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**INFORMATIONAL BULLETIN**

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2013-03	PLACES OF ASSEMBLY			03/04/2013
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	RBF	JWD	RSA 155:17 - 39	

This bulletin serves to clarify the provisions of the Public Assembly statute, RSA 155:17 – 39. A Frequently Asked Questions (FAQ's) list follows, and is part, of this bulletin.

**RSA 155:17 – Definitions.**

- *“Places of Assembly” shall mean a room or space in which provision is made for the congregation or assembly of 100 or more persons for religious, recreational, educational, political, social or amusement purposes or for the consumption of food or drink.*
  - *For the purposes of this definition such room or space shall include any occupied connecting rooms, space or area on the same level or in the same story, or in a story or stories above or below, where entrance is common to the rooms, space or areas, and it shall mean a tent or area covered by canvas, in which provision is made for the congregation or assembly of 50 or more persons for religious, recreational, educational, political, social or amusement purposes or for the consumption of food or drink.*
    - *For the purposes of this definition of such tent and area covered by canvas it shall include connected tents, spaces or areas covered by canvas where entrance is common to the tents or canvas-covered areas.*
- *“Licensing Agency” shall mean the chief of the fire department, the firewards or engineers, if any, otherwise the selectmen of the town or the commissioners of village district as the case may be.*
- *“Approved” shall mean approved by the licensing agency.*
- *“Fire resistive” or “flameproof” materials or construction shall mean materials or construction shall mean materials of construction which will satisfactorily resist the efforts of severe fire.*
- *“Placard indicating capacity” shall mean a sign of suitable size and form to indicate authorized capacity of each room in number of occupants other than employees.*
- *“Enforcement Agency” shall mean the normal law enforcing authorities of the state, county, city or town in which the place of assembly is located.*

### **RSA 155:18 – License Required.**

*No person shall own or operate a place of assembly within this state unless licensed to do so by the licensing agency of the city, town or village district where said place of assembly is located in accordance with the regulations herein promulgated. In the application of this act to existing places of assembly the licensing agency may modify such of its provisions as would require structural changes if in his opinion adequate safety may be obtained otherwise and provided that a permanent record is kept of such modifications and the reasons therefore.*

### **RSA 155:19 – Application Issuance; Revocation.**

*A permit shall be obtained from the licensing agency by the owner or operator of any place of assembly. Such permit shall be issued without charge for one year from date of issue and shall be revocable for cause. Application for permit shall be made to the licensing agency who may require building plans, showing type of construction, exits, aisles and seating arrangements and details of decorations. No permit shall be issued by the licensing agency until the provisions of this chapter have been complied with.*

### **RSA 155:20 – Flameproof Canvas and Tents.**

*No permit under RSA 155:19 shall be issued to an owner or operator of any circus, carnival or any other place of assembly covered by canvas until such applicant shall furnish to the licensing agency a certificate of flameproofing of such tent or canvas.*

### **RSA 155:34 – Inspection by Licensing Agency.**

*The licensing agency shall inspect, or cause to be inspected, each place of assembly. Such inspection shall be at least semi-annually and as such times, including time of occupancy and use, as to assure compliance with these regulations an such orders as may be issued in connection with the maintenance of aisle space, the prevention of overcrowding, the use of decorations, the maintenance of exits, collapse of revolving doors, and the maintenance of fire appliances. Where conditions are unsatisfactory, written orders for immediate correction shall be given.*

### **RSA 155:37 – Enforcement.**

*The law enforcing authorities of the state, counties, or any city or town, are authorized to prosecute any violations of this act.*

### **RSA 155:38 – Conflict.**

*When, in any specific case, different provisions of this chapter shall conflict with other state or municipal regulations, the most restrictive requirements shall govern.*

## **RSA 155:39 – Penalty**

*Every person who shall let or use any building for the purposes specified in RSA 155 after required permit has been denied or rescinded, or any person violating any provisions of this chapter shall be guilty of a misdemeanor if a natural person or guilty of a felony if any other person.*

### **FREQUENTLY ASKED QUESTIONS**

1. The NFPA 1, Life Safety Code defines a place of assembly as any occupancy of over 50 persons. Which occupant load figure should I use?
  - a. The NFPA 1, Life Safety Code does define a place of assembly as any occupancy of 50 or more persons [1:3.3.178.2 - 2009]. The purposes of the NFPA definition is for determining code requirements. The purpose of the RSA 155 definition is for determining whether a permit is required. Any occupancy of 49 or less would be classified as another occupancy use group under the NFPA 101, Life Safety Code<sup>®</sup>. Any occupancy of 50 to 99 persons would be required to follow all the provisions of an assembly occupancy in the NFPA 1, Life Safety Code<sup>®</sup>, but would not be required to be licensed per RSA 155.
2. There is a local pizza shop in my town which has seating for 30 persons. Do they need an assembly permit?
  - a. No. This occupancy would be classified as a different occupancy use group according to the NFPA 101, Life Safety Code<sup>®</sup> and would not require a license per RSA 155.
3. Can I charge a nominal fee to the applicant for the issuance of the assembly permit?
  - a. No. The charging of a fee for the permit is expressly prohibited in RSA 155:19.
4. RSA 155:17 speaks of a placard. Does RSA 155 require places of assembly to be placarded to identify the occupant load?
  - a. No. RSA 155:36 used to require the placarding of rooms, but that section was repealed in July of 1973. However, nationally published codes such as the NFPA 1, Fire Code and the NFPA 101, Life Safety Code<sup>®</sup> adopted pursuant to RSA 153:5 may require the posting of occupant loads.
5. There is a venue in town that erects tents just for the weekend. Can an assembly permit be issued just for the specified dates of operation?
  - a. No. Technically, RSA 155:19 requires that the assembly permit be issued for one year. At the conclusion of the event and once the tent is taken down the occupancy no longer exists and the permit may be rescinded or revoked.
6. After conducting an inspection, some violations of the NH State Fire Code are noted. The licensing agency issued a written order to correct the violations within thirty (30) days. The applicant needs the assembly permit to apply for a liquor license. Can the permit be issued with stipulations that the violations be

- corrected within the thirty (30) day period?
- a. No. While RSA 155:19 requires that all of the provisions of RSA 155 be adhered to, RSA 155:34 requires that upon discovery of any unsatisfactory condition the licensing agency shall issue written orders for immediate correction. Thirty (30) days would not be considered to meet the “immediate” definition.
  - b. As such, the Authority Having Jurisdiction may elect to withhold the permit depending on the severity of the violations.
7. After conducting an inspection, some violations of the NH State Fire Code are noted. The licensing agency issued a written order to correct the violations immediately and scheduled a re-inspection in thirty (30) days. The applicant needs the assembly permit to apply for a liquor license. Can the permit be issued for six (6) months?
- a. No, permits shall be issued for one (1) year and
  - b. If the violations are not satisfactorily addressed the permit may be revoked for just cause.
8. The local municipality has an ordinance that requires all public buildings in the jurisdiction to be inspected by the fire department once a year. Despite the language in RSA 155:34 requiring semi-annual inspections, can the fire department use the language of the local ordinance to govern them on frequency of inspections?
- a. No. RSA 155:34 requires inspections of places of assemblies to occur twice per year. RSA 155:38 speaks specifically to the topic of conflict within the statute. RSA 155:38 states that when a conflict is present, the most restrictive provision shall apply. In this case, semi-annual inspections are more restrictive than annual inspection and therefore the semi-annual inspections would apply.
9. Can the issuance of assembly permits be delegated to other code enforcement agencies?
- a. No. RSA 155:17 clearly defines the licensing agency as:
    - i. Chief of the Fire Department, Firewards or Engineers or if none,
    - ii. The Board of Selectmen of the town or if not applicable,
    - iii. The Commissioners of the Village District.
10. An organization in town is planning a large event which is expected to draw thousands of people. Food is being provided in a large tent with tables and chairs. Connected to the tent is another tent which will be used to store and prepare food and will act as the main entrance to the main tent. Does the connected tent have to comply with the provisions of RSA 155 even though the connected tent will not have any public in it?
- a. Yes. RSA 155:17 defines the place of assembly as the tent and any connected tents which share an entrance.
11. The Liquor Commission has revoked a liquor license for a local sports bar. Is the Place of Assembly permit automatically voided when the liquor license is revoked?
- a. No. As long as the provisions of RSA 155 are adhered to and there are no violations of the NH State Fire Code, the place of assembly permit is still

valid. The licensing agency should, however, attempt to find out why the liquor license was revoked to make sure that it was not something that also may be considered a violation of the NH State Fire Code.

12. The Liquor Commission is requiring that a Place of Assembly permit be issued by the licensing agency for a place of assembly that has an occupant load of less than 100 persons. Should a Place of Assembly permit be issued?
  - a. Yes. There may be times that the Liquor Commission requires the operator to have a Place of Assembly Permit for their liquor license for occupancies not covered by RSA 155. The issuance of a permit under these circumstances is done so outside the authority of RSA 155, however, the requirements for the permit still must comply with RSA 155 for things such as length of issuance, etc. For fire code enforcement action as the basis for a violation use the penalty from RSA 153 and order to vacate if it rises to that level.