

Town of Keene
Local Law No. 2 of 2024

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TOWN OF KEENE WATER LAW

Local Law Number 207 2024

Effective 10-8-24

A LOCAL LAW of the Town of Keene, Essex County, New York, (the "Town") regulating the use of public water facilities and furnishing the water to the consumers of the **Keene Water District 1** (the "District").

Be it enacted by the Keene Town Board ("Town Board") as follows:

ARTICLE 1

General Regulations

1.1 The following rules and regulations are a part of all contracts between the District and water consumers ("consumers") for the supply and use of water. Each District consumer is bound by, and is considered to have agreed to, these rules and regulations as a condition of service from the District.

1.2 All water service of whatsoever kind and nature, shall be rendered by the District, and consumers shall be billed for such service by the Town of Keene.

1.3 The Town undertakes to use reasonable care and diligence to provide to users in the respective water districts a continuous supply of water at a reasonable minimum pressure but reserves the right at any time and without notice to shut off the water in any water district main for any purpose. The Town shall not be liable for a deficiency or failure in the supply of water or in line pressure from any cause whatsoever. The Town will give notice of the shutting off of water when time and conditions permit.

1.4 Permission of the Town Water Superintendent must be granted before any water can be turned on, off or tampered with. No persons (except for fire protection purposes) shall open or interfere or draw water from any hydrant without permission of the Water Superintendent. No person shall molest, tamper with or damage any Town and/ or Town Water District facility including but not limited to hydrants, mains, valves, curb boxes, meters, meter seals, service pipes, etc. Any person violating this law shall be dealt with according to this Local Law and/or New York State Penal Law.

ARTICLE 2

New Connections to System

2.1 Application and Fee - Anyone wanting to connect to a District main must apply to the Water Superintendent for permission, and pay a fee as established by the Water Superintendent and Town Board for each connection at the time of application. This fee is for the cost of the permit and inspection.

2.2 Curb Stop and Service Connection Pipe - The District curb stop (shut-off) will be provided by the District and will be placed at the point on the consumer's property or right of way nearest to the main. All work related to new curb stop and service connection pipe incident to the digging of the trench, laying service pipe, backfill, labor and making connection from the curb stop to the consumer's premise will be at the sole expense of the applicant and must be done to the satisfaction of the (the "Superintendent") or his/her representative. The curb stop will remain closed and will be opened only by the Superintendent, unless he/she is granted permission by the Water Superintendent otherwise.

2.3 Connection to District Main: Penalty - No one but the Superintendent will make any connection to the District mains, and no connection will be made to the service pipe between the main and the curb stop. Anyone who violates this provision will be subject to a penalty as established by the Town board for each offense plus the cost of all necessary repairs and expenses incurred by the District.

2.4 Permits Required: Liability of Applicant: Indemnification - No work will be done until the applicant has obtained a street opening and building permit, if required. The applicant assumes all liability for injuries, claims or suits for damages occurring while, or arising out of, the work being performed. The applicant will indemnify and hold harmless the District and Town, their agents, servants and employees from all such injuries, claims or suits.

2.5 Separate Service: Penalty - A separate tap and service will be installed for each premise on a street in which there is a District main, and no consumer will supply water to another premise. The word "premise" means a building under one roof occupied as a residence or for commercial purposes. Anyone who violates this provision will be subject to a penalty as established by the Town Board and Water Superintendent.

2.6 Existing Curb Stop - Main to Curb is the Towns', Curb to Service is the consumers'.

ARTICLE 3

General Operations

3.1 Work performed only by Superintendent - No work will be done upon a District main or upon the service pipe between the main and curb stop except at the direction of the Superintendent. No connection will be made to a main after November 1 and before May 1 except with permission of the Superintendent.

3.2 Reporting damage or leaks: Repairs - The consumer will notify the Superintendent or any leak in, or damage to, the service pipe. In case of such leak or damage, upon 24 hours notice to the consumer the water service may be turned off at the curb stop, and remain turned off until the leak or damage is repaired to the Superintendent's satisfaction. Repairs to the service pipe between the curb stop and the consumer's premise will be made by the consumer at his/her own cost and expense.

3.3 Responsibility for Water Lines and Service

(i) The Town will control the installation, maintenance, repair and adjustment of taps, mains, curb stops, and service pipes between the main and curb stop. The District and Town will not be responsible for breaks, obstructions, or interruptions in service arising from any cause. However, they will take the steps necessary to restore service from the main to the curb stop.

(ii) The property owner will be liable for the service pipe from the curb stop to the owner's premise, including the costs and expenses of installation, repair, replacement, and damages. Such service pipe will be specified in Section 2.4 of the Town Water Law.

3.4 Control of Curb Stop Violations - Service will be controlled at the curb stop, and water will be turned on and off only by the Superintendent or an authorized representative of the Town. Violations of this provision will be sufficient cause for suspending service, in addition to which a penalty may be imposed as established by the Town Board and Water Superintendent.

3.5 Town Not Liable for Change or Shut Off of Water: No Guarantee of Service - The District and Town are not liable for any damage or loss that may arise from or be caused by any

change, diminution, or increase of water pressure or by the termination of water service. No deduction from the service charge will be made for periods when the service is temporarily shut off. The District and Town do not guarantee service from the main to the premises or through any piping, valves or connections therein.

3.6 Safety Valves - All steam boilers, heating systems and hot-water tanks supplied with District water **must** contain a suitable safety valve in the form of a check valve, vacuum valve, backflow preventer or other similar device. This will prevent damage to the consumers equipment due to a loss of water or the infusion of liquids from the consumer's premises to the district main. Such valve(s) will be installed at the consumer's expense, and at his/her peril. The District and Town assume no responsibility for proper operation and functioning of such valves.

3.7 Control of Water Supply - The District and Town are not liable for any damage sustained by failure to supply water to a consumer, and they reserve the right to control the amount of water supplied. They also reserve the right at any time considered necessary to prohibit the use of water for sprinkling of lawns or gardens, irrigation, or for any other purpose.

3.8 Misuse of Town Water - In case of misuse of water the following procedure will be followed:

(i) The Superintendent will identify the water misuse and report it to the Town Board.

(ii) Written notification by certified mail will be given to the misuser, granting him/her three days to correct the misuse.

(iii) If the misuse continues after three days, the Superintendent will declare a continued misuse and will turn off service at the curb stop.

(iv) Service will be reinstated upon correction or discontinuance of the misuse, and upon recommendation of the superintendent to the Town Board. Payment of all indebtedness and a connection fee as established by the Town Board must be paid **BEFORE** service is reinstates.

3.9 Interpretation of Rules - The Water Superintendent will be the sole judge of the meaning of these rules and regulations. Its interpretation will be final and binding upon all applicants for water service and upon all consumers of water.

ARTICLE 4
Expansion of Water System
(New Development)

Engineering Plans and Approval Required.

4.1 Engineered plans and specifications prepared and stamped by a professional engineer licensed to practice in New York State shall be required for any new water system extensions. Plans shall be subject to review and approval of the Town's Engineer. Where expansion is proposed by someone other than the Town Board on behalf of the District; all costs associated with the expansion including the cost of such review shall be borne by the person proposing the extension. Funds to cover review expenses shall be deposited in escrow with the Town prior to review work being performed.

4.2 Standard Specification and Details. Extensions to the water system shall be made in accordance with Town of Keene Standard Specification and Details for Water Facilities, as adopted by resolution of the Town Board.

4.3 Construction Inspection Required. Construction of water system expansions shall be inspected by the Town, or, at the discretion of the Town Board, the Superintendent. Where extension is proposed by someone other than the Town Board on behalf of the District, the cost of inspection may be borne by the person proposing the extension. Funds to cover inspection expenses shall be deposited in escrow with the Town prior to construction work being performed. No work shall advance unless inspected to the satisfaction of the Superintendent and the Town Board.

4.4 Testing and Certification. All water system extensions must be successfully leak tested in accordance with AWWA specifications, and disinfected and tested for bacteriological contamination in accordance with regulations prior to acceptance by the district. Written certification by a New York State licensed professional engineer attesting as such shall be provided to the Superintendent by the person making the extension prior to the Town Board's acceptance of the extension.

4.5 Record Drawings. Record drawing shall be prepared for all water system extensions by the design engineer which reflect any substantive modifications to the original plans and specification made during construction.

4.6 Dedication of Facilities. Upon written acceptance by the Town Board, completed facilities for water system expansions which have been privately constructed, shall be dedicated

to the District, at which time they will become the property of the District. At the time of dedication, the person dedicating the facilities to the Town shall provide a guarantee against defects in materials and workmanship for a period of one year. The guarantee shall be in such form and contain such provisions as deemed necessary by the Town Board, secured by a surety bond or such other security as the Town Board may approve.

4.7 Easements. Any expansion of the water system constructed on or adjacent to private property which property must be entered upon for the purposes of maintaining or reconstructing said water system extension will require easements. Any such easements will be written such that the Town and the District has the right to access for maintenance and reconstruction of the waterlines. Easements shall extend along the length of the waterline a minimum width of 30 feet: 15 feet on each side of the centerline of the waterline.

4.8 Restoration. All surface features and landscaping shall be fully restored to at least as good a condition as existed prior to construction by the person making the water system extension. Restoration shall be the responsibility of the developer.

ARTICLE 5

Shutting Off and Turning On Water

5.1 If a consumer wants to shut off or turn on water service, the consumer shall make a request to the Water Superintendent three business days' notice prior to the desired date of service.

5.2 The consumer will be charged a fee for shutting off and turning on water service in an amount set by the Water Superintendent and Town Board yearly. If water service is shut off for one continuous calendar year or more, there will be no water usage charge for such premises after such a year. If water service is provided to the premises any time during the calendar year, the full year's water charges will apply. When a consumer wants to resume water service, three business days' notice must be given to the Water Superintendent prior to the desired date of service.

5.3 All turn on and turn off charges made to an account shall be payable to the Town within 30 days of the date of the bill.

ARTICLE 6

Billing

6.1 A charge of ten percent (10%) of the total amount of current charges shall be added to the bill, if payment has not been received by date set by the Water Superintendent and Town Board yearly.

6.2 If full payment for water service usage, debt service [ad valorem], fines, fees and/or penalties are not received by date established by Town board and Water Superintendent yearly, all delinquent amounts shall be added to the Essex County Tax rolls. Payments for the delinquent amounts after said date cannot be accepted by the Town and any such payment to the Town will be returned to the consumer.

6.3 Regardless of any understanding or agreement to the contrary between other parties, the owner of the premises shall be responsible for payment of the bill. However, by special written arrangement, a bill may be sent to the owner in care of a tenant or lessee or payment, but the owner remains responsible for all unpaid bills.

6.4 For any charge for water use accrued after January 1, 2022, a consumer may apply for a waiver or a credit with the Water Superintendent for cause:

Waiver: All application or appeals granted before September 1 of the given calendar year shall be eligible for a waiver of the relevant water use charges-

Credit: All applications of appeals granted after September 1 of the given calendar year shall be eligible for a credit toward that consumer's next year's water use charges.

All applications to the Water Superintendent for a credit or waiver of water use charges must be submitted not later than seven (7) days after those water use charges are billed to the consumer. In the event that the application is denied, the consumer may appeal to the Town Board. Appeals must be submitted within fourteen (14) days of the Water Superintendent's denial of the credit or waiver application. Penalties and fines may not be waived or credited.

6.5 Change in ownership

(i) The new owner or his authorized representative shall make a notarized application for water service upon taking title to the property, although water service may not have been interrupted. The new owner or his authorized representative shall be responsible for all current water charges and any unpaid balance upon accepting title to the property.

(ii) All mailing address changes must be given to the Water Superintendent within seven (7) working days of change.

6.6 All parcels within a the district will be charged *ad volermum* regardless of water usage by Essex County.

ARTICLE 7

Fire Hydrant Use and Maintenance

7.1 Application for connection to private fire protection systems will be made in writing to the Water Superintendent and Town Board. The application will set forth the details thereof, and will be accompanied by a sketch or diagram showing the plan of the system to be installed. This plan must be approved by the Town before commencement of any work. All installations serving private lines protection systems will be constructed and maintained at the sole expense of the owner or applicant. Connections for private fire protection purposes will be properly valved to prevent the use of water for purposes other than fire protection.

7.2(a) The Town of Keene shall be responsible for the maintenance of all Fire Hydrants within the District.

7.2(b) Any and all Fire Hydrant use contracts or agreements for the District shall be renewed yearly. On consent of the Town Board, the Water Superinint shall have the authority to negotiate and renew Fire Hydrants use contracts or agreements.

7.3 Consumers except for fire protection purposes, shall request any use of Fire Hydrants three business days prior to desired date of use and will be charged per gallon at rate set by the Town Board and Water Superintendent yearly.

7.4 Permit required to use hydrants: Exception for fires or drills: Penalty - Except in cases of fire or drills, no one will take water from District fire hydrants without obtaining permission from the Superintendent, which permission will be conditioned by the circumstances involved. A fee for the use of such water will be at the current per gallon rate as established by the Water Superintendent and in effect. In case of fire, fire hydrants will be opened and water taken only by the Water Superintendent or his/her representatives or active members of the Fire Departments. Anyone violating these provisions will be subject to a penalty as established by the Town Board and Water Superintendent.

ARTICLE 8

Violations & Termination of Water Service for Non-Payment of Water Usage Fee

8.1 The Water Superintendent is authorized to administer and enforce provisions of this Local law and any related laws and regulations as may be designated by the Town Board.

8.2 Service of any notice of violation of this Local law shall be made upon the owner of the premises personally or by mailing it to the owner of the premises at their last address furnished to the Town of Keene.

8.3 Upon 30 days written notice to the consumer, the Water Superintendent may terminate water service to a consumer only for non-payment of the water usage fee as permitted by any applicable local, state or federal law. The Town board may establish regulations related to this provision of the local law by resolution.

8.4 Any consumer that violates, or assists in the violation, of any provision of this Local Law, any regulations promulgated by the Town Board hereunder, shall be subject to the following civil penalties:

- (a) Civil penalty of \$250, for a first violation;
- (b) Civil penalty of \$500 for a second violation, both of which violations were committed within a period of two (2) years;
- (c) Civil penalty of \$1000 for a third violation, all of which violations were committed within a period of two (2) years;
- (d) Each violation that continues for a period of one (1) week shall constitute a separate additional violation for each week such violation continues;
- (e) On Consent of the Town Board, Water Superintendent may bring a civil proceeding in Town Court for enforcement of this Local Law and any regulations promulgated by the Town Board hereunder.
- (f) The Town of Keene may seek injunctive relief, civil penalties and any other relief available to enforce the provisions of this Local Law and any regulations promulgated by the Town Board hereunder through commencement of an action in the New York State Supreme Court or any other court of competent jurisdiction. Such action must be authorized by a resolution of the Town Board. As part of such action, the Town of Keene may seek and obtain an order from the Court requiring the defendant to reimburse the Town for its attorney's fees and costs related to the action.

(g). Enforcement remedies available are not exclusive and may be sought cumulatively.

(h). Any consumer determined to be in violation of any of the provisions of this Local Law, or any regulations promulgated by the Town Board hereunder, shall be obligated to reimburse the Town of Keene for its enforcement costs, including its reasonable attorney's fees.

ARTICLE 9

Abandonment of Town Pipes

9.1 The District and Town may abandon all their water mains and pipes that are no longer in use.

ARTICLE 10

Outside Users

10.1 Anyone wanting to use District water whose premise is not within the District must petition the Town for permission to connect a private service line to the District main or the nearest source of District water. If such permission is granted:

(a) These rules and regulations will apply.

(b) There will be a control valve located on the District line for all mains, branch lines and service lines outside the District, and

(c) The District will have the right to end water service to any outside user whenever an emergency arises, when the District water supply is so depleted to allow the District to supply water only to District residents, and in cases of violation of rules and regulations. All expenses and costs of installation, maintenance and repair of water mains, branch lines and water service lines outside the District will be borne by the owner.

(d) All outside users will sign an "Out of District User Agreement" adopted and revised from time to time by Town Board Resolution.

(e) All out of district users will have their *ad volermum* tax based on 100% of their total assessment.

ARTICLE 11

Water Charges, Fines and Penalties

11.1 The charge for water use and all and any fines and penalties associated with this Local Law shall be established from time to time by the Town Board by resolution.

11.2 Consumers shall have the right to appeal water charges, fines and penalties pursuant to Article of 14 of this local law.

ARTICLE 12

Appeals

12.1 The Town Board shall hear all appeals of decisions by the Water Superintendent under this Local law. The Town Board shall have all of the powers and duties prescribed by law and may reverse, affirm or modify in whole or in part, any order, requirement, decision or determination of the Water Superintendent.

12.2 The decision or determination of the Water Superintendent appealed from shall not be stayed unless the Town Board, in its discretion, agrees to grant consumer appellant such stay upon consumer appellant's application for such stay.

12.3 A consumer who wishes to appeal a decision or determination of the Water Superintendent shall make a written request, within 30 days of such decision or determination, for a hearing to the Town Clerk. The Town Board shall endeavor to hear the appeal within 30 days of the request. At the appeal hearing, the Town Board shall not be bound by the strict rules of evidence. The Town board shall render its decision within 10 days of the hearing.

A party who wishes to appeal the decision or determination of the Enforcement Officer shall make a written request for a hearing to the Town Clerk. The Town Board shall endeavor to hear the appeal within 15 days of the request. At the hearing, the Town Board shall not be bound by the strict rules of evidence. The Town Board shall render its decision within 10 days of the hearing.

ARTICLE 13

Effective Date

13.1 This Local Law shall take effect upon its being duly filed in the office of the Secretary of State.

ARTICLE 14

Repeal of Inconsistent Local Laws Or Ordinances:

14.1 This Local Law shall supersede all prior inconsistent Local Laws, Ordinances, Rules and Regulations relative to regulating the use of public water facilities and furnishing the water to the consumers of the Keene Water District 1.

14.2 All prior inconsistent Local Laws, Ordinances, Rules and Regulations, including but not limited to Local Law 1 of 2005, and upon the effectiveness of this Local Law, are hereby repealed.