



City of Keene

Building Regulations Chapter 18

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Building Regulations

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ARTICLE I. - IN GENERAL

Sec. 18-1. - Authority.

Articles I—IV of this chapter are adopted by the City of Keene ("city") in accordance with, and under the authority granted by RSA 47:17, RSA 48-A, RSA 155-B, RSA 674:51 and RSA 674:51-a.

(Ord. No. O-2009-09-B, 6-18-2009)

Sec. 18-2. - Definitions.

For the purpose of articles I—IV of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

Whenever the words dwelling, dwelling unit, or premises, are used in this article, they shall be construed as though they were followed by the words "or any part thereof."

Accessory structure shall mean a structure on the same lot and customarily incidental and subordinate to the primary structure.

Approved shall mean the official consent or formal confirmation of sanction by the code enforcement department or other appropriate city official.

Building shall mean any structure or any part thereof used or intended for supporting or sheltering any use or occupancy.

Building code shall mean the current Building Code of the City of Keene.

Building inspector shall mean individual(s) designated by the code enforcement department responsible for the enforcement of the building code.

Bulk container shall mean any dumpster, roll-off container, or compactor dumpster, or more than two cans greater than 64 gallons. See also "waste storage container."

Code administrator shall mean the staff member assigned or authorized to interpret and administer the building and/or housing standards and zoning codes.

Code enforcement department shall mean the officials of the city, and/or their duly authorized representatives, charged with the administration and enforcement of this chapter.

Crosswiring shall mean a condition where all or part of the electric service for one dwelling unit is connected to or paid for through an electric meter that serves another dwelling unit.

Demolition shall mean the act of pulling down, destroying, removing, or razing a building or commencing the work of total or substantial destruction with the intent of completing the same. It is not the intent of this article to include interior demolition which does not alter the appearance of the exterior of the building.

Demolition review committee shall mean a committee of the Keene Heritage Commission established by City Code [section 2-831](#) and comprised of three members of the commission and two alternates appointed by the chair of the commission.

Dwelling shall mean any building, or common area, that contains one or more dwelling units that are used or intended or designed to be built, used, rented, leased, let or hired out for human occupancy, or that are occupied for living purposes.

Dwelling unit shall mean a single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

Exit shall mean that portion of a means of egress system, which is separated from other interior spaces of a building or structure by fire resistance/rated construction and opening protectives as required to provide a protected path of egress travel between the exit access and the exit discharge. Exits include exterior doors at ground level, exit enclosures, exit passageways, exterior exit stairs, exterior exit ramps, and horizontal exits.

Extermination shall mean the control and elimination of insects, rodents, vermin, and other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poison spraying, fumigating, trapping, or by any other approved pest elimination methods.

Garbage shall mean the animal or vegetable waste resulting from the handling, preparation, cooking, and consumption of food. See also "waste."

Guard shall mean a building component or system of building components located near the open sides of elevated walking surfaces that minimizes the possibility of a fall from the walking surface to the lower level.

Habitable space shall mean space in a dwelling for living, sleeping, eating, or cooking. Bathrooms, toilet rooms, closets, halls, storage, or utility spaces are not considered habitable spaces.

Handrails shall mean a horizontal or sloping rail intended for grasping by the hand for guidance or support.

Hazardous building shall mean any building, which because of inadequate maintenance, modifications made in violation to the building or fire code, dilapidation, physical damage, unsanitary condition, or abandonment, constitutes a fire hazard, or other hazard to public safety or health. See also "unfit for human habitation."

Hazardous condition shall mean any inadequate maintenance, repair or disrepair, modification, physical damage or other condition which constitutes a hazard to public safety or health. See also "hazardous building."

Housing standards enforcement officer shall mean individual(s) designated by the code enforcement department to act as the public agency in accordance with RSA 48-A:3.

Infestation shall mean the presence of insects, rodents, vermin, and other pests.

Kitchen shall mean an area used or designated to be used for the preparation of food including sink, cooking facilities, and refrigeration.

Let for occupancy or let shall mean to allow the use and/or occupancy of a dwelling or premises, by any person or persons with or without remuneration.

Litter shall mean all rubbish, refuse, garbage, trash, debris, dead animals, and other discarded materials of every kind and description. See also "waste."

Lodginghouse shall mean any dwelling for more than four unrelated persons, which lets sleeping accommodations for a transient or permanent basis, without personal care services, with or without meals, but without separate cooking facilities for individual occupants. For purposes of this chapter, the term lodginghouse shall not include a motel or hotel.

Manufactured housing means any structure, transportable in one or more sections, which in the traveling mode, is eight body feet or more in width and 40 body feet or more in length, or when erected on site, is 320 square feet or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to required utilities, which include plumbing, heating, and electrical heating systems contained therein. Manufactured housing as defined in this section shall not include campers or recreation vehicles as defined in RSA 216-I:1 or RSA 259:84-a; presite built housing as defined in RSA 674:31-a; or modular buildings as defined in RSA 205-C:1, XI.

Manufactured housing park means any lot, parcel, or tract of land designed, maintained, or intended for the purpose of supplying a location or accommodations for any manufactured housing and upon which any manufactured housing is parked to be occupied as a dwelling and includes all buildings used or intended for use as part of the park.

Multifamily shall mean a dwelling containing more than two dwelling units.

Occupant shall mean any person maintaining possession or control over a premise.

Owner shall mean any person, agent, operator, firm, or corporation having a legal or equitable interest in the property, or recorded in the official records of the state,

county, or municipality as holding title to the property, or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or the administrator of the estate of such person if ordered to take possession of real property by a court of competent jurisdiction.

Person shall mean any individual, heir, executor, administrator or assign or any firm, corporation, partnership, or other legal entity its successors or assigns or any agent of the aforesaid.

Plumbing or plumbing fixture shall mean a receptor or device that requires both a water-supply connection and a discharge to the drainage system. The term includes water heating facilities, water pipes, gas pipes, garbage disposal units, lavatories, water closet, bathtubs, shower baths, installed clothes washing machines or other similar equipment, catch basins, drains, vents, or other similarly supplied fixtures, together with all connections to water, gas, sewer, or vent lines.

Premises shall mean a plot or parcel of land including any building or accessory structure thereon, also "property."

Primary structure shall mean a structure that is central to the fundamental uses of the property and is not accessory to the use of another structure on the same premises.

Public agency shall mean that individual designated by the code enforcement department. See also housing standards enforcement officer.

Public nuisance shall mean a condition or behavior that unreasonably interferes with the health, safety, peace, comfort or convenience of the general community.

Remote exit shall mean exits to be arranged or constructed so that occupants have access to two or more separate smoke areas for egress in the event of a fire or other emergency so that if one becomes blocked, the alternate will be available.

Rental property shall mean any dwelling, dwelling unit, or premises let for occupancy.

Rubbish shall mean all combustible and noncombustible waste materials, except garbage, and the term shall include but not be limited to the residue from burned wood, coal, coke and other combustible materials, papers, rags, cartons, boxes, wood excelsior, rubber, leather, tin cans, metals, mineral matter, glass, crockery, dust and other similar materials, automobile parts and household furniture and appliances. See also "waste."

Smoke detection device shall mean a device that detects visible and invisible particles of combustion.

Structure shall mean that which is built or constructed. See also building.

Unfit for human habitation shall mean a dwelling or dwelling unit which, due to dilapidation, dangerous defect, lack of ventilation or sanitary facilities or other unhealthy or hazardous condition is unfit for human occupancy.

Ventilation shall mean the process of supplying and removing air by natural or mechanical means to or from any space:

- (1) Mechanical: ventilation by power-driven devices.
- (2) Natural: ventilation by opening to outer air, through windows, skylights, doors, louvers, or stack wind driven devices.

Waste shall mean all garbage, litter and rubbish.

Waste storage container shall mean any container or can including a bulk container which is used as a central collection point for the temporary storage of waste.

Yard waste shall mean grass trimmings, leaves, tree branches and similar ornamental plant material and shall be incorporated in the term "waste" whenever yard waste is placed into a waste storage container.

(Ord. No. O-2009-09-B, 6-18-2009; Ord. No. O-2011-10-A, 10-6-2011)

Sec. 18-3. - Administration and enforcement in general.

- (a) *Inspection.* The code enforcement department may inspect buildings, premises, and dwellings or dwelling units in which there is reasonable cause to believe that a violation of this chapter exists.
- (b) *Notice of violation.* If the code enforcement department observes a violation but determines that said violation does not pose a serious hazard to life, health, or safety, the department shall issue a notice of violation to the property owner or occupant, stating the nature of the violation and the time period within which such violation must be corrected. If the owner or occupant fails to timely correct the violation, the department may commence formal enforcement action, as allowed by law, to correct the violation.
- (c) *Formal enforcement action.* Formal enforcement action may include, but is not limited to, the issuance of citations as provided in these Code of Ordinances; complaints stating a violation of property and housing standards; orders to correct or remove hazardous buildings as provided in RSA 155-B, injunctive relief, fines and penalties, and cease and desist orders as provided in RSA 676; and such other enforcement action as may be authorized by law.

(Ord. No. O-2009-09-B, 6-18-2009)

Secs. 18-4—18-25. - Reserved.

ARTICLE II. - TECHNICAL CODES
DIVISION 1. - GENERALLY

Sec. 18-26. - Administrative amendments to adopted codes.

The following sections apply to the administrative sections of the State Building Code adopted pursuant to state law.

- (1) Whenever "building official" or "code official" appears in the codes, it shall be read "assistant city manager/health director."
- (2) Whenever "department of building safety" appears in the codes, it shall read "code enforcement department."
- (3) Nothing contained in this section shall be interpreted or construed to allow any work for which a permit is not required herein to be done in any manner contrary to the requirements of the codes and laws of the city. Violations of the codes or other laws in any work not requiring a permit shall be subject to the general penalty of the codes in the same manner as if a permit had been required.

(Ord. No. O-2000-22-C, § 2501, 11-16-2000; Ord. No. O-2002-11-A, §§ 2501.1—2501.3, 2501.5, 9-19-2002; Ord. No. O-2007-19, 11-15-2007)

Sec. 18-27. - Permits.

- (a) *Permits required.* Any person, who intends to erect a building, structure, or sign; alter an existing building, structure, or sign; or construct or demolish any building, structure, or sign; or change the occupancy of a building or structure, shall obtain permits from the code enforcement department and if applicable, the fire department, before the work has begun. This requirement includes any type of work, which is regulated by the building and fire codes enforced by the city. The code enforcement and fire departments may approve minor repair work without the requirement of a permit provided such approval is not in violation of the codes and all permit applications for the code enforcement department and the fire department shall be distributed by the code enforcement department. Incomplete applications shall be rejected.
- (b) *Exceptions.* The following exceptions apply in addition to those found in Chapter One of the State Building Code.
 - One-story detached residential accessory structures used as tool and storage sheds, playhouses and similar uses, provided the floor area does not exceed 125 square feet.
 - Minor, nonstructural repairs. Repairs means: replacement of the parts of a building with new parts that are the same or equal. Also includes painting, papering, tiling, carpeting, cabinets, counter tops, and similar finish work;

- Replacement of any portion of a system such as parts of a plumbing or electrical system, such as sinks, toilets, switches and receptacles;
- Repair of faucets or valves, and unstopping clogged drains and sewer lines;
- Gutters, drainpipes and fences;
- Replacement of existing doors and windows provided they are not fire doors or egress windows and does not alter the structure;
- Re-siding and re-roofing;
- Movable cases, counters, and partitions not over five feet nine inches high;
- Any portable heating appliance;
- Any portable ventilation equipment;
- Any portable cooling unit;
- Any steam, hot or chilled water piping within any heating or cooling equipment regulated by this code;
- Any self-contained refrigeration system containing ten lb. (4.54 kg) or less of refrigerant and actuated by motors of one horsepower (746 W) or less; and
- The installation, replacement, removal, or metering of any load management control device.
- Detached decks less than 30 inches in height from ground level.
- Open-sided residential canvas structures less than 240 square feet.
- Retaining walls less than 48 inches in height measured from the foundation.

(Ord. No. O-2002-11-A, §§ 2501.4, 2501.4.1, 9-19-2002; Ord. No. O-2007-19, 11-15-2007)

Secs. 18-28—18-55. - Reserved.

DIVISION 2. - BUILDING CODE

Sec. 18-56. - Existing buildings.

Alterations, repairs, additions and changes of occupancy to existing structures shall comply with the provisions for alterations, repairs, additions and changes of occupancy in the State Building Code.

Exceptions: Buildings where the alterations, repairs, additions and changes of occupancy are made in conformance with the International Existing Building Code 2009 Edition which is hereby adopted as an amendment to the State Building Code, as such code may be amended from time to time.

(Ord. No. O-2000-22-C, § 2505, 11-16-2000; Ord. No. O-2002-11-A, § 2505, 9-19-2002; Ord. No. O-2007-19, 11-15-2007; Ord. No. O-2009-09-B, 6-18-2009; Ord. No. O-2011-05, 2-3-2011)

Secs. 18-57—18-85. - Reserved.

Editor's note— Ord. No. O-2007-19, adopted Nov. 15, 2007, deleted § 18-57, which pertained to amendments to 2000 International Building Code. For complete derivation see the Code Comparative Table.

DIVISION 3. - RESERVED^[2]

Secs. 18-86—18-115. - Reserved.

DIVISION 4. - RESERVED^[3]

Secs. 18-116—18-145. - Reserved.

DIVISION 5. - RESERVED^[4]

Secs. 18-146—18-175. - Reserved.

DIVISION 6. - RESERVED^[5]

Secs. 18-176—18-205. - Reserved.

DIVISION 7. - APPEALS^[6]

Sec. 18-206. - Appeal.

Any person aggrieved by an order of the building inspector interpreting the building code may, within 15 days of the date of the order, appeal to the board of appeal established under City Code [section 2-741](#). The board of appeal may affirm such an order or they may modify such order or the application of the building code when in the opinion of the board, enforcement of the provision to the appellant's proposal would do manifest injustice and would be contrary to the spirit and purpose of the building code and the public interest.

(Ord. No. O-2009-09-B, 6-18-2009)

Secs. 18-207—18-235. - Reserved.

ARTICLE III. - PROPERTY AND HOUSING STANDARDS^[7] DIVISION 1. - GENERALLY

Sec. 18-236. - Purpose.

The purpose of this article is to provide minimum standards for property and housing use and maintenance not otherwise incorporated into the building code necessary to preserve neighborhoods, abate nuisances and protect the public health, safety and welfare of city residents.

(Ord. No. O-2004-05-B, 5-20-2004; Ord. No. O-2009-09-B, 6-18-2009)

Sec. 18-237. - Authority.

This article is adopted by the city in accordance with and by the authority of RSA 47:17; RSA 48-A; and RSA 155-B.

(Ord. No. O-2004-05-B, 5-20-2004; Ord. No. O-2009-09-B, 6-18-2009)

Sec. 18-238. - Reserved.

Editor's note— Ord. No. 2009-09-B, adopted June 18, 2009, amended [§ 18-238](#), which pertained to definitions and derived from Ord. No. O-2004-05-B, adopted May 20, 2004; Ord. No. O-2008-03, adopted Apr. 3, 2008.

Sec. 18-239. - Reserved.

DIVISION 2. - GENERAL REQUIREMENTS FOR PROPERTY MAINTENANCE

Sec. 18-240. - Applicability.

The following section shall be considered minimum standards for all property in the city.

(Ord. No. O-2004-05-B, 5-20-2004)

Sec. 18-241. - Minimum standards for all property.

- (1) No person shall cause or maintain a public nuisance on any property within the city.
- (2) No person shall fail to secure a building against entry.
- (3) No person shall maintain a partially constructed building or structure after the building permit authorizing the construction has expired.
- (4) All motor vehicles shall be parked on-site, on paved driveways or approved parking surfaces that comply with the parking standards of the zoning code.
- (5) No person shall park, keep, or store or permit the parking, keeping, or storage of inoperative, unregistered, and/or uninspected motor vehicles on any premises unless stored within an entirely closed garage.
- (6) All sidewalks, walkways, stairs, driveways, parking spaces, and similar areas shall be kept in proper state of repair and maintained free from hazardous conditions.
- (7) All premises shall be maintained free of overgrown, dead, diseased, decaying or hazardous trees, shrubs, ground cover, or weeds that restrict or impede access to or public use of adjacent sidewalks and streets, obstruct traffic-control signs and devices and fire hydrants; and pose a risk of hazardous condition.
- (8) No person shall permit waste or yard waste to accumulate upon any premises, or the interior of any structure. Every occupant and/or property owner shall dispose of waste in a clean and sanitary manner by placing such waste in a waste storage container. Except within 24 hours of scheduled curbside collection, no person shall place any containers of recyclable or nonrecyclable waste storage containers in any sidewalk, street, alley, or other public place except as otherwise permitted under this chapter. Waste storage containers shall not remain at the curbside after pickup by the hauler for more than 24 hours.
- (9) Swimming pools shall be maintained in a clean and sanitary condition, and in good repair.
- (10) Waste storage containers must be located where they can be serviced, utilized by occupants, placed to reduce waste and be maintained in a sanitary condition to prevent infestation. All waste storage containers shall be located at a minimum of 25 feet to the rear of the frontline of any building except within 24 hours of scheduled curbside collection.
- (11) Except as otherwise approved by the planning board as part of a site plan review, all newly proposed buildings; buildings where there are planned

improvements in excess of 50 percent of the appraised value of the building; and buildings where there is a change of principal use as defined in the zoning code, the following additional requirements apply:

- a. Bulk containers shall be accessible by motorized disposal equipment.
- b. Bulk containers shall either be located at a minimum of 25 feet to the rear of the front line; to the rear of approved parking areas farthest from the street; or, in an area to shield it from view from the public street at street level or shielded to screen the containers from view. The screening may include a permanently constructed wall or fence, or plantings which shall be maintained sufficient to block the view of the containers from the public street. A constructed wall or fence shall consist of a solid material and be at least six feet in height above grade. When screening is of plantings they shall consist of evergreen plant material that when mature will exceed six feet in height, be three feet in height at the time of planting, and planted not less than 36 inches apart.
- c. Bulk containers consisting of two yards capacity or larger shall be located on a stable surface of gravel, asphalt, or concrete, meeting the parking surface requirement of the zoning code for existing and relocated containers and concrete pads sized at least two feet larger in any dimension than the proposed container made with 3,000 psi concrete reinforced with welded wire mesh, six inches thick with a surface slope of 1/8 inch per foot for drainage when required for an approved site plan. The sole purpose of the pad shall be for the placement of such bulk containers.
- d. The location of bulk containers shall not interfere with circulation necessary for emergency access and loading operations.
- e. Bulk containers shall be of sufficient size and capacity, shall not be filled to overflowing, shall avoid noisome odors and shall have lids with hinges that allow for the container to be closed anytime there is waste placed therein. If the container has side access panels, they shall be maintained in the closed position any time waste is placed within the container. The container will be of durable construction and not allowed to deteriorate to the point that holes occur in the body of the container that will allow access by rodents or contribute to infestation. The bulk container owner or his agent must take appropriate action to immediately cause the bulk container to be emptied of its contents when full. If the bulk container owner is notified that the bulk container upon his property is in violation of any of the foregoing offenses, the bulk container owner shall within 12 hours of notification cause the offense to be remedied or shall be in violation of this section.
- f. No bulk container shall be picked up and/or emptied in residential areas between the hours of 11:00 p.m. and 7:00 a.m., unless special circumstances are shown to the enforcing agencies, who then, at their discretion, may grant an extension of time. All bulk containers must be covered and secured at all times, except during the actual filling and emptying thereof.

- g. When bulk containers are proposed in conjunction with an application for site plan approval before the planning board, the screening required in subsection b, above, shall be planted, or constructed of materials approved by the planning board. The location of bulk containers shall be approved by the planning board when located by a design professional with input from a waste disposal company licensed to operate in the City of Keene, to ensure that bulk containers are serviceable from within any screened enclosure.
 - h. Temporary bulk containers may be located on any premises for the purposes of providing a container for renovation, construction, or cleanout for moving. A bulk container used for these purposes shall not be placed within the public right-of-way, and the owner of the premises shall comply with the provisions of subsections a, d, e and f, above. Temporary bulk containers shall not remain on the premises longer than 90 days without the written approval of the code enforcement department.
 - i. Effective April 3, 2010, all premises shall be in compliance. If the bulk container owner is notified that the container upon his property is in violation of any of the foregoing, the bulk container owner shall, within five days, notify the code enforcement department of the proposed remedy and a time period acceptable to the department to cause the offense to be remedied or shall be in violation of this section.
- (12) All buildings used for human occupancy shall be maintained free from infestation. Where infestation is found, approved processes that will not be injurious to human health shall promptly exterminate them. After extermination, proper precautions shall be taken to eliminate future infestation and prevent re-infestation.
- (13) During the period from May 1 to November 1, every door used for ventilation, window, or other outside opening in a habitable space, food preparation area, food services area, or any area where products to be included or utilized in food for human consumption are processed, manufactured, packaged, or stored, shall be supplied with tightly fitting screens of not less than 20 mesh per inch and every swinging screen door shall have a self-closing device in good working condition. Screen doors shall not be required where other approved means such as air curtains, or insect-repellant fans are employed.
- (14) Every basement hatchway or entryway shall be maintained to prevent infestation or the entrance of rain, and surface drainage water. In addition, every basement window that is capable of being opened shall be supplied with rodent shields, storm windows, or other protection against entry of rodents as approved by the health department.
- (15) Buildings shall have address numbers placed in a position to be plainly legible and visible from the street or road fronting the premises. Address numbers shall be Arabic numerals, or alphabet letters. Numbers shall be a minimum of four inches high, with a minimum stroke width of one-half inch.
- (16) All exterior surfaces of structures and parts thereof including, but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks, and fences, shall be maintained in operating order, structurally sound, without holes,

leaks or defects. Exterior wood surfaces shall be protected from the elements and decay by painting or other protective covering or treatment. All siding and masonry joints shall be maintained weather resistant and watertight.

- (17) Every exterior stairway, deck, porch and balcony and all appurtenances attached thereto shall be maintained structurally sound, with proper anchorage and capable of supporting all imposed loads.
- (18) Every handrail and guardrail shall be firmly fastened and capable of supporting all imposed loads.
- (19) All structural members shall be capable of safely supporting the imposed dead and live loads. In addition, all foundation walls shall be maintained plumb and free from open cracks and breaks. All exterior walls shall be free from holes, breaks, and loose or rotting materials.
- (20) The roof and flashing shall be sound, tight and not have defects to admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains; gutters, and downspouts shall be maintained in operational order and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.
- (21) All cornices, trim, wall facings and similar decorative features shall be maintained with proper anchorage and in safe condition.
- (22) All chimneys, cooling towers, smoke stacks, and similar appurtenances shall be maintained structurally safe, sound and in good repair. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather coating materials, such as paint or similar surface treatment.

(Ord. No. O-2004-05-B, 5-20-2004; Ord. No. O-2008-03, 4-3-2008; Ord. No. O-2009-09-B, 6-18-2009)

Sec. 18-242. - Manufactured housing.

- (a) No manufactured housing shall be permitted in the city unless located within a manufactured housing park as defined and permitted by the Zoning Code.
- (b) It shall be unlawful for any person to park any manufactured housing on any public street or highway or other public place or on any tract of land, occupied or unoccupied, within the city, except as provided in subsection (a) of this section.
- (c) Emergency or temporary stopping or parking of any manufactured housing is permitted on any public street or highway for a reasonable time, subject to any other further regulations or ordinances for the street or highway.

(Ord. No. O-2011-10-A, 10-6-2011)

Sec. 18-243. - Inventory required, contents.

Each manufactured housing park owner shall maintain an inventory for the registration of all occupants and manufactured housing. This inventory shall include the following information in addition to any other facts that may be requested by the assessment department:

- (a) Name and mailing address of each owner of manufactured housing.
- (b) Model and full name of the manufactured housing.
- (c) Year manufactured.
- (d) Serial number.
- (e) Number or location of the assigned lot.
- (f) Last location of the manufactured housing.

(Ord. No. O-2011-10-A, 10-6-2011)

Sec. 18-244. - Copy to assessment department.

It shall be the duty of each manufactured housing park owner to furnish a copy of the inventory set forth in [section 18-243](#) to the assessment department on forms furnished by the assessors.

(Ord. No. O-2011-10-A, 10-6-2011)

Sec. 18-245. - Report of departures/demolitions.

It shall be the responsibility of each manufactured housing park owner to report, in writing, any and all contemplated departures or demolition of manufactured housing to the city revenue collector's office and the city assessor's office at least five working days prior to removal from the site. In no case will the manufactured housing park owner remove or allow the removal or demolition of a manufactured home until all property taxes have been paid in full or the board of assessors have authorized in writing the removal without the payment of the taxes. Failure to pay the property taxes prior to the removal of a manufactured housing unit shall constitute a violation of state law and is subject to penalty.

(Ord. No. O-2011-10-A, 10-6-2011)

Sec. 18-246. - Recreational camping vehicle.

- (a) It shall be unlawful for any person to park any recreational camping vehicle on any public street or highway or other public place or on any tract of land, occupied or unoccupied, within the city, except as provided in this article.

- (b) When permitted pursuant to an approved site-plan in conformance with City of Keene planning and zoning regulations.
- (c) Emergency or temporary stopping or parking of recreational camping vehicles is permitted on any public street or highway for a reasonable time, subject to any other further regulations or ordinances for the street or highway.
- (d) No person shall park, store, or occupy any recreational camping vehicle or major recreational equipment on the premises appurtenant to any occupied dwelling or in any vacant lot, either of which is located outside of a manufactured housing park as defined and permitted by the Zoning Code, except under the following conditions:
 - (1) Such vehicle or equipment, together with trailers, cradles, or other appurtenances, shall not exceed 35 feet in length, 12 feet six inches in height, and eight feet in depth.
 - (2) Such vehicle equipment shall be stored on a hard surface parking area constructed in conformance with the Zoning Code, to the rear of the front setback or building line whichever is greater.
 - (3) Such recreational camping vehicle or equipment is not occupied as a residential unit, or prepared for residential occupation through external power, water or septic connections.

(Ord. No. O-2011-10-A, 10-6-2011)

Secs. 18-247—18-249. - Reserved.

Editor's note— Formally, Ord. No. 2009-09-B, adopted June 18, 2009, deleted [§ 18-242](#), which pertained to appeal and derived from Ord. No. O-2008-03, adopted Apr. 3, 2008.

DIVISION 3. - HOUSING STANDARDS

Sec. 18-250. - Applicability.

The following sections constitute the minimum standards for use and occupancy of all dwellings, and dwelling units. No person shall use or occupy or permit the use or occupancy of any dwelling or dwelling unit that is in violation of this division.

(Ord. No. O-2004-05-B, 5-20-2004; Ord. No. O-2009-09-B, 6-18-2009)

Sec. 18-251. - Common hallways and stairways.

The means of egress from the building, including exterior means of egress stairways, and every common hall, and stairway in any dwelling, other than in one and two family

dwellings, shall be lighted at all times with a minimum of one foot-candle at floors, landings, and treads.

(Ord. No. O-2004-05-B, 5-20-2004; Ord. No. O-2009-09-B, 6-18-2009)

Sec. 18-252. - Exits.

When required by the fire chief or his designee, every dwelling or dwelling unit shall have access to two means of egress or stairways leading to an exit at ground level. Exits from any one dwelling unit shall not cause the occupant of said unit to pass through any other such units or bathrooms or toilet rooms. Exits shall be as remote from each other as is practicable. Access to the two required exits or stairs may be accomplished through a common corridor or hallway if the corridor is rated as a means of egress conforming to the building and fire codes; providing such corridor or hallway has direct access to both exits. The use of ladders, ropes, or such devices as substitutes for stairs is prohibited.

(Ord. No. O-2004-05-B, 5-20-2004)

Sec. 18-253. - Overcrowding.

No person shall use or occupy or permit the use or occupancy of any dwelling or dwelling unit that is overcrowded. No dwelling or dwelling unit shall be occupied where the maximum occupancy permitted under the state building or fire codes is exceeded.

Occupancy of a dwelling or dwelling unit shall not exceed the number of persons allowed per unit by the zoning code. In addition, all parking shall be on-site, constructed to meet the parking lot standards in the zoning code, and all parking lots shall provide at least the minimum number of parking spaces required by the zoning code.

(Ord. No. O-2004-05-B, 5-20-2004)

Sec. 18-254. - Ventilation.

Every bathroom and toilet room shall have a window with a minimum sash area of three square feet unless the room is ventilated by mechanical means capable of exhausting 50 cubic feet per minute. One-half of the sash area must be operable.

(Ord. No. O-2004-05-B, 5-20-2004)

Sec. 18-255. - Outdoor and interior stairs and handrails.

Outdoor and interior stairs shall be maintained structurally sound, and no part thereof shall show excessive wear or be broken, warped, cracked or loose. Every flight of stairs that contains four or more steps shall have at least one handrail, and every open

portion of a stair, porch, landing, or balcony that is 30 inches above grade shall have guardrails. Guardrails shall be firmly fastened and capable of supporting all imposed loads at all times and a minimum of 36 inches in height. Handrails shall be not less than 34 inches and not more than 38 inches in height.

(Ord. No. O-2004-05-B, 5-20-2004; Ord. No. O-2009-09-B, 6-18-2009)

Sec. 18-256. - Interior surfaces.

Interior surfaces, including floors, walls, windows, doors, and ceilings shall be maintained in good, clean, and sanitary condition. Peeling paint, chipping, flaking or abraded paint shall be repaired, removed or covered. Cracked or loose plaster, decayed wood, or other defective surface conditions shall be corrected.

(Ord. No. O-2004-05-B, 5-20-2004)

Sec. 18-257. - Floor coverings.

Carpeting, linoleum, or other covering on stairs and floors shall be securely fastened, without tears or holes.

(Ord. No. O-2004-05-B, 5-20-2004)

Sec. 18-258. - Plumbing.

All plumbing fixtures, vents, drains, and water supply lines shall be properly installed, connected, and maintained in working order, shall be kept free from obstructions, and leaks.

(Ord. No. O-2004-05-B, 5-20-2004)

Sec. 18-259. - Sanitary facilities.

The following minimum sanitary facilities shall be supplied and maintained in sanitary, safe, and working condition:

- (1) *Water closet and lavatory.* Every dwelling or dwelling unit shall contain within its walls a room separate from habitable rooms that contains a water closet and lavatory, which affords privacy and shall not constitute the only passageway to a hall or other space, or to the exterior. All water closets shall be supplied with cold running water. The lavatory shall be supplied with hot and cold running water and a functioning drain.
- (2) *Bathtub or shower.* Every dwelling or dwelling unit shall contain a room which affords privacy to a person in the room and which is equipped with a bathtub or shower supplied with hot and cold running water and a functioning drain. The walls above the shower compartment shall be finished with a nonabsorbent

surface. Such wall surfaces shall extend to a height of not less than six feet above the floor.

- (3) *Kitchen area.* Every dwelling unit shall contain a kitchen area and every kitchen area shall have a sink, which shall be supplied with hot and cold running water and a functioning drain, and appliances to refrigerate and cook food.
- (4) *Sanitary facilities, shared facilities—Lodging houses.* At least one water closet, lavatory, and bathtub or shower shall be provided for all lodginghouses for up to four rooms used as bedrooms. All such facilities shall be located within the building housing the sleeping rooms. Said facilities shall be accessible from a common hall, passageway, or a room used in common (lounge) and shall be not more than one story removed from any persons sharing such facilities. Such facilities shall not be located in a basement.

(Ord. No. O-2004-05-B, 5-20-2004; Ord. No. O-2009-09-B, 6-18-2009)

Sec. 18-260. - Water and sewer system.

Every kitchen sink, lavatory, bathtub or shower, and water closet required under the provisions hereof shall be connected to either a public or private water and sewer system.

(Ord. No. O-2004-05-B, 5-20-2004)

Sec. 18-261. - Water heating facilities.

Every dwelling or dwelling unit shall be supplied with water heating facilities, which are installed, maintained, and connected with hot water lines to the fixtures required in this division to be supplied with hot water. Water heating facilities shall be capable of heating water to not less than 110 degrees Fahrenheit at the fixture. Gas and electric hot water heaters shall be at least 20 gallon storage capacity per dwelling or be an approved equivalent.

(Ord. No. O-2004-05-B, 5-20-2004; Ord. No. O-2009-09-B, 6-18-2009)

Sec. 18-262. - Heating facilities.

Every dwelling or dwelling unit shall have heating equipment and appurtenances which are installed and maintained in safe condition and are capable of safely and adequately heating all habitable rooms, bathrooms, and water closet compartments located therein to a temperature of at least 70 degrees Fahrenheit at 48 inches above floor level.

(Ord. No. O-2004-05-B, 5-20-2004)

Sec. 18-263. - Electrical service and outlets.

Every dwelling or dwelling unit shall be supplied with electric service, outlets and fixtures maintained in accordance with the provisions of the National Electrical Code adopted by the city. There shall be no broken or frayed wires or missing cover plates.

- (1) Every habitable room shall contain at least three separate and remote outlets, one of which may be a ceiling or wall-type electric light fixture. There shall be one switchable light outlet.
- (2) In kitchens, three separate and remote wall-type outlets and one ceiling or wall-type electric light fixture shall be provided. All countertops longer than two feet shall have outlets a maximum of four feet on center.
- (3) Every water closet compartment, bathroom, laundry room, or furnace room shall contain at least one electric light fixture.
- (4) In addition to the electric light fixture in every bathroom and laundry room there shall be provided at least one electric outlet adjacent to the lavatory, which shall be a GFCI outlet.
- (5) Extension cords shall not be used to comply with the requirements of this article.
- (6) No dwelling unit shall be crosswired.

(Ord. No. O-2004-05-B, 5-20-2004)

Sec. 18-264. - Smoke detection devices.

Every dwelling unit in the city shall be provided with operating smoke detectors in accordance with [chapter 42](#), article IV of the City's Code of Ordinances.

(Ord. No. O-2004-05-B, 5-20-2004)

Secs. 18-265—18-274. - Reserved.

DIVISION 4. - RESERVED

Secs. 18-275—18-299. - Reserved.

DIVISION 5. - HAZARDOUS BUILDINGS^[8]

Sec. 18-300. - Hazardous buildings.

- (a) *Authority.* The city council may order the owner of any hazardous building within the city to correct the hazardous condition of such building or to raze or remove the same in accordance with RSA 155-B.
- (b) *Order, contents.* An order requiring the property owner of a hazardous building to correct the hazardous condition of such building to the raze or remove the same shall state, in writing, the grounds therefore, specifying the necessary repairs, if any, and provide a reasonable time for

compliance. The order shall also state that a motion for summary enforcement of the order will be made to the district court unless corrective action is taken, or unless an answer is filed within the time specified in RSA 155-B.

- (c) *Service of the order.* The order requiring the property owner of a hazardous building to correct the hazardous condition of such building or to raze or remove the same shall be served upon said owner or the owner's agent, and upon the occupying tenant if there is one, and upon all lien holders of record in accordance with RSA 155-B:4.
- (d) *Filing of order.* A copy of the order with proof of service shall be filed with the district court not less than five days prior to the filing of a motion to enforce the order. The city shall also file for record with the Cheshire County Registry of Deeds a notice of the pendency of the proceedings, describing with reasonable certainty the lands affected and the nature of the order.
- (e) *Answer.* Within 20 days from the date of service, any person upon whom the order is served may serve an answer in accordance with RSA 155-B:6. If no answer is served, the city council may move the court for enforcement of the order pursuant to RSA 155-B:7. If an answer is served in accordance with state law, further proceedings in the action shall be governed by the rules of civil procedure for the district court. All further action shall be in accordance with the requirements and procedures of RSA 155-B.

(Ord. No. O-2004-05-B, 5-20-2004; Ord. No. O-2009-09-B, 6-18-2009)

Secs. 18-301—18-305. - Reserved.

DIVISION 6. - ENFORCEMENT

Sec. 18-306. - Complaint.

Whenever a petition is filed with the code enforcement department by at least ten residents of the city charging that any dwelling or dwelling unit is unfit for human habitation, or whenever it appears to the housing standards enforcement officer after inspection that any dwelling or dwelling unit is in violation of article III, the housing officer shall, if preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner, (including persons in possession), a complaint stating the charges in that respect. If the person to be served resides outside the state, service may be made upon him by registered mail. If there are unascertained persons, notice may be given to them by publication in a newspaper having general circulation in the city, such publication to be at least ten days before the date set for the hearing. The complaint shall contain a notice that a hearing will be held before the housing standards enforcement officer at a place therein fixed not less than ten days nor more than 30 days after service of the complaint; that the owner, and parties in

possession shall be given the right to file an answer to the complaint and to appear in person or otherwise and give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing in the courts of law or equity shall not be controlling in hearings before the housing standards enforcement officer. Nothing in this section shall be construed to impair or limit the power of the city to enforce any provision of its charter or of the City Ordinances, or to define and declare nuisances and to cause their removal or abatement according to applicable law.

(Ord. No. O-2009-09-B, 6-18-2009)

Sec. 18-307. - Determination of the housing standards enforcement officer; issuance of orders, posting of placards.

- (a) If, after notice and hearing, the housing standards enforcement officer determines, according to the standards of this article III, that the premises is in violation of the requirements of this article, he shall state in writing his findings of fact in support of such determination and shall issue and cause to be served upon the owners and persons in possession an appropriate order or orders to correct the violation.
- (b) If the order issued in accordance with subsection (a) of this section states that the dwelling or dwelling unit is unfit for human habitation, the housing standards enforcement officer shall also notify by certified mail, return receipt requested any mortgagee or lien holder of his findings and determinations, and post, in a conspicuous place or places upon the affected dwelling or dwelling unit, a placard or placards bearing the following words: "Condemned as Unfit for Human Habitation."
- (c) Any dwelling, dwelling unit or lodginghouse which has been determined unfit for human habitation and which has been placarded as such by the housing standards enforcement officer shall be vacated within a reasonable time as required by the housing officer. No owner shall rent to any person for human habitation, and no person shall occupy, any dwelling or dwelling unit which has been determined unfit for human habitation and which has been placarded by the housing officer after the date which the officer has required the dwelling or dwelling unit to be vacated.
- (d) No dwelling or dwelling unit which has been determined unfit for human habitation and which has been placarded as such shall again be used for human habitation until written approval is secured from, and the placard is removed by, the code enforcement department. The code enforcement department shall remove the placard whenever the defect or defects upon which the determination of unfit for human habitation was based have been eliminated.
- (e) No person shall deface or remove the placard from any dwelling or dwelling unit which has been determined unfit for human habitation and placarded as such.

- (f) If the owner, person in possession or other party in interest fails to comply with any order issued in accordance with this section after the conclusion of any appeal under [section 18-316](#), the city may file a petition in the district or superior court as appropriate in which it shall set forth the charges issued pursuant to [section 18-306](#) and request appropriate relief.

(Ord. No. O-2009-09-B, 6-18-2009)

Secs. 18-308—18-317. - Reserved.

DIVISION 7. - APPEALS

Sec. 18-316. - Appeal.

With the exception of [section 18-300](#), any person aggrieved by an order, decision or requirement of the housing standards enforcement officer, under article III, may appeal to the housing standards board of appeals established by City Code [section 2-1098](#) to [2-1100](#) which may grant relief from the order for actions taken on properties for noncompliance with article III. Any such appeal shall be filed within 15 days of the date of the action aggrieved from. The board of appeals may affirm, reverse or modify such order, decision or requirement when in the opinion of the board, the enforcement of the order, decision or requirement would do manifest injustice and would be contrary to the spirit and purpose of the ordinance and the public interest. The board may waive the requirements of subsection [18-241](#) (10) and (11), when it has been shown that the requirements create a hardship due to the unique characteristics of the site.

(Ord. No. O-2009-09-B, 6-18-2009)

Secs. 18-317—18-330. - Reserved.

ARTICLE IV. - DEMOLITION REVIEW

Sec. 18-331. - Reserved.

Editor's note— Ord. No. O-2009-09-B, adopted June 18, 2009, deleted the former [§ 18-331](#), and enacted a new [§ 18-331](#) as set out herein. The former [§ 18-331](#) pertained to definitions and derived from Ord. No. O-2002-05, § 2507.1 adopted July 18, 2002.

Sec. 18-332. - Criteria.

Except for buildings located in the historic district as defined under article V, any building or part of a building in the city will fall under the provisions of this article where:

- (1) The proposed demolition is greater than 500 square feet of gross floor area; and
- (2) The building was constructed more than 50 years before the date of application for demolition permit, or is listed or is eligible for listing in the National Register of Historic Places, or is located in an established historic district.

(Ord. No. O-2002-05, § 2507.2, 7-18-2002; Ord. No. O-2009-09-B, 6-18-2009)

Sec. 18-333. - Procedure.

When an application for a demolition permit, or a building permit involving demolition, or a site plan review involving demolition is made, or a formal written application is submitted to the code administrator for a determination under this article, the code administrator will determine if the building, or section of the building, meets the above criteria. If it does, the code administrator shall:

- (1) Forward a copy of the application to the demolition review committee.
- (2) Within five business days of its receipt of a copy of the application, the committee shall issue a preliminary recommendation regarding the granting of a demolition permit. If the committee issues a recommendation in favor of the granting of such a permit, a demolition permit shall be issued. If the committee determines the building to be potentially significant as defined by subsection [18-333\(3\)](#), it shall issue a recommendation in opposition of granting the demolition permit. If the committee recommends against granting the demolition permit, within two business days of that decision the code administrator or his designee shall notify the applicant that a sign identifying the building as proposed for demolition is ready for posting in a visible location on the premises. Posting of the sign within five business days of receiving notification from the code administrator shall be the responsibility of the applicant. When the committee issues a recommendation to delay the granting of a permit for demolition, no permit shall be issued until a more thorough investigation is undertaken and a final written recommendation is provided by the committee to the code administrator. Investigation and recommendation shall be completed within 30 calendar days of the committee's receipt of a copy of the application.
- (3) During the maximum 30 calendar-day-period, the committee shall meet with the property owner and conduct such public hearings and investigations as it may determine to be necessary in the formulation of its written recommendation regarding the granting of such permit. The committee shall consider the following criteria in its deliberation:

- a. The building or structure is of such interest or quality that it would meet national, state or local criteria for designation as a historic, cultural, or architectural landmark.
- b. The building or structure is of such unusual or uncommon design, texture, or materials that it could not be reproduced or could be reproduced only with great difficulty and expense.
- c. The building or structure is of such architectural or historic interest that its removal would be to the detriment of the public interest.
- d. Retention of the building or structure would help preserve and protect a historic place or area of historic interest in the city.

(Ord. No. O-2002-05, § 2507.3, 7-18-2002; Ord. No. O-2009-09-B, 6-18-2009)

Sec. 18-334. - Demolition review committee responsibilities.

It is the responsibility of the demolition review committee to:

- (1) Make a decision within five business days of receipt of the demolition application as to whether the building might be significant within the standards and specifications provided above. If no decision is made within five business days, the application will be deemed to be approved and the permit may be issued.
- (2) Hold a meeting between the demolition review committee and the applicant (or applicant's representative) to discuss alternatives to demolition if the committee determines the building is significant and its loss potentially detrimental to the community.

(Ord. No. O-2002-05, § 2507.4, 7-18-2002)

Sec. 18-335. - Demolition.

- (a) If no alternatives to demolition have been identified and agreed to by the applicant after the meeting provided for in the preceding section, the applicant is free to proceed with demolition provided a permit is issued by the code enforcement department. Prior to demolition, and if the applicant is in agreement, the demolition review committee shall photographically document the building. The committee shall also encourage the applicant to salvage significant architectural features.
- (b) Nothing in this article shall be construed to prevent immediate demolition where the public safety is at stake and the building has been determined by the code administrator to be a public hazard and demolition is the only viable recourse.

(Ord. No. O-2002-05, § 2507.5, 7-18-2002; Ord. No. O-2009-09-B, 6-18-2009)

Secs. 18-336—18-349. - Reserved.

**ARTICLE V. - HISTORIC DISTRICTS
DIVISION 1. - ESTABLISHMENT OF HISTORIC DISTRICT**

Sec. 18-350. - Purpose.

The purpose of this article is to amend the ordinances of the City of Keene to create a downtown historic district in accordance with RSA 674:46; to create an historic district commission pursuant to RSA 673:1; and to provide the rules, regulations and procedures applicable to the historic district consistent with RSA 674:46-a.

(Ord. No. O-2004-13B, 10-7-2004)

Sec. 18-351. - Application.

The requirements of this article shall apply in addition to the requirements of the zoning ordinance, other applicable city ordinances, and state law.

(Ord. No. O-2004-13B, 10-7-2004)

Sec. 18-352. - Boundaries.

Incorporated as part of this article is the downtown historic district overlay map as described in section 102-1360 of the zoning ordinance.

(Ord. No. O-2004-13B, 10-7-2004)

Sec. 18-353. - Permitted uses.

Uses permitted in the underlying zoning districts are permitted in the historic district.

(Ord. No. O-2004-13B, 10-7-2004)

Sec. 18-354. - Definitions.

The following words, terms, and phrases shall govern the article:

Alteration, as applied to a building or structure, means a change or rearrangement in the structural parts, or in the exit facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

Architectural feature shall mean the architectural style, design, detail, and general arrangement of outer surfaces of a building or structure that represent a time or region

and that, if altered or removed, would affect the character of the external appearance of the building or structure. Examples of "architectural features" include but are not limited to the kind and texture of building materials and the type of and style of windows, doors, lights, cornices, roofs, porticos, and other fixtures appurtenant to such features.

Building shall mean any structure or part thereof used or intended for supporting or sheltering any use or occupancy.

Certificate of appropriateness shall mean a written authorization by the historic district commission to the owners of a building, structure or site within the historic district, allowing the owner to conduct any of the regulated activities set forth [section 18-360](#) of this article.

Contributing resource shall mean any building, structure, or site which contributes to the overall historic and architectural significance of the historic district and was present during the period of historic significance but which possesses some diminishment of significance due to alterations, disturbances, or other changes to the building, structure, or site. Said diminishment of significance to the district is not so substantial as to prevent the building, structure or site from possessing historic and architectural integrity reflecting the character of that time or being capable of yielding important information about the historically significant period. Qualities of the building, structure, or site which contribute to the overall historic and architectural significance of the historic district include but are not limited to setback, massing, height, materials, architectural features, and/or fenestration.

Economic hardship shall mean quantifiable or verifiable expenditures or fiscal loss that is unreasonable for the property owner to bear under the circumstances.

Erect means to construct, reconstruct, excavate, fill, drain, or conduct physical operations of any kind in preparation for or in pursuance of construction or reconstruction, or to move a building or structure upon a lot.

Facade shall mean the front of a building or any of its sides facing a public way or public place.

Improvement shall mean upgrading or elevating the quality or condition of a building, structure, or site.

Incompatible resource shall mean a building, structure or site with no historic or architectural integrity and with setback, massing, height, materials, and/or fenestration that detract from the character of the historic district.

Noncontributing resource shall mean any building, structure, or site which does not contribute to the overall historic or architectural significance of the historic district due to alterations, disturbances, or other changes to said building, structure, or site, and therefore no longer possesses historic or architectural integrity, or was not present during the period of historic significance, or is incapable of yielding important

information about that period. The building, structure, or site may have qualities which do not detract from the overall character of the historic district including but not limited to setback, massing, height, and materials.

Ordinary maintenance and repair shall mean work done to prevent deterioration, decay or damage to a building, structure, or site, or any part thereof, by restoring the building, structure, or site as nearly as practicable to its condition prior to such deterioration, decay, or damage.

Person shall mean any natural person, firm, partnership, association, corporation, company, organization, or other legal entity.

Primary resource shall mean any building, structure, or site which contributes to the overall historic and architectural significance of the historic district and was present during the period of historic significance and possesses historic and architectural integrity with little or no diminishment in value reflecting the character of that time or is capable of yielding important information about the historically significant period. Qualities of the building, structure, or site which contribute to the overall historic and architectural significance of the historic district include but are not limited to setback, massing, height, materials, architectural features and/or fenestration.

Structural instability/safety hardship shall mean that the building or structure is structurally unsound, or deteriorated such that demolition is required for public health or safety as determined by the code enforcement officer.

Surrounding shall mean the prevailing character as represented by primary and contributing resources within the historic district.

(Ord. No. O-2004-13B, 10-7-2004; Ord. No. O-2009-09-B, 6-18-2009)

Sec. 18-355. - Reserved.

DIVISION 2. - HISTORIC DISTRICT COMMISSION

Note— The provisions governing the establishment of the historic district commission and its purposes and powers and duties are set forth in [chapter 2](#), administration, article V, boards and commission, division 18, historic district commission.

Secs. 18-356—18-358. - Reserved.

DIVISION 3. - HISTORIC DISTRICT REVIEW

Sec. 18-359. - Scope of review.

It shall be unlawful for any person to perform any of the activities set forth in [section 18-360](#) within the historic district without first obtaining a certificate of appropriateness in the manner prescribed in this article, the historic district regulations, and state law. The historic district commission may adopt rules and procedures for the review and approval by administrative official of applications for a certificate of appropriateness for minor projects as defined in the historic district regulations, provided, however, that no application may be denied without formal action by the historic district commission.

(Ord. No. O-2004-13B, 10-7-2004; Ord. No. O-2008-10, 4-17-2008)

Sec. 18-360. - Activities requiring certificates of appropriateness.

The following activities shall require a certificate of appropriateness whether or not such activity requires the issuance of a permit:

- (1) Erection, construction, alteration, relocation, or demolition of a building or structure;
- (2) Erection, construction, alteration or relocation of any architectural feature of a building or structure that is visible from a public way or other public place;
- (3) Installation of new paving (excluding maintenance of existing paved areas);
- (4) Removal of a tree(s) in excess of 15 inches in diameter at a height of four feet above grade, except where removal of such tree(s) is necessary for safety reasons as determined by a professional arborist or other qualified professional;
- (5) Removal of stone wall(s), granite post(s), iron fence(s) or any portion thereof;
- (6) Addition or alteration of existing exterior siding (e.g. vinyl, aluminum, stucco, wood, glass, etc.) of a building or structure;
- (7) Painting in part or whole of a brick, stone, masonry, or concrete building or structure;
- (8) Chemical or physical treatment to the exterior of a building, (including paint removal) such as sandblasting or abrasive cleaning;
- (9) Installation of a bulk container, a waste storage container, a container pad, and/or screening of a container if visible from a public way; and
- (10) Installation of a satellite dish and/or telecommunications facilities on an existing building, structure or site if visible from a public way.

(Ord. No. O-2004-13B, 10-7-2004; Ord. No. O-2008-10, 4-17-2008)

Sec. 18-361. - Exception to certificate requirement.

The following activities shall not require a certificate of appropriateness from the historic district commission:

- (1) Ordinary maintenance and repair of any building structure or site;
- (2) Ordinary maintenance and repair of any architectural feature which does not involve a change in the design, dimensions, or materials of the feature or involve removal thereof;
- (3) Painting or repainting of a wood surface and/or an already painted brick, stone, masonry, or concrete building or structure;
- (4) Alteration or replacement of any existing roof covering or surface, provided that said alteration or replacement is with the same material the same patterns and colors of the existing roof covering or surface and provided the roof plane remains the same; and
- (5) Installation or replacement of storm doors and storm windows provided that the original architectural features are not altered, removed or demolished.

(Ord. No. O-2004-13B, 10-7-2004)

Sec. 18-362. - Review criteria.

The purposes of this article and the following criteria shall be used in making a determination on an application for a certificate of appropriateness, and in promulgating regulations to govern a regulated activity;

- (1) The historical, architectural, or cultural value of the building, structure or site, and its relationship and contribution to the setting as evidenced by the ranking of the building, structure, or site in the resource ranking list as evidenced by the ranking of the building, structure or site in the resource ranking list.
- (2) The compatibility of the proposed design, arrangement, texture, materials, and architectural features with the existing building(s) or structure(s) at the site and its setting, or if new construction, compatibility with buildings or structures immediately adjacent to the site;
- (3) The scale and general size of building(s) or structure(s) in relationship to existing building(s) and structure(s) at the site and immediately adjacent thereto, including consideration of such factors as the overall height, and width of the building(s) or structure(s), street frontage, number of stories, roof type, facade openings, and architectural features; and
- (4) The land upon which the building(s) or structure(s) are situated, including off-street parking, screening, landscaping, fencing, vehicle driveways, on-site walkways, sidewalks, lighting, and other factors which might affect the visual character of the building or structure.

(Ord. No. O-2004-13B, 10-7-2004; Ord. No. O-2008-10, 4-17-2008)

Sec. 18-363. - Review of demolition or relocation of buildings and structures.

In determining whether to issue a certificate of appropriateness to demolish all or part of a building or structure, the historic district commission shall use the following criteria:

- (1) For buildings and structures designated as a primary resource or contributing resource, the applicant shall submit concept plans for the re-use of the site after demolition including elevations of any new construction and shall demonstrate Economic hardship or structural instability/safety hardship.

Demolition requests based on structural instability/safety hardship must include a technical report prepared by an architect or professional engineer registered in the State of New Hampshire which demonstrates that the building or structure presents a risk to public health, safety and welfare.

- (2) For buildings and structures designated as a noncontributing resource or incompatible resource, the applicant must submit concept plans for the re-use of the site after demolition including elevations of any new construction and demonstrate that the concept plans for the site will be compatible with the historic, architectural, and cultural values of buildings and structures immediately adjacent to the site.
- (3) Appeals relative to the designation of a building, structure or site on the resource ranking list, or relative to a historic district commission action on an application to demolish a building shall be as set forth in [section 18-366](#).

(Ord. No. O-2004-13B, 10-7-2004; Ord. No. O-2009-09-B, 6-18-2009)

DIVISION 4. - APPLICATION AND ADMINISTRATION

Sec. 18-364. - Application procedures.

The following application and review procedures shall be followed by the applicant and the historic district commission.

- (1) The applicant for a certificate of appropriateness shall make written application to the historic district commission through the planning department. The applicant shall provide:
 - a. A completed application form signed by the owner or owner's representative;
 - b. A narrative description of the activity requiring a certificate of appropriateness;

- c. Graphic materials of sufficient clarity and detail that the commission will have a clear understanding of what the applicant intends to do;
 - d. A complete list of abutters;
 - e. Payment of an application fee established by city council, as may be amended from time to time; and
 - f. Any site plans, building plans, building elevations, perspective sketches, photographs, and/or building materials samples as the historic district commission may reasonably require.
- (2) The historic district commission shall conduct a public hearing on the application and issue a certificate of appropriateness, conditional certificate of appropriateness, or disapproval of a certificate of appropriateness within 45 days of the receipt of an application deemed complete by the commission unless the applicant agrees in writing to a longer time period.
 - (3) Written notice of the time and place of the public hearing shall be given to each abutting property owner by First Class mail.
 - (4) Written notice of the time and place of the public hearing shall be published in a newspaper of general circulation in the city and shall be posted in at least two public places.
 - (5) In the case of a minor project as defined in the historic district commission regulations, a public hearing shall not be required.

(Ord. No. O-2004-13B, 10-7-2004; Ord. No. O-2008-10, 4-17-2008)

Sec. 18-365. - Findings.

At the conclusion of its review, the historic district commission shall issue one of the following:

- (1) Certificate of appropriateness/conditional certificate of appropriateness.
 - a. If, in the opinion of a majority of the commission members present and voting, the applicant's proposal meets the purposes of this article and satisfy the historic district regulations, then the historic district commission shall issue a certificate of appropriateness signed by the chairperson of the historic district commission or his/her delegate, together with any changes, conditions and/or stipulations necessary to secure the public health, safety and general welfare.
 - b. After the issuance of this certificate, the code enforcement department may issue any building, demolition or other permit for the approved project subject to approval of any other necessary board.
- (2) Notice of disapproval of certificate of appropriateness.
 - a. If, in the opinion of the majority of the commission members present and voting, the applicant's proposal does not meet the purposes of this article and does not satisfy the historic district regulations, then the historic district commission shall issue a notice of disapproval in writing together with the

reasons for such decision signed by the chairperson of the historic district commission or his/her designee.

- b. The issuance of a notice of disapproval shall prohibit the code enforcement department from issuing a building permit, demolition permit or other permit.
- c. If the applicant's proposal is denied, the applicant is encouraged to make modifications to the proposed plan that meet the purposes of this article and satisfy the historic district regulations and shall have the right to resubmit the application at any time after so doing.

(Ord. No. O-2004-13B, 10-7-2004)

Sec. 18-366. - Appeals.

- (a) Any persons aggrieved by a decision of the historic district commission shall have the right to appeal that decision to the zoning board of adjustment in accordance with RSA 677:2 et seq. A motion for rehearing must be filed within 30 days after the decision is rendered and must specify every possible ground upon which it is claimed that the decision is unlawful or unreasonable. The 30 days shall be counted in calendar days and shall start on the day of the decision.
- (b) The zoning board of adjustment shall either grant or deny the motion for rehearing, or suspend the order or decision complained of pending further consideration. If the zoning board of adjustment grants the motion for rehearing, it shall conduct the rehearing in accordance with its rules of procedure, as may be amended from time to time, and RSA 677:2 et seq.
- (c) Any persons aggrieved by a decision of the zoning board of adjustment relative to a motion for rehearing may appeal, by petition, to the Cheshire County Superior Court in accordance with RSA 677:4 within 30 days after the date upon which the zoning board of adjustment rendered its decision. The petition shall set forth that such decision of the zoning board of adjustment is unlawful or unreasonable, in whole or part, and shall specify the grounds upon which the decision is claimed to be unlawful or unreasonable.
- (d) Pursuant to RSA 677:5, any hearing by the Cheshire County Superior Court upon appeal shall be given priority on the court calendar.

(Ord. No. O-2004-13B, 10-7-2004)

Sec. 18-367. - Enforcement.

The historic district commission is responsible, for administering the ordinance and regulations within the historic district. The provisions of the historic district ordinance

shall be enforced through traditional zoning enforcement mechanisms as set forth in [section 102-6](#) of the zoning ordinance and RSA 676.

(Ord. No. O-2004-13B, 10-7-2004)