelines to guide you in preparing your safety plan. To initiate this review process, the enclosed applications should be returned along with a letter addressed to the Mayor and City Council requesting a license and should include documentation demonstrating your plan to ensure the safety of your patrons.

Please contact the City Clerk's Office at (603) 352-0133 should you have questions.

Sincerely,

Patricia A. Little  
City Clerk

enclosure: as stated

CITY OF KEENE  
CITY CLERK'S OFFICE

3 Washington Street  
Keene, NH 03431

(603) 352-0133  
[KeeneNH.gov](http://KeeneNH.gov)



CITY OF KEENE  
USE OF CITY PROPERTY APPLICATION

Applicant/Sponsoring Organization Information:

NAME OF ORGANIZATION: Brewbakers Cafe

APPLICANT NAME: Jeff Murphy

ADDRESS: 48 Emerald St.

DAYTIME PHONE: (603) 313-8632 EVENING: ( ) FAX #: ( )

E-MAIL: brewbakerskeene@gmail.com

DAY OF EVENT CONTACT NAME AND CELL NUMBER: \_\_\_\_\_ 11

Special Event Information:

\_\_\_\_ SPECIAL EVENT ON CITY PROPERTY \_\_\_\_\_ STREET FAIR

\_\_\_\_ DISCHARGE OF FIREWORKS

\_\_\_\_ SERVING OF ALCOHOL AT A CITY FACILITY - please specify location \_\_\_\_\_ HEBERTON HALL

\_\_\_\_ COMMUNITY ROOM

\_\_\_\_ PARADE, WALK-A-THON, OR BIKE/FOOT RACE REQUIRING STREET CLOSURES/POLICE ASSISTANCE

\_\_\_\_  OTHER (please specify) seasonal cafe outdoor seating

EVENT TITLE: Wilson St. Seasonal Seating

EVENT DATE(S): May 1<sup>st</sup> - Oct 31<sup>st</sup> ESTIMATED ATTENDANCE: \_\_\_\_\_

LOCATION OF EVENT: 48 Emerald St. (Wilson Street Side)

IF YOU WISH TO USE RAILROAD SQUARE OR CENTRAL SQUARE, THE REQUEST TO USE THOSE AREAS MUST BE APPROVED BY THE PARKS AND RECREATION DEPARTMENT:

\_\_\_\_\_  
SIGNATURE OF APPROVAL, PARKS AND RECREATION

DURATION OF USE (INCLUDING SET UP/BREAKDOWN): from: 7 AM / PM to: 5 PM / PM

HOURS OF ACTUAL EVENT: from: \_\_\_\_\_ AM / PM to: \_\_\_\_\_ AM / PM

DESCRIPTION OF EVENT: \_\_\_\_\_



CITY OF KEENE  
USE OF CITY PROPERTY APPLICATION

Please attach additional sheets as necessary

STREET CLOSURES/DETOURS REQUESTED: NA

Please attach additional sheets as necessary

Is this the first time your organization has sponsored this event?  Yes  No

If not, has the person(s) in charge of organizing the event changed since it was last applied for?  Yes  No

For events that have been held previously, has the City provided any support or services to your event?  Yes  No

If so, please describe: During 2020/21 and 2021/22 this seating was approved under COVID guidelines. In 2023, we worked with DPW to provide temporary Jersey barriers.

**DETAILED MAP OF PROPOSED EVENT FOOTPRINT:** Please provide as an attachment to your application a single line sketch/drawing of the layout of the event. On the sketch/drawing include sidewalks/streets/lanes to be closed and/or blocked, locations of vendors (merchandise, food, etc.), display tables, or other encumbrances, and identify areas of activities (start lines, finish lines, attractions, etc.).

PLEASE INDICATE WHETHER THE FOLLOWING ITEMS PERTAIN TO YOUR EVENT:

YES	NO	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	WILL ACTIVITIES AND ATTENDEES BE ENCUMBERING THE TRAVELED PORTION OF ANY PUBLIC WAY, STREET OR LANE?
<input checked="" type="checkbox"/>	<input type="checkbox"/>	FOOD CONCESSIONS AND/OR OUTDOOR COOKING
<input type="checkbox"/>	<input checked="" type="checkbox"/>	USE OF PROPANE
<input type="checkbox"/>	<input checked="" type="checkbox"/>	OUTDOOR BURNING (CAMPFIRE)



CITY OF KEENE  
USE OF CITY PROPERTY APPLICATION

YES	NO	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	SET UP OF TABLES AND CHAIRS (if so, how many): <u>4 tables, 16 chairs</u>
<input type="checkbox"/>	<input checked="" type="checkbox"/>	DOES THE EVENT REQUIRE ACCESS TO CITY ELECTRICAL? (location): _____
<input type="checkbox"/>	<input checked="" type="checkbox"/>	DOES THE EVENT REQUIRE ACCESS TO CITY WATER? (location): _____
<input type="checkbox"/>	<input checked="" type="checkbox"/>	BOOTH(S), EXHIBIT(S), DISPLAY(S) AND/OR ENCLOSURE(S) (if so, please describe): _____ (Use a separate sheet if necessary)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	CANOPY(IES) AND/OR TENT(S) (please provide number of set-ups and their dimensions): _____ _____
<input type="checkbox"/>	<input checked="" type="checkbox"/>	SCAFFOLDING, BLEACHER(S) OR OTHER STRUCTURES (if so, please describe): _____ (Use a separate sheet if necessary)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	CHILDREN'S CARNIVAL OR INFLATABLE RIDES (please describe number, type, location, dimensions and proposed means of anchoring): _____ _____
<input type="checkbox"/>	<input checked="" type="checkbox"/>	VEHICLE(S) AND/OR TRAILER(S) (if so, how many): _____ _____ _____
<input type="checkbox"/>	<input checked="" type="checkbox"/>	WILL YOUR EVENT ENCUMBER METERED PARKING SPACES? (if so, please provide number, location, and what they'll be used for): _____ _____
<input type="checkbox"/>	<input checked="" type="checkbox"/>	PORTABLE TOILET(S) (if so, how many): _____



CITY OF KEENE  
USE OF CITY PROPERTY APPLICATION

YES

NO

ENTERTAINMENT (if so, please describe): \_\_\_\_\_

BANNERS OR TEMPORARY SIGNAGE

WILL THE EVENT BE ADVERTISED? (if so, how?): \_\_\_\_\_

SOUND AMPLIFICATION (if yes, indicate start/end times): \_\_\_\_\_

OTHER MISCELLANEOUS INFORMATION YOU WISH TO PROVIDE PERTAINING TO THIS EVENT:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*(Protocol meetings will be held with the applicant as necessary to seek further details relative to the request for a license and/or funding for City services. Please be aware, the City may place additional conditions or requirements on the event at its sole discretion to ensure public safety)*

**"Explore Keene" Community Event Calendar – Let us help you promote your event!**

Are you interested in promoting your community event on ExploreKeene.org's Community Event Calendar? If so, please contact Chelsea North, Parking Operations Manager and Downtown Outreach, with the following information:

1. Event Title
2. Event Sponsor
3. Detailed Event Description
4. Date(s), Start and End time
5. Location and Address
6. Event Picture/Graphic

You can reach Chelsea by emailing [cnorth@ci.keene.nh.us](mailto:cnorth@ci.keene.nh.us) with submissions or questions. (Sales, promotions, and political rallies and events are not allowed for submission and will not be posted.)



**Addendum to Use of City Property Questionnaire  
Relative to Use of City Right-of-way**

(Please print or type)

Applicant's Name Jeff Murphy Telephone 603-313-8632

Applicant's Mailing Address 48 Emerald Street

Business Name Brewbakers Cafe Telephone 603-357-8728

Business Address "

Email Address brewbakerskeene@gmail.com

Please answer the following questions regarding your proposed use of City right-of-way:

1. Number of Tables 4 Number of Chairs 16 Number of Planters 5

2. Will alcohol beverages be served? (daylight hours only)  YES  NO

3. Please provide information regarding restroom facilities available at your establishment:

Number/Types of Restrooms Male 1 Female 1 Unisex     

Number of Sinks 2 Number of Toilets 4 Number of Urinals     

4. Please provide the permitted number of patrons inside your establishment 436 (inside)  
(this information can be found on your current permit of assembly) 25 (outside)

5. Please describe any fencing or barriers you will be using to delineate your space, including the method of affixing and materials End units, fencing, and benches will be rigid, wood construction. Tables are metal. End units will be weighted with 20 under blocks to meet the 1000 lb requirement. Units can be disassembled at the end of season, or if the city needs to access

6. Will electricity be run to the site? Right of Way. YES   NO

If so, will the power be sourced from your own electrical service or will you be asking for access to City electrical? NA

(an additional fee of \$60 will apply if use of City electrical is approved)

7. Will there be overhead lighting in the café space? YES   NO

8. Are umbrellas going to be used to provide shelter to patrons? YES   NO

If so, please describe the number, size, and means of affixing



The Honorable Mayor and City Council  
Keene City Hall  
3 Washington St.  
Keene, NH 03431  
Re: 2024 Keene Pride

1/25/24

Dear Honorable Mayor Jay Kahn and City Council Members,

After the incredible success of Keene Pride Fest 2022 and 2023, we would like to continue the annual tradition for 2023. Keene Pride Week will take place between 9/7/24 and 9/15/24. We are requesting use of city property on Sunday 9/15/24 for Keene Pride Fest.

The week-long pride event will culminate on Sunday September 15, 2024 with a “block party” from 12pm – 6pm which will include entertainment, food, and local vendors. For this day, we request from the City:

- Close the street surrounding Central Square
- Close Roxbury Street from Central Square to the Green Energy Solutions building
- Request proper barriers from Public Works Department to provide adequate safety
- Request use of City Power/Electricity
- Request the support of Police and Fire
- Request City Water in the event that vendors require

We believe this will be a highly desirable attraction that will bring tourism to local businesses. We plan on marketing this event to the Monadnock Community and beyond. We also plan to leverage the beauty of the fall foliage season in conjunction with the event to draw more people.

As required, we will provide a \$1 Million certificate of insurance to the City, and work closely with City staff to ensure this event is safe and enjoyable for all.

We would like to stress that this is intended to be a family friendly event. Our intention is to reach out to local schools to be involved with helping to decorate and plan. The primary purpose of Pride is to celebrate diversity, bring awareness and support our LGBTQIA+ community; however, ALL are welcome and encouraged to attend.

Adam Toepfer  
Board President



603-696-2927



[www.keenepride.org](http://www.keenepride.org)



25 Roxbury St. #114  
Keene, NH 03431

Pathways for Keene, Inc  
P. O. Box 226  
Keene, New Hampshire 03431

Mayor Jay Kahn  
Keene City Council  
City Of Keene  
3 Washington Street  
Keene, New Hampshire 03431

To the Honorable Mayor Kahn and City Councilors,

Pathways for Keene requests a license to hold our 22nd Annual 4 on the 4th Road Race on July 4, 2024. The course will be the same as in previous years with walkers beginning at 7:30AM and the runners leaving at 8:00AM. It is a fun morning for all. The money raised returns to the City's trail system, and this year to the Cheshire Transportation Trail and work towards the installation of the Prowse Bridge over Route #101.

Thank you for your consideration.

Sincerely,

  
Sarah Greene

# Keene Food Festival

**Michael Remy**

KYPN Events Chair

**Mayor Hansel & the Keene City Council**

3 Washington St

Keene, NH 03431

603-357-9804

**Dear Mayor Hansel & the Keene City Council,**

Keene Young Professionals Network is seeking to host the Taste of Keene event again next Spring and we hope that the City Council will again be supportive of this event!

We are currently targeting June 1<sup>st</sup> to again align with the opening weekend of ArtWalk to make sure we are aligned on a plan for downtown for the event. Rain date would be June 2<sup>nd</sup>.

Similar to prior years, the key points are:

- Drawing people back to our downtown businesses to kick off the warmer weather
- Opening Central Square, Roxbury St and parts of Main Street to pedestrians only to allow a family-friendly draw to Downtown
- Local restaurants set up in the parking spaces around Central Square and down Main Street highlighting their options
- Cooking demonstrations and music throughout the day
- Beverage tasting tent located on nearby private property to highlight locally available beverages

The only change we'd like to discuss with this group as a potential is closing further down Main Street to the intersection of Eagle Ct and Emerald St. This is at the request of some of the businesses in that area and after feedback about the turnaround at Railroad/Gilbo being challenging for some drivers.

Keene Young Professionals Network is a program of the Hannah Grimes Center for Entrepreneurship, with the mission of connecting young professionals in the Monadnock region to their peers and their communities, through social, educational, and service opportunities.

We look forward to partnering with the City to make this another safe, successful, and fun event.

Sincerely,



Michael Remy





## CITY OF KEENE NEW HAMPSHIRE

**Meeting Date:** April 10, 2024  
**To:** Planning, Licenses and Development Committee  
**From:** Aaron Costa, Asst. Public Works Directors/ Operations Mgr.  
**Through:** Elizabeth Dragon, City Manager  
**Subject:** **Cellular Tower Lease Agreement - Assistant Public Works Director/Operations Manager**

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**Recommendation:**

Move that the Planning, Licenses, and Development Committee recommend that the City Manager be authorized to do all things necessary to negotiate and execute a lease agreement with Towers LLC for the installation of a cellular tower on City-owned property.

**Attachments:**

None

**Background:**

The City of Keene Water Fund owns property off Arch Street, formerly known as the Old YMCA Camp property. This property was purchased for the future development of a new groundwater production well. The City was approached by Towers LLC, a company that installs cellular communications towers. The proposed plan installs a Verizon cellular tower in a section of the city where cellular service is lacking.

Towers LLC has provided the City with a proposal and lease agreement to construct a cellular tower on the City-owned property. The proposed tower is approximately 110 feet tall and will be enclosed in a 100 feet x 100 feet fenced-in area. The proposed location will not interfere with future source water development plans. If approved by the City Council, the City Manager will negotiate the terms of the lease agreement and Towers LLC will then need to go through the City's Planning and Code Department to obtain the proper licenses and permits.

March 18, 2024

To the Honorable Mayor and Council,

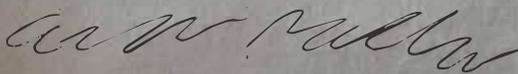
We can all agree that Keene is a great place to live, and the quality workforce we have working for our city is what helps make our city what it is. We can all also agree that maintaining and recruiting quality municipal employees is a priority for our city government. Ensuring that those who work for Keene enjoy a healthy and respectful workplace is crucial to employee satisfaction, retention, and recruitment.

Recently, there have been several disturbing events where city employees have been subjected to harassment from office seekers in the city. This behavior is unacceptable, and is inconsistent with our values as a city and as a council. Sadly, however, this kind of behavior has become more and more commonplace as examples of misconduct directed towards civil servants exist locally, state wide, and nationally. We don't have to participate in it, nor do we have to tolerate it.

The existing council disciplinary process is a peer-initiated process, meaning it can only be brought forward to the council, by other councilors or the mayor. This presents several pitfalls, specifically that councilors may not be aware of the mistreatment of city employees, or that councilors may not have the courage to speak up out of fear of being targeted by local or out-of-state political groups.

Though the candidates engaging in this behavior were ultimately unsuccessful, the possibility that an individual engaging in these behaviors could be elected to office certainly exists. As a council, we owe it to the people who work here to be prepared to address this kind of misconduct. I am therefore asking that the appropriate committee discuss revising the council disciplinary process with the City Manager, City Attorney, and Human Resource Director to identify an impartial, fair, and administrative process for city employees to report councilor misconduct, and for the council to address it.

The City of Keene is a great place to live and work, let's keep it that way.



Andrew M. Madison  
Keene City Council  
Ward 3

## **City Charter - Section 37. - Accountability.**

The city manager shall be responsible to the city council for the proper and efficient administration of the departments under his or her control. Neither the city council, nor any of their committees or members shall dictate the appointment of any person to office or employment by the city manager, or in any manner interfere with him or her or prevent him or her from exercising his or her own judgment in the appointment and discharge of employees of the city, except as stated in Section 29, Appointive and Removal Powers of mayor and councilors. Except for the purpose of inquiry and investigation, the city council and its members shall deal with the administrative service solely through the city manager, and neither the city council nor any of its members shall give orders to any of the subordinates of the city manager either publicly or privately. Knowingly violating the provisions of this section shall constitute a violation under [Section 46](#), violations, of this charter.

## **State Statute – RSA 48-C:16. – General Powers and Duties of Mayor and City Manager**

The charter shall specify a mayor or city manager who shall be the chief administrative officer and the head of the administrative branch of the city government, supervising the administrative affairs of the city and carrying out the policies enacted by the elected body. He shall enforce the ordinances of the city, the charter, and all general laws applicable to the city. He shall keep the elected body informed of the condition and needs of the city and shall make such reports and recommendations as he may deem advisable and perform such other duties as may be required by charter, ordinance or resolution of the elected body. He shall have and perform such other powers and duties not inconsistent with the provisions of the charter as now are or may be conferred or imposed upon him by municipal ordinance or upon mayors or city managers by general law. The city manager shall have the right to take part in the discussion of all matters before the city council, but not the right to vote.

## **State Statute – RSA 48-C:18. – Appointive Powers**

Subject to the provision of the charter, the chief administrative officer shall have the power to appoint and remove all officers and employees in the administrative services of the city, and he may authorize and empower the head of a department or officer responsible to him to appoint and remove subordinates in such department or office.

All such appointments shall be without definite term unless made for a provisional, temporary or emergency service not to exceed the maximum limits which may be prescribed by the merit plan.

## **State Statute – RSA 48-C:19. – Non-Interference by the Elected Body**

The elected body shall act in all matters as a body and shall not seek individually to influence the official acts of the chief administrative officer, or any other official, or to direct or request, except in writing, the appointment of any person to, or his removal from, office; or to interfere in any way with the performance by such officers of their duties. Any member violating the provisions of this section, as determined through procedures established in the charter, shall forfeit his office.



# CITY OF KEENE

R-2013-24-A

In the Year of Our Lord Two Thousand and ..... **Thirteen** .....

A RESOLUTION ..... **RELATING TO CITY COUNCIL DISCIPLINARY PROCESS** .....

*Resolved by the City Council of the City of Keene, as follows:*

WHEREAS, Section 28, of the City Charter for the City of Keene (“City Charter”) provides for the possibility of the removal of the Mayor or Councilors on specific charges and after due notice and hearing for prolonged absence from or other inattention to duty, mental or physical incapacity, incompetency, crime, immorality, or misconduct in office, on affirmative vote on roll call of at least two-thirds (2/3) of the elected Councilors; and

WHEREAS, the City Council recognizes that there is no specific process contained in the City Charter or in the City Council Rules of Order with respect to the potential removal of the Mayor or members of the City Council; and

WHEREAS, the City Council recognizes that, in addition to the possibility of removal under Section 28 of the City Charter, members of the City Council or the Mayor may engage in other activities or actions that may be deemed inappropriate or detrimental to the discharge of their official duties as elected representatives of the City of Keene, which require disciplinary measures short of suspension or removal; and

WHEREAS, the City Council recognizes that, whether or not a removal proceeding is to be instituted under Section 28, of the City Charter, or whether or not a member of the Council or the Mayor engages in other activities or actions which may be inappropriate or detrimental to the discharge of their official duties, there must be a process by which the Council makes a determination of removal under Section 28, of the City Charter, or a determination for the imposition of a form of discipline short of removal; and

WHEREAS, in accordance with RSA 46:13, the City Council may “make, alter or repeal rules for the orderly transaction of its business...;” and

WHEREAS, this authority is implemented by Section 21, of the City Charter pursuant to which the City Council “shall establish its own Rules of Order...;”

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of Keene, New Hampshire, that the following process be implemented and adopted as a Rule of the City Council with respect to either an action for removal under Section 28, of the City Charter, or for the imposition of discipline short of removal:

1. If the Mayor, or any member or members of the City Council, believe that the Mayor, or any other member of the City Council, should be subject to removal from office in accordance with the provisions of Section 28, of the City Charter, or subject to discipline short of removal, the reason or reasons

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therefore shall be enumerated in a written complaint and presented by the Mayor or complaining member(s) (“Complainant(s)”) to the full City Council for a vote on whether or not to proceed with the following disciplinary process. The complaint shall state specific facts for such disciplinary action, including removal based on one or more of the specific reasons justifying removal under Section 28.

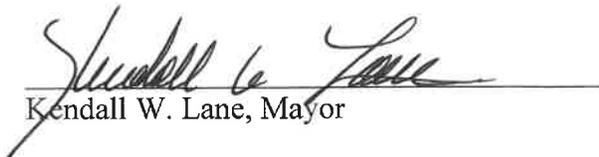
2. The City Council shall vote on the request for the disciplinary process at the next regularly scheduled City Council meeting after the filing of the complaint with the City Clerk. The Complainant(s) and the individual(s) subject to the complaint (“Respondent(s)”) shall present in summary fashion their respective positions for and against proceeding with the request for the disciplinary process. At the conclusion of the presentations a proper motion shall be made to implement the disciplinary process. If the motion receives a second, the City Council shall deliberate the motion. At the conclusion of the deliberations, the City Council shall vote on the motion. A motion to proceed with the disciplinary process shall require a two-thirds (2/3) roll call vote of the City Council members present at the meeting. All members of the City Council present at the meeting shall vote on the motion.
3. If the City Council fails to adopt the motion to proceed with the disciplinary process by a (2/3) roll call vote, then the matter shall be closed. If the City Council votes to implement the disciplinary process, then the matter shall be referred to the City Council Disciplinary Committee for further investigation.
4. The City Council Disciplinary Committee shall consist of the chairman of each of the City Council standing committees with two (2) additional City Councilors chosen by the Mayor. Neither the Complainant(s), nor the Respondent(s) shall be a member of the City Council Disciplinary Committee. In the event that any such member is a chairman of a City Council standing committee, then the vice-chairman of that committee shall sit in his or her place on the City Council Disciplinary Committee. In the event that the chairman or the vice-chairman are both ineligible to sit on the City Council Disciplinary Committee, then the Mayor shall select their replacements. In the event that the Mayor is the individual requesting the disciplinary process, or is subject to the request for the disciplinary process, then the members to be selected by the Mayor shall be selected by the first eligible chairman in successive order of the Finance, Organization and Personnel Committee, or the Planning, License and Development Committee, or the Municipal Services, Facilities and Infrastructure Committee, or their successor committees in existence at the time of the proceedings.
5. The City Council Disciplinary Committee shall convene no earlier than ten (10) days and no later than twenty days (20) following the City Council action to proceed with the disciplinary process, and shall investigate the request for disciplinary action. Prior notice of the date, time, and place of the meeting(s) shall be provided to all interested parties, but not less than five (5) days’ prior to the date of the initial meeting. The Complainant(s) and the Respondent(s) shall have the opportunity to present their respective

positions with respect to the request for disciplinary action and to be heard on the question. The Complainant(s) shall proceed first, followed by the Respondents. No other individual or City Council member shall participate in the proceedings except as required by, or with the approval of, the committee. Each side may be represented by independent legal counsel of their choosing to present the reasons for the complaint or the reasons against the complaint. The chairman shall chair the proceedings, and the City Council Disciplinary Committee may be assisted by the City Attorney or other legal counsel during all aspects of the investigation. The Rules of Evidence shall not strictly apply to the investigation by the City Council Disciplinary Committee, and the Committee may obtain and consider any and all evidence, testimony or other information it believes relevant to the investigation.

6. Upon the completion of the investigation of the complaint, the City Council Disciplinary Committee shall deliberate the question. Upon the completion of the deliberations, the Committee shall make a recommendation to the full City Council in the form of a proper motion. That motion shall be to either dismiss the complaint as not well founded, or to recommend that the City Council proceed with disciplinary action with respect to the complaint. The motion shall contain sufficient findings of fact referencing the investigation to support the Committee's recommendation.
7. The recommendation of the City Council Disciplinary Committee shall be acted upon by the full City Council at the next regularly scheduled meeting following the recommendation of the City Council Disciplinary Committee. Action on the recommendation of the City Council Disciplinary Committee shall require a two-thirds (2/3) roll call vote of all the City Council members present at the meeting. If the recommendation of the City Council Disciplinary Committee is to dismiss the complaint as not well founded, and if the recommendation is approved by two-thirds (2/3) roll call vote, then the matter shall be closed. If the recommendation is to dismiss the complaint, and the recommendation is not approved by a two-thirds (2/3) roll call vote, or if the recommendation is to proceed with disciplinary action and the recommendation is approved two-thirds (2/3) roll call vote, then the City Council shall hold further hearing on the complaint.
8. If further hearing is required after the vote of the City Council on the recommendation from the City Council Disciplinary Committee, then the City Council shall schedule a date and time for further hearing before the City Council with sufficient prior notice to the Complainant(s) and to the Respondent(s) to prepare for the hearing, but no less than five (5) days' prior to the date of the hearing. The Complainant(s) and the Respondent(s) shall be provided with a copy of the complaint and the City Council Disciplinary Committee's recommendation at the time of the hearing notice. The Complainant(s) shall proceed first, followed by the Respondent(s). Each side shall have an opportunity for rebuttal. No other individual shall participate in the proceedings except with the approval of the Mayor or as may be necessary to present the complaint or the defense against the complaint. Members of the City Council may ask clarification questions of the participants directed through the Mayor. The Complainant(s) and the

Respondent(s) may be represented by legal counsel of their choosing during the hearing. The Mayor shall be Chairman of the proceedings, and the Mayor and City Council may be assisted by the City Attorney or other legal counsel during all aspects of the proceedings. If the Mayor is a complaining party, or is the subject of the complaint, then, pursuant to Section 6 of the Rules of Order, the Mayor shall be deemed to be temporarily absent and the City Council shall elect a City Councilor who is not a Complainant or a Respondent to serve as Chairman until the completion of the proceedings. The Rules of Evidence shall not strictly apply to the proceedings and the City Council may consider any and all evidence, testimony or other information it believes relevant to the question. The Chairman's decision with respect to the admittance or exclusion of evidence or other information shall be final.

9. Upon the conclusion of the presentations, the City Council shall deliberate on whether or not to impose disciplinary action. Upon completion of the deliberations, the Chairman shall accept a proper motion to impose disciplinary action. A motion to impose any disciplinary action, up to and including removal of a member of the City Council or the Mayor, shall be accepted only if it contains specific findings of fact directly supporting such disciplinary action, including removal based on one or more of the specific reasons justifying removal under Section 28, of the City Charter, and only if the proposed disciplinary action is specifically stated in the motion. Any decision by the City Council to impose disciplinary action, up to and including removal from office under Section 28 of the City Charter, shall require a two-thirds (2/3) roll call vote of the City Council. All members of the City Council present at the meeting shall vote on the motion.
10. If the City Council fails to adopt the motion to impose disciplinary action as presented, or as properly amended, by a two-thirds (2/3) roll call vote, then the matter shall be closed and the proceedings shall be concluded.
11. If the motion for disciplinary action is for removal of the Mayor or member(s) of the City Council under Section 28 of the City Charter, and if the City Council shall, by two-thirds (2/3) roll call vote, adopt the motion, then such member(s) or the Mayor shall be immediately removed from office.
12. If the motion for disciplinary action is other than removal under Section 28, of the City Charter, and if the City Council shall, by two-thirds (2/3) roll call vote adopt the motion, then the City Council shall impose the discipline stated in the motion, short of removal or suspension of the member(s) or the Mayor from office.
13. Nothing contained herein shall be interpreted in a manner to alter, amend or revise any provision of the City Charter.
14. The City Council disciplinary process is subject to the requirements of NH RSA 91-A.

  
Kendall W. Lane, Mayor