



## AGENDA

### Joint Planning Board and Planning, Licenses & Development Committee

Monday, September 9, 2019

6:30 PM

Council Chambers

1. Roll Call
2. Approval of Meeting Minutes – April 8, 2019
3. **Public Workshops**  
**Ordinances – O-2019-13 and O-2019-14 – Relating to Social Service and Congregate Living Uses**. Petitioner, City of Keene, proposes changes to Chapter 102 – Zoning, Chapter 46 – Licenses and Permits, Chapter 18 – Building Regulations, and Appendix B – Fee Schedule of the City Code of Ordinances. The amendments proposed include the introduction of land uses categorized broadly as Social Service and Congregate Living uses as well as a conditional use permit and City operating license for some of these uses.
4. Next Meeting – **TUESDAY**, October 9, 2019
5. Adjourn

**CITY OF KEENE  
NEW HAMPSHIRE**

**JOINT PUBLIC WORKSHOP  
PLANNING BOARD/  
PLANNING, LICENSES, AND DEVELOPMENT COMMITTEE  
MEETING MINUTES**

Monday, April 8, 2019

6:30 PM

Council Chambers

**Planning Board Members Present**

Doug Barrett, Chairman  
Chris Cusack, Vice-Chair  
Martha Landry  
Mayor Kendall Lane  
Michael Burke  
Pamela Russell Slack  
Gary Spykman  
Councilor George Hansel

**Planning Board Members Not Present**

Andrew Weglinski

**Planning, Licenses and Development  
Committee Members Present**

Councilor David Richards, Chairman  
Councilor Philip Jones  
Councilor Margaret Rice  
Councilor George Hansel

**Planning, Licenses and Development  
Committee Members Not Present**

Councilor Bart Sapeta

**Staff Present**

Rhett Lamb, Community Development Director  
Mari Bruner, Acting Planner  
Tara Kessler, Senior Planner

**1. Roll Call**

Chair Barrett called the meeting to order at 6:30 pm and a roll call was taken.

**2. Approval of Meeting Minutes – March 11, 2019 & September 10, 2018**

A motion was made by Councilor Phil Jones that the Joint Committee accept the March 11, 2019 meeting minutes and September 11, 2018 meetings minutes. The motion was seconded by Gary Spykman and was unanimously approved.

**3. Building Better Together Project Update – Transition to Steering Committee**

Senior Planner Tara Kessler and Community Development Director Rhett Lamb addressed the Committee. Ms. Kessler began by updating the Committee on the form based zoning portion – she indicated the consultant is working on incorporating the edits made to the downtown sub district map as well as making revisions to the technical report. This document is going to be made public on the city's website.

The next step would be for the consultant to create actual design illustrations and use specifications for each of the sub districts and at that time, more community engagement would be scheduled. This type of outreach is being planned for the late April early May timeframe.

Staff is also proposing to develop a Steering Committee that can continue this work in more detail not only about form based zoning but also to continue the discussion about the rest of the unified development ordinance (UDO). Ms. Kessler noted the Steering Committee meetings will be opened to the public and more information will be added to the website on this as well.

Mr. Lamb added the rationale behind this is the Joint Committee has a lot of work coming up outside of the UDO with reference to the social service ordinance update.

Councilor Jones clarified it would up to the Mayor to maintain members. The Mayor agreed and added there are individuals who have agreed to serve in this capacity. He added it will come back before the Joint Committee before it goes before the Council for its approval.

Ms. Kessler talked about the Development Roundtable where developers, agents, realtors, surveyors who meet on a monthly basis on an informal basis to discuss their experiences with other communities. Their next meeting is scheduled for April 25<sup>th</sup>.

#### **4. Social Service / Congregate Care Draft Ordinance Update**

Ms. Kessler stated this item is separate from the landuse code update project. Staff would like to incorporate the social service category into the zoning ordinance sooner than the adoption of the unified development ordinance. She indicated consultant Camiros has a lot of experience with communities struggling with this topic and the type of uses that would fall under this category, such as, residential care facilities, homeless shelters, group homes, and food pantries. Mr. Lamb stated with pressure coming from the development community and the social service care community, staff realized the current ordinance is lacking and an update is needed.

Councilor Jones clarified this would mean these uses will be included in certain districts. Mr. Lamb agreed and added staff is aware this is likely to change with the creation of the new sub districts. Councilor Jones noted some of these uses are already in institutional zones and asked whether these uses will come out of the institutional zone. Mr. Lamb stated the term, institutional zone, and how it is used in the current ordinance, is not likely to exist in the future. Councilor Jones asked whether it would come before the Joint Committee first as a draft for their review.

Mr. Lamb stated it is going to be presented as a formal change to the ordinance and the reason is this document is likely to get a lot of attention; and staff feels the changes should be done in a public setting.

Councilor Hansel asked whether staff has given any thought to staging these changes or whether it is all contained in one ordinance. He noted there are some social agencies who are up against a clock and this ordinance is not likely to be approved until sometime in August. He asked whether this ordinance could be staged in some manner so that some of these agencies could be given some guidance. Mr. Lamb stated this is not something staff has given any thought to but stated he will discuss it more with other staff. The Councilor suggested perhaps just doing the definition section first. Mr. Lamb felt it might be difficult to do just definitions, as they need to go hand in hand with the new districts that are being created. Mr. Lamb went on to say one of the things that is going to come out of this is clarity.

**5. Next Meeting – Wednesday, May 15, 2019** - Mr. Lamb stated the May meeting depends on if there is anything that needs to be addressed if not the Social Services item public hearing could wait until June.

#### **6. Adjourn**

The meeting adjourned at 6:50 pm

Respectfully submitted,

Krishni Pahl, Minute Taker  
Reviewed by Rhett Lamb, ACM/Community Dev. Director  
Edits, Lee Langella

## Staff Report – Ordinances: O-2019-13 & O-2019-14

Ordinances O-2019-13 and O-2019-14 propose changes to Chapter 102 – Zoning, Chapter 46 – Licenses and Permits, Chapter 18 – Building Regulations, and Appendix B – Fee Schedule of the City Code of Ordinances. The amendments proposed include the introduction of land uses categorized broadly as Social Service and Congregate Living uses as well as a conditional use permit and City operating license for some of these uses.

In its review of this application to amend the Zoning Ordinance, the Board should consider and review the following:

- The consistency of the proposed rezoning request with the Master Plan;
- Existing and proposed zoning requirements;
- Surrounding land use and zoning patterns; and,
- Possible resulting impacts.

### **BACKGROUND**

In recent years, the City has seen an increase in the number of applications related to uses that could be characterized as group homes, homeless shelters, residential treatment facilities, and other congregate living and social service facilities. The current use table within the City's Zoning Ordinance does not provide an adequate structure for classifying many of these proposed uses nor does it offer conditions or criteria for which these uses may be allowed. In response to this issue, the City Council directed City staff to draft an Ordinance addressing this category of land uses.

In late December 2018, the City contracted with the consulting firm, Camiros Ltd., to provide recommendations for classifying and defining these types of land uses within the City's zoning ordinance, identifying where these uses should be allowed, and the criteria by which these uses should be permitted. Camiros Ltd., who has national experience working on zoning ordinances addressing social service and congregate living uses and is currently working with the City of Keene to develop a Form Based Downtown Zoning District, based their recommendations on a review of best practices from across the country and their understanding of Keene's land use context and Comprehensive Master Plan. City staff have ensured that there is coordination and consistency among the proposed ordinances and the State Building and Fire Codes.

### **PROPOSED AMENDMENTS**

A high-level summary of the changes proposed to Chapters 102 (Zoning) and 46 (Licenses and Permits) is included in the application for these Ordinances.

The primary changes proposed to Chapter 102 include the introduction of the following land uses and their associated definitions into certain zoning districts either by right or by a conditional use permit, which would be issued by the Planning Board and for which a public hearing would be held.

#### ***Proposed Land Uses:***

- ***Domestic Violence Shelter*** means a facility that provides temporary shelter, protection, and support for those escaping domestic violence and intimate partner violence, including victims of human trafficking. A domestic violence shelter also accommodates the minor children of such individuals. The facility may also offer a variety services to help individuals and their children including counseling and legal guidance. The facility shall be managed by a public or non-profit agency with in-house supervision provided on a 24-hour basis.
- ***Drug Treatment Clinic*** means a non-residential facility authorized by the state to provide treatment and licensed drugs to persons, including, but not limited to, methadone or suboxone, to manage and treat drug dependencies.

- Food Pantry means a non-profit organization that provides food directly to those in need. Food pantries receive, buy, store, and distribute food. Food pantries may also prepare meals to be served at no cost to those who receive them. A food pantry may be part of a place of worship, social service center, homeless shelter, and domestic violence shelter.
- Homeless Shelter means a facility that provides temporary shelter without a fee to persons who are homeless. The facility shall be managed by a public or non-profit agency with in-house supervision provided during operation.
- Residential Care Facility means a licensed facility that provides 24-hour medical and/or non-medical care to persons in need of personal care services, supervision, or assistance essential for sustaining the activities of daily living, or for the protection of the individual. A residential care facility may include nursing care, assisted living, hospice care, and continuum of care facilities. Continuum of care facilities may also include independent living facilities as part of the continuum. Residential care facility does not include a residential drug/alcohol treatment facility.
- Residential Drug/Alcohol Treatment Facility means a licensed facility that provides 24-hour in house supervision for medical and/or non-medical/therapeutic care of persons seeking rehabilitation from a drug and/or alcohol addiction. Such facilities may include medical detoxification.
- Social Service Center means a facility that provides services for persons recovering from chemical or alcohol dependency; survivors of abuse seeking support; persons transitioning from homelessness or prior incarceration; and persons with health and disability concerns. It does not include in-patient, overnight, or living quarters for recipients of the service or for the staff. Such service does not include medical examinations or procedures, or medical detoxification, dispensing of drugs or medications, or other treatments normally conducted in a medical office.

In addition to the above list, the existing definitions for Group Home and Lodginghouse were amended as follows

- Lodginghouse shall mean any dwelling for more than four unrelated persons, which ~~lets~~ provides separate rooms for sleeping accommodations for a fee ~~for a transient or permanent basis~~, without personal care services, ~~with or without meals, but~~ and without separate cooking facilities for individual occupants. For purposes of this article, the term lodging house shall not include a hotel or motel. Lodginghouse shall include fraternity and/or sorority house.
- Group home means ~~any premises, privately or publicly sponsored, where board and supervision are given to five or more persons not related by blood or marriage to the owner or primary occupant thereof, for the purpose of social rehabilitation and/or long term sheltered care.~~ a facility in a residential dwelling, providing living accommodations and care for five or more unrelated persons who are in need of personal care services and/or are in need of supervision. Group home may include non-medical drug and alcohol rehabilitation.

**Conditional Use Permit:**

A Social Service / Congregate Care Conditional Use Permit (CUP) from the Planning Board is proposed for the uses listed above, with the exception of Food Pantry and Domestic Violence Shelter. Standards for Planning Board review associated with this CUP are included in Chapter 102 under the proposed Article XVII. This Conditional Use Permit would be required prior to the start of any of a use in a district where such use is otherwise allowed.

**Districts Where Proposed Land Uses Would Be Allowed:**

The Table below shows which Zoning Districts the proposed uses are proposed to be allowed either by-right or by a Conditional Use Permit issued by the Planning Board. The Table also indicates if a City Council License would be required to operate the use. Text that is “stricken-out” (e.g. ~~SE~~, ~~P~~) represents current conditions that are proposed to be amended. For example, Lodginghouse is currently allowed by Special Exception (SE) in the High Density (HD) District. The Ordinance proposes to allow Lodginghouse by Conditional Use Permit (CUP) in the HD.

TABLE 1. PROPOSED CHANGES TO ZONING DISTRICT USE TABLES (O-2019-13)													
USE	ZONING DISTRICT												OPERATING LICENSE
	R	LD	LD-1	MD	HD	HD-1	CB	CBL	COM	O	HC	BGR	
Group Home	<del>P</del>	<del>SE</del>	<del>SE</del>	<del>SE</del> CUP	<del>P</del> CUP	<del>P</del>				CUP			Y
Lodginghouse					<del>SE</del> CUP			<del>P</del> CUP					Y
Domestic Violence Shelter				P	P		P	P	P				N
Drug Treatment Clinic									CUP				Y
Food Pantry							P	P	P				N
Homeless Shelter								CUP	CUP	CUP			Y
Social Service Center							CUP	CUP	CUP				Y
Residential Care Facility					CUP		CUP	CUP	CUP		CUP	CUP	Y
Residential Drug / Alcohol Treatment Facility									CUP		CUP		Y

**TABLE 1. KEY**

<b>BGR</b>	Business Growth and Reuse	<b>HD-1</b>	High Density - 1	<b>CUP</b>	Conditional Use Permit
<b>CB</b>	Central Business	<b>LD</b>	Low Density	<b>P</b>	Permitted By-Right
<b>CBL</b>	Central Business Limited	<b>LD-1</b>	Low Density - 1	<b>SE</b>	Special Exception
<b>COM</b>	Commerce	<b>MD</b>	Medium Density		
<b>HC</b>	Regional Health Care	<b>O</b>	Office	<b>Y</b>	Yes (License Required)
<b>HD</b>	High Density	<b>R</b>	Rural	<b>N</b>	No (License Not Required)

**Chapter 46 Operating License:**

O-2019-14 primarily addresses changes to Chapter 46 “Licenses and Permits” of the City Code of Ordinances. Currently, an operating license is required for all lodginghouses in the City, which include Fraternity and Sororities. The proposed ordinance would remove Article X “Lodginghouses” from Chapter 46. In its place, a section on Social Service / Congregate Living Operating Licenses is proposed to be added to Chapter 46. This Social Service / Congregate Care Living License, which would be issued by the Community Development Director, would be required for the following uses. Drug Treatment Clinic

- Group Home
- Homeless Shelter
- Lodginghouse
- Residential Care Facility
- Residential Drug/Alcohol Treatment Facility
- Social Service Center

This proposed license would need to be renewed annually by the owner of the property where the use is located and/or the operator of the use. The applicant for this proposed license would need to provide a listing of abutters to the property as part of their license application. All direct abutters would be noticed informing them that any comments relevant to the license application may be submitted to the licensing authority within 10 days of the date of the notice.

### **ANALYSIS OF POTENTIAL LAND USE IMPACTS**

The City's current zoning ordinance does not account for the array of land uses associated with social service and congregate living facilities such as those proposed to be introduced by O-2019-13. The only land uses currently allowed in the existing zoning ordinance are Group Home and Lodginghouse. Lodginghouses are currently only allowed in the High Density District by Special Exception and the Commerce District. Group Homes are currently allowed in the Rural, High Density, and High Density-1 Districts By-Right, and in the Low Density, Low Density-1, and Medium Density Districts by Special Exception.

O-2019-13 proposes to remove the allowance for Group Homes in lower density residential areas such as the Rural, Low Density, and Low Density-1 Districts. Instead, it proposes to allow Group Homes by Conditional Use Permit in the Medium Density, High Density, and Office Districts. As a Group Home would have five more unrelated residents and potentially on-site staff, this use may be more compatible with zoning districts that currently intend for a greater intensity of residential development. The proposed ordinance would continue to allow for Lodginghouses in the High Density and Commerce District, however, they would only be allowed by a Conditional Use Permit instead of By-Right.

The new land uses that are proposed with O-2019-13 would primarily be allowed in zoning districts that intend for higher intensity and level of land use activity, density of residential development, site impacts, etc. With the exception of Food Pantry and Domestic Violence Shelter, these proposed land uses would require a Conditional Use Permit that would be issued by the Planning Board. These new uses range from residential facilities that may or may not require on site staff / supervision, to temporary shelters to centers or facilities that treat or manage dependencies such as drug or alcohol use, to facilities like food pantries and social service centers that may or may not have a high turnover of visitors or clients. Since the scale, size, and site impacts of these uses may vary significantly, even within their own category of use, requiring a Conditional Use Permit process for these uses offers an additional level of review and consideration for potential site impacts and compatibility of the proposed use with the surrounding land uses and context.

### **KEENE MASTER PLAN CONSISTENCY**

The proposed rezoning is consistent with the 2010 Comprehensive Master Plan's land use goals and supports the Community Vision. In particular, a series of social service strategies are identified on pages 114 and 115 of the plan, with a focus on poverty, homelessness, hunger and food security. The Plan also recognizes Keene's role as a service center and hub for services that address issues such as "homelessness, poverty, fuel assistance, hunger, substance abuse, domestic violence, dental health and mental illness, to name a few." This section of the plan states, "Since the community already provides an extensive network of services, it could benefit from greater collaboration and communication among providers, the community and the region in general."



## APPLICATION TO AMEND THE ZONING ORDINANCE

Petitioner: City of Keene      Date: 07/12/18

Address: 3 Washington St, Keene, NH 03431

Telephone: (603) 352-5440      Email: tkessler@ci.keene.nh.us

Existing Section Reference in Chapter 102, Zoning Ordinance See attached

Does the amendment change the existing “Minimum Lot Size”    Yes       No

Does the amendment change the existing “Permitted Uses”      Yes       No

Brief Description of Proposed Change \_\_\_\_\_

O-2019-13 includes the addition of uses, amendments to definitions and the permitted use tables, and the incorporation of a Conditional Use Permit process for certain social service and congregate care uses to the Zoning Ordinance.

*Tara Kessler*

\_\_\_\_\_  
Petitioner’s Signature

### **Submittal Requirements which must be complete at the time of submission to the City Clerk.**

- A properly drafted Ordinance containing the amendment in a form meeting the requirements of the City Clerk.
- A typed or neatly printed narrative explaining the purpose of, effect of, and justification for the proposed change(s).
- \$100.00 application fee.
- As provided for in RSA 675:7, if the proposed amendment would change the minimum lot sizes or the permitted uses in a zoning district, and such change includes 100 or fewer properties, the Petitioner shall submit a notarized list of property owners affected by the zoning amendment. If the proposed amendment changes the boundary of a zoning district, the Petitioner shall submit a notarized list of all property owners within the zoning district directly affected by the proposed boundary line change, and of all property owners outside of the zoning district that abut the proposed boundary line change.



## Nineteen

## Relating to Social Services and Congregate Living Uses

That Chapter 102 of the City Code of the City of Keene, New Hampshire, as amended, is hereby further amended by adding the bolded underlined text and deleting the stricken text in the following sections:

- Article I. “In General” - Section 102-2 “Definitions”;
  - Article IV. “Districts” – Division 5 “Rural” – Sec. 102-332 “Permitted Uses”;
  - Article IV. “Districts” – Division 6 “Low Density” – Sec. 102-362 “Permitted Uses”;
  - Article IV. “Districts” – Division 7 “Low Density-1” – Sec. 102-372 “Permitted Uses”;
  - Article IV. “Districts” – Division 8 “Medium Density” – Sec. 102-392 “Permitted Uses”;
  - Article IV. “Districts” – Division 9 “High Density” – Sec. 102-422 “Permitted Uses”;
  - Article IV. “Districts” – Division 10 “High Density-1” – Sec. 102-452 “Permitted Uses”;
  - Article IV. “Districts” – Division 11 “Central Business” – Sec. 102-482 “Permitted Uses”;
  - Article IV. “Districts” – Division 12 “Central Business Limited” – Sec. 102-512 “Permitted Uses”;
  - Article IV. “Districts” – Division 13 “Commerce” – Sec. 102-542 “Permitted Uses”;
  - Article IV. “Districts” – Division 15 “Office” – Sec. 102-602 “Permitted Uses”;
  - Article IV. “Districts” – Division 20 “Regional Health Care” – Sec. 102-760 “Permitted Uses”;
  - Article IV. “Districts” – Division 21 “Residential Preservation” – Sec. 102-770.1 “Permitted Uses”;
  - Article IV. “Districts” – Division 22 “Business Growth and Re-use” – Sec. 102-771.1 “Permitted Uses”;
  - Article IV. “Districts” – Division 23 “Neighborhood Business” – Sec. 102-772.1 “Permitted Uses”;
  - Article XIII. “Sustainable Energy Efficient Development Overlay” - Sec. 102-1434. – “General standards”;
- and, is further amended by adding new Article XVII. Entitled “Social Services and Congregate Living,” as follows:

## ARTICLE 1. – IN GENERAL

## Sec. 102-2. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Abutter* means any person whose property is located in the state and adjoins or is directly across the street or stream from the land under construction by the local land use board. For purposes of receiving testimony only, and not for purposes of notification, the term "abutter" includes any person who is able to demonstrate that his land will be directly affected by the proposal under consideration. For purposes of receipt of notification by a municipality of a local land use board hearing, for an abutting property being under a condominium or other collective form of ownership, the term "abutter" means the officers of the collective or association, as defined in RSA 356-B:3, XXIII.

*Accessory dwelling unit* means independent living unit ancillary to a single-family dwelling and under the same ownership as the primary residence. The unit may be within or attached to the primary residence or located in an accessory building on the property.

*Adult day care facility* means a public or privately operated day care center, therapeutic program, or other facility which provides daily restorative care to adults who either live alone or with others and who need, due to aging process and/or disease progression, ongoing consistent stimulation, reinforcement, and reality orientation to continue to actively participate in activities of daily living in order to prevent progressive deterioration, reliance on others for care, or nursing home placement.

*Agricultural-related educational and recreational activity as a business* means recreational activity which is appropriate to a farm or rural setting and relating to agricultural uses, such as hayrides and sleigh rides; educational or instructional programs concerning farm operations, animals or products; demonstration of farm animals and farm activities; petting farms; displays, functions, exhibits and other demonstrations of rural, agricultural, and natural resource activities and customs.

*Alteration* means any construction or renovation to an existing structure other than repair or addition. Applied to a building this means a change or rearrangement in the structural parts, and can include flood proofing or other modifications.

*Amortization* means the established process of eliminating nonconforming uses over a period of time.

*Apartment* means a room or a group of rooms forming a habitable unit for one family, within a structure containing at least one other such unit, with facilities used or intended to be used for living and sleeping, and including facilities for cooking and eating.

*Area, building*, means the maximum horizontal cross section area of the main building and accessory structures on a lot.

*Art center* means a structure or complex of structures for housing the visual or performing arts.

*Arterial street* means a major street, as designated in the city transportation plan. Also see the zoning map referenced in section 102-241(b).

*Attic* means the space between the ceiling beams of the top story and the roof rafters.

*Attic, habitable*, means an attic which has a permanent stairway as a means of access and egress and in which the ceiling area at a height of at least seven feet four inches above the attic floor is not more than one-third the area of the floor next below.

*Auto dealership*. See *Motor vehicle dealership*.

*Assembling* means combining two or more finished products into a single product.

*Banking or lending institution* means an establishment that is engaged in the business of a bank, savings and loan association, or credit union that is regulated by state or federal authority.

*Basement* means that portion of a building which is partly or completely below grade. Also see *Story above grade*.

*Bed and breakfast inn*/~~*tourist home*~~ means an owner or operator-occupied single-family detached dwelling unit which contains no more than one kitchen and five or fewer guest rooms intended or designed to be used, or which are used, rented or hired out to be occupied or which are occupied for sleeping purposes by guests, other than temporary personal guests of the family in the dwelling unit, for compensation with or without meals.

*Bed and breakfast with meeting/dining facilities* means a residential structure consisting of nine or fewer bedrooms rented on a temporary, short term basis for overnight sleeping purposes. Said facility shall have common eating and living areas and provide on-site management on a 24-hour basis. Meals shall be served to registered guests only.

*Billboard* means any structure or portion thereof upon which are signs or advertisements used on an outdoor display. Also see chapter 74 pertaining to the sign code.

*Biotechnology* means the use of cellular or biomedical processes to solve problems or to make products.

*Building* means any structure used or intended for sheltering any use or occupancy.

*Building area*. See *Area, building*.

*Building, accessory*, means a subordinate building which is located on the same lot as the main building, related to it, and is usual or necessary adjunct to the main building.

*Building height* means the vertical distance measured from the grade plane of the lot grade to the highest point of the roof, excluding chimneys, ventilators, tanks and other accessory features required above the roof. Also excluded are: towers, spires, domes and similar ornamental features, if not used for living

purposes; barns, silos, and other farm buildings and structures required for agricultural purposes; and towers for transmission and communication lines, radio towers, fire towers, water towers and airplane beacons.

*Building, incidental*, means a subordinate building which is located on the same lot as the main building and occurs in conjunction with the primary use. Buildings containing incidental uses must be specifically permitted in this chapter.

*Building line* means a line parallel to the street, establishing the closest point to the street at which a structure can be constructed and be in compliance with the setback and lot width requirements.

*Building line setback* means the distance between the street right-of-way line and the building line. Also see *Setback*.

*Bulk storage* means the outdoor storage of a product or material in large quantities.

*Carport* means a structure detached from, attached to, or made a part of the main structure, and which is open to the weather on at least two sides, intended for the use of sheltering motor-driven vehicles.

*City* means the city, both the geographical boundaries and the duly constituted governing organization which is a municipal corporation.

*Clinic* means a facility which provides medical, dental, or mental health services for humans, on an outpatient basis, with more than five employees.

*Club* means any organization, group or association supported by the members thereof, the purpose of which is to render a service. The term shall not include any organization, group or association, the chief activity of which is to render a service customarily carried on as a business.

*Commercial lots* means any parking lot that provides parking for nonresidential uses or for multi-family dwelling units, defined here as any structures containing more than two dwelling units.

*Common land* means all lands held and/or used jointly by two or more owners of other lands in proximity to it. This includes lands that may be owned by a developer prior to completion of a residential development, a homeowner's association, the city, or a third party conservation organization. Land held under this form of ownership is for the use, benefit, and enjoyment of the joint ownership and/or the general public. Common land in a conservation residential development, as set forth in division 3 of article IV of this chapter, refers to only that portion of land that has not been designated to meet the requirements of the open space standard set forth in section 102-289.

*Conditional use permit* means a permit issued by the planning board in accordance with RSA 674:21, innovative land use controls, this chapter and the planning board's site plan/subdivision regulations stating that the conditional use complies with the conditions and standards as set forth by these regulations and the planning board's approval.

*Condominium* means a legal form of ownership of real property, usually individual ownership of a dwelling unit in a multiunit development where some rights are held in common by the residents of that development.

*Conservation residential development* means an innovative form of development that allows single-family, duplex and multifamily dwellings to be grouped more closely together than otherwise allowed under this chapter, so that a designated undeveloped portion of the site is permanently reserved as open space, for passive recreation, conservation, agricultural, or forestry purposes. Reductions in minimum lot size, frontage and setback requirements are allowed.

*Convalescent home*. See ~~Health~~ **Residential** care facility.

*Covenants* means conditions established by deed which bind subsequent purchasers in their use of the land.

*Decibel* means a unit of measure in determining sound intensity.

*dBA* means a unit of measure of sound intensity as measured on the A scale, such scale being that which is audible to the human ear.

*Distribution of goods* means the distribution of products for resale off the premises or to the end user, but to exclude retail sales on the site.

**Domestic Violence Shelter means a facility that provides temporary shelter, protection, and support for those escaping domestic violence and intimate partner violence, including victims of human trafficking. A domestic violence shelter also accommodates the minor children of such individuals. The facility may also offer a variety services to help individuals and their children including counseling and legal guidance. The facility shall be managed by a public or non-profit agency with in-house supervision provided on a 24-hour basis.**

*Drive-in use* means any establishment designed for the general public to make use, from their vehicles, of the sales or service provided on the premises.

*Driveway* means the travel surface that connects the parking surface to the curb-cut.

**Drug Treatment Clinic means a non-residential facility authorized by the state to provide treatment and licensed drugs to persons, including, but not limited to, methadone or suboxone, to manage and treat drug dependencies.**

*Dwelling, unit* means a single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation. Structure types:

*Single family dwelling* means a detached dwelling unit located on its own lot, designed for, or intended to be occupied by one family.

*Duplex/two-family dwelling* means one building designed, occupied or intended for occupancy by two separate families; each a complete, independent living facility with separate, permanent, full provisions for sleeping, eating, cooking and sanitation. Each of the two dwelling units shall provide complete internal access to all rooms in the unit.

*Multi-dwelling structure* means a structure that contains three or more dwelling units that share common walls or floor/ceilings with one or more units. The land underneath the structure is not divided into separate zoning lots. Buildings with more than one set of cooking facilities are considered to contain multiple dwelling units unless the additional cooking facilities are clearly incidental and accessory.

*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.

*Essential service* means the erection, construction, alteration, or maintenance by public utilities or municipal departments or commissions of underground or overhead gas, electrical, steam or water transmission or distribution systems; collection, communication, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police callboxes, traffic signals, hydrants; and other similar equipment and accessories in connection therewith, but not including buildings reasonably necessary for the furnishing of adequate service by such public utilities or municipal departments or commissions for the public health or safety or general welfare.

*Exterior display* is an outdoor showroom for customers to examine and compare products and includes the outdoor display of products, vehicles, equipment and machinery for sale or lease. The display area does not have to be visible to the street. Examples of uses that often have exterior display are motor vehicles, boat sales, and plant nurseries. Outdoor display of vehicles is separate from required parking spaces under

the zoning ordinance. This does not include goods that are being stored or parked outside. It does not include damaged motor vehicles, vehicles or equipment being serviced, and other similar products.

*Family* means one or more persons occupying a dwelling unit and living as a single housekeeping unit, provided that a group of five or more persons who are not within the second degree of kinship shall not be deemed to constitute a family.

*Farming* means the primary use of land for horticulture or agriculture and includes but is not limited to: residences for the owner, occupants and farm workers; silos; machine sheds; greenhouses; and other outbuildings; as well as the raising and selling of farm animals or products.

*Filling station* means a building or structure, or part thereof, or any premises used in connection with tanks, pumps, and other appliances for supplying motor vehicles with gasoline and oil, water, compressed air and similar supplies for profit, but not used for the purpose of making repairs. Also see *Service station*.

*Floor area, gross*, means the sum of the total areas of the several floors of the structure, measured in horizontal dimensions, excluding areas used for accessory garage purposes and uses accessory to the operation of the building. All horizontal dimensions shall be taken from the exterior faces of walls, including walls, or other enclosures of enclosed porches, patios and breezeways. Basements and habitable attics shall be included in gross floor area.

**Food Pantry means a non-profit organization that provides food directly to those in need. Food pantries receive, buy, store, and distribute food. Food pantries may also prepare meals to be served at no cost to those who receive them. A food pantry may be part of a place of worship, social service center, homeless shelter, and domestic violence shelter.**

~~*Fraternity and sorority house* shall mean a place of residence, with or without meals, for more than four persons attending a college or university, who are all members of, or pledged to, a local or national fraternity or sorority that is recognized by a college or university with a Keene campus. For purposes of this article, a fraternity or sorority house shall be treated as a lodginghouse.~~

*Frontage* means that continuous portion of a lot fronting on a public way laid out by the city under the provisions of RSA 231 or its predecessor statutes, and still maintained by the city as a public way.

*Frontage, minimum*, means the smallest width, measured along the property line which abuts a laid-out public way to which access may be permitted, which is allowed for the permitted use of a parcel, according to the zoning requirements.

*Garage, business*, means a building or structure, or part thereof, in which are kept one or more motor vehicles belonging to the owner or a tenant of the premises, which are kept for the use of such owner or tenant for the carrying of loads other than passengers for profit, for any work in connection with the business of the owner of such motor vehicles, kept for sale, exhibition or for demonstration purposes, but not for hire. A salesroom or showroom for motor vehicles in which any vehicle is kept with gasoline in its tank shall be classed as a "business garage," and also any building in which motor vehicles are kept in dead storage for profit. Also see *Garage, public*.

*Garage, private*, means a building for the noncommercial storage of motor-driven vehicles.

*Garage, public*, means a building, other than a private garage, used for the storage of motor-driven vehicles for remuneration. Also see *Garage, business*.

*Grade plane* means a reference plane representing the average of the finished ground level adjoining the building at all exterior walls. When the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line or, when the lot line is more than six feet from the building, between the building and a point six feet from the building.

~~Group home means any premises, privately or publicly sponsored, where board and supervision are given to five or more persons not related by blood or marriage to the owner or primary occupant thereof, for the purpose of social rehabilitation and/or long term sheltered care.~~ **a facility in a residential dwelling, providing living accommodations and care for five or more unrelated persons who are in need of personal care services and/or are in need of supervision. Group home may include non-medical drug and alcohol rehabilitation.**

*Guestroom* means a room let as an independent unit to a person not related by blood or marriage to the owner of the premises.

*Health and fitness center* means a business whose primary purpose is to conduct indoor and/or outdoor activities for members related to health, physical fitness, and exercise. Activities include, but are not limited to, weight training, circuit training, aerobic exercise, yoga, swimming, in-line skating, skate boarding, floor hockey, ice hockey, basketball, volleyball, dancing, batting cages, jogging, walking, climbing and biking.

Activities which are normal and incidental to health and fitness centers may include, but are not limited to, childcare; juice bars; cafes; retail sales of sporting accessories, clothing and equipment; retail sales of health supplements; massage therapy; chiropractic therapy; tanning; manicures; pedicures; spa treatments and saunas.

~~*Health care facility* means an institution such as a nursing home, convalescent home, sanitarium, or home for the aged, in which sick patients or injured persons are given chronic medical, recovery or surgical care; or an institution for the chronic care of contagious diseases or incurable patients; or an institution which provides home and/or care for the aged.~~

*Historic site* means a site, building or structure which has local, state or national historical significance, as determined by the appropriate authority.

*Home occupation* means a use conducted by the inhabitants of a dwelling, which use is clearly incidental and secondary to the use of the premises for dwelling purposes and does not change the residential character thereof.

**Homeless Shelter means a facility that provides temporary shelter without a fee to persons who are homeless. The facility shall be managed by a public or non-profit agency with in-house supervision provided during operation.**

*Homeowners association* means a private nonprofit association or other nonprofit legal entity established for the benefit and enjoyment of the residents of a subdivision or conservation residential development in which the individual owners share common interests in open space and/or facilities and are in charge of preserving, managing and maintaining the common property, and enforcing certain covenants and restrictions. Membership in such association shall be mandatory for property owners and made a required covenant in any deed issued or passed. It shall provide voting and use rights in the common area when applicable, and may charge dues to cover expenses, which may include tax liabilities of the common area, recreational, or utility facilities. Articles of association or incorporation, agreements and easements, other organizational instruments or any amendments thereto must be acceptable to the planning board as part of the approval of a conservation residential development or any subdivision containing common land.

*Hospital* means a medical facility where acute medical and surgical care is given to humans on an inpatient basis, and such facility may also have outpatient facilities.

~~*Hotel* shall mean a building or group of buildings which provides sleeping accommodations on a transient basis, with or without meals, but without separate cooking facilities for individual occupants.~~ **means a commercial facility that provides rooms for sleeping and customary lodging services for a fee. Related accessory services include, but are not limited to, meeting facilities, eating and drinking establishments, and gyms for the use of guests.**

*Impervious surfaces* means those surfaces and development features on a lot which are non-porous and which substantially prevent rain or storm water from absorbing or percolating into the ground beneath them. Impervious surfaces include, but are not limited to: roof areas, structures, patios, sidewalks,

driveways, parking areas, swimming pools and other development features surfaced with non-porous materials.

*Institution* means a building occupied by a nonprofit corporation or nonprofit establishment for public or semipublic use.

*Institutional use* includes ~~health care facility, hospital, accessory (temporary) housing for families of patients admitted to a hospital, clinic, nursing home, sanitarium, convalescent home, home for the aged,~~ private school, child care facility, place of worship, senior center, and museum. It may be public or private, for profit or not for profit, and deals with a service rather than a product. In order to qualify as an institutional use, the property must be owned or leased by and used directly by the institution for institutional purposes. The property cannot be leased or subleased in whole or in part by the institutional use to a noninstitutional use. **For purposes of this chapter, the term Institutional Use shall not include a residential care facility, group home, homeless shelter, domestic violence shelter, drug treatment clinic, social service center, food pantry, residential drug/alcohol treatment facility.**

*Junk* means any worn out, cast off or discarded article or material which is ready for destruction or has been collected or stored for salvage or conversion to some use.

*Junkyard* means the use of land, whether inside or outside a structure, for the keeping or abandonment of junk.

*Kennel* means any lot or premises on which four or more dogs, at least four months of age, are kept or boarded for remuneration or sale.

*Live/work space* means a combination of a permitted commercial use and a permitted residence within a structure when the permitted residence is secondary or accessory to the permitted commercial use.

*Loading space* means an off-street space or berth on the same lot with a building, or contiguous to a group of buildings, for the temporary parking of vehicles while loading or unloading merchandise or materials.

*Lodginghouse* shall mean any dwelling for more than four unrelated persons, which ~~lets~~ **provides separate rooms for sleeping accommodations for a fee** for a ~~transient or permanent~~ basis, without personal care services, ~~with or without meals, but~~ **and** without separate cooking facilities for individual occupants. For purposes of this **article**, the term lodging house shall not include a hotel or motel. **Lodginghouse shall include fraternity and/or sorority house.**

*Lot* means a parcel of land occupied or capable of being occupied, under this chapter, by structures, buildings or uses, including such open spaces as are required by this chapter.

*Lot area* means the total area of a lot, exclusive of any area in a public or private way open to the public uses.

*Lot, corner,* means a lot situated at the intersection of an abutting two or more streets which have an angle of intersection of not more than 135 degrees measured at the intersection of the street lines.

*Lot depth* means the distance between the front and rear lot lines measured along the side lot lines.

*Lot line, front,* means the line separating the lot from the street or, for a corner lot, the line separating the narrower street frontage of the lot from the street.

*Lot line, rear,* means a line most distant and opposite from the front lot line or, where the lot is irregular, a line parallel to the front lot line, and at least ten feet long within the lot.

*Lot line, side,* means any line connecting the front and rear lot lines.

*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.

*Manufactured housing subdivision* means a division of land into four or more lots for the sole purpose of providing locations for manufactured housing to be placed on lots owned by the owners of the manufactured housing. All requirements applicable to conventional housing in the particular zoning district shall be applicable to manufactured housing.

*Manufacturing* means the act of making goods or articles from raw materials or unfinished products and includes processing and assembling.

*Maximum building setback.* Within the Gilbo Avenue Overlay, the maximum distance of the exterior wall of the principal façade from Gilbo Avenue or West Street.

*Mixed-use development* means a combination of different permitted uses within a single building lot.

~~*Motel* shall mean a building or group of buildings with direct access to each unit from the outside, and with an on-site parking space for each unit, which provides sleeping accommodations primarily for transients traveling by motor vehicle, with or without meals and/or cooking facilities for individual occupants.~~ **means a commercial facility that provides rooms for sleeping and customary lodging services for a fee, with direct access to each unit from the exterior of the building.**

~~*Motel, apartment,* means a structure primarily for transients traveling by automobile, with direct access to each lodging unit from the outside, and with an on-site parking space for each lodging unit, and where cooking facilities are provided in individual units. Transient residency shall not exceed six consecutive months. Also see *Boardinghouse, Hotel, Tourist home.*~~

*Motor vehicle dealership* means an enterprise which sells or rents new and used cars, trucks, motorcycles and other motorized vehicles and which may also include repair garages, paint shops and vehicle body shops accessory to the main use.

*Museum* means a building, place, or institution devoted to the acquisition, conservation, study, exhibition, and educational interpretation of objects having scientific, historical, or artistic value.

*Neighborhood grocery store* means establishments primarily engaged in the provision of frequently or recurrently needed food for household consumption, such as prepared food, beverages, limited household supplies and hardware; in a space that is less than or equal to 3,500 square feet.

*Neighborhood shopping center* means an area which provides a multiple of neighborhood businesses.

*Noncommercial greenhouse* means a greenhouse erected for the purpose of raising plants for use other than sale, either wholesale or retail, on or off the premises.

*Noncommercial outdoor recreational activity* means outdoor recreation as a primary use of the land, for which no admission is charged.

*Nonconforming building or use* means the use of any building, structure or land existing at the time of the enactment of the ordinance from which this section derives, or any amendments thereto, which does not conform in whole or in part to this chapter or its amendments.

*Noxious fumes* means fumes which are in sufficient quantity to be harmful to health.



*Nursery/child care facility* means an establishment, licensed under the provisions of New Hampshire state law, for the care and supervision of a child away from the child's home and apart from the child's family.

*Nursery/greenhouse* means an enterprise that conducts the retail and/or wholesale business of plants grown on the premises, as well as accessory items directly related to their care and maintenance.

*Nursing home.* See ~~Health~~ **Residential** care facility.

*Office* means the building, room or series of rooms in which the affairs of a business, profession or branch of government are conducted.

*Open space* means land within or related to a conservation residential development, which is set aside for conservation purposes, in accordance with section 102-289. Open space is subject to use limitations as set forth in section 102-288(4) and is intended for the common use, benefit and enjoyment of the residents of the conservation residential development and/or the general public. Open space may be held jointly by the owners of other lands in the conservation residential subdivision, a developer prior to completion of a conservation residential subdivision development, a homeowner's association, the city, or a third party conservation organization.

*Outdoor recreational activity as a business* means an activity, the majority of which takes place outdoors rather than in or on a structure and is usually considered recreational. Examples include but are not limited to golf courses, cross-country skiing trails, riding trails, etc. Areas for these activities have a minimum of structures when compared to the total size of the area.

*Packaging* means the act, process art or style of wrapping, bundling, or containing an item for preservation, transportation or sale

*Parcel* means any land.

*Parking area (lot)* means an open area, other than the street, intended and used for the temporary parking of motor vehicles.

*Parking space* means an area designated and used for the parking of a single vehicle, but not used for traffic circulation.

*Passive recreation* means nonmotorized recreational activities that typically occur in a natural setting and that do not have significant adverse impacts to natural, cultural, scientific, or agricultural values of the setting. Such passive recreation shall include, but not be limited to, walking, hiking, picnicking, nature observation, and cross-country skiing.

*Pedestrian entrance* means an entrance that is specifically designed to serve the needs of pedestrians with maximally practical ease and comfort, as opposed to service entrances.

*Pedestrian-scale* means development designed so a person can comfortably walk from one location to another that encourages strolling, window-shopping, and other pedestrian activities, provides a mix of commercial and civic uses (offices, a mix of different retail types, libraries and other government and social service outlets), and provides visually interesting and useful details.

**Personal Care Services means non-medical services provided to assist individuals with activities of daily living such as bathing, dressing, medication management, meal preparation and transportation.**

*Planned unit development* means a type of land development which allows for variety, flexibility and creativity of subdivision design. It is a process which may integrate housing types, circulation systems and utilities, so as to preserve or promote a development harmonious with the physical, social and economic characteristics of the site and surrounding environment. Also see the PUD section of the planning board's subdivision regulations.

*Porous surface* means a surface that presents an opportunity for precipitation to infiltrate (soak) into the ground.

*Principal façade* means the building front and entry through which people are encouraged to enter the building. The architectural front of a building, often distinguished from the other faces by the use of architecturally superior materials and greater elaboration of architectural or ornamental details.

*Privately owned school* means a place for training and instruction in knowledge or physical skills which is operated for profit for that purpose only and on a full-time basis by anyone other than a governmental unit.

*Processing* means to prepare a product for sale by either a special treatment or to change it through a series of steps, but not the original manufacture of a component part.

*Public parks* means publicly owned and operated parks, picnic areas, playgrounds and open spaces.

*Recreation area* means an area designed primarily for activities, either active or passive, normally considered as recreation.

*Recycling plant* means a facility in which recoverable resources, such as newspapers, magazines, books, and other paper products; glass; metal cans; plastic containers and other products, are recycled, reprocessed and/or treated to return such products to a condition in which they may be further processed or again be used. A recycling plant does not include recycling of motor vehicles or hazardous waste.

*Repair garage* means a building or structure or part thereof or any premises used for making major changes and adjustments to motor vehicles including structural changes or repairs, and including work involving the use of machinery.

*Research and development laboratory* means a structure or complex of structures designed or used primarily for research development functions.

**Residential Care Facility means a licensed facility that provides 24-hour medical and/or non-medical care to persons in need of personal care services, supervision, or assistance essential for sustaining the activities of daily living, or for the protection of the individual. A residential care facility may include nursing care, assisted living, hospice care, and continuum of care facilities. Continuum of care facilities may also include independent living facilities as part of the continuum. Residential care facility does not include a residential drug/alcohol treatment facility.**

**Residential Drug/Alcohol Treatment Facility means a licensed facility that provides 24-hour in house supervision for medical and/or non-medical/therapeutic care of persons seeking rehabilitation from a drug and/or alcohol addiction. Such facilities may include medical detoxification.**

*Restaurant* means any place where food or drink is prepared or served to the public for consumption on the premises. The term "food" includes beverages.

*Secondary façade* means any building façade that is not designated as a principal façade.

*Service alley* means a public or private right-of-way that is designed primarily for the purpose of moving and removing goods, products and waste to and from a building; located at the side or rear of a building.

*Senior center* means a facility operated by a public, nonprofit or charitable institution, which provides meeting space and organizational administration in assisting the social needs of the community's senior citizens.

*Service station* means a building or structure or part thereof or any premises used for making minor changes and adjustments to motor vehicles, but not structural changes or repairs. May also include the retail sale of petroleum products. Also see *Filling station*.

*Setback* means the distance between any property line and the nearest point to which any building or structure can be erected. Measurement shall be to the outermost vertical plane nearest the property line.

*Setback, paved and unpaved parking and travel surface*, means that portion of a lot used for parking or internal circulation (travel) within the lot including access to loading docks or doors, dumpsters, etc. Excluded are driveways to and from a public right-of-way and driveways to and from an adjacent lot.

*Shade tree* means a tree, usually deciduous, planted primarily for overhead canopy. Required shade trees shall be a minimum three-inch caliper measured 24 inches above ground.

*Shall* is considered mandatory and directory.

*Shared parking* means on-site or off-site parking lots that can be used to meet the minimum parking requirements of two or more defined land uses at separate times of day.

*Sign* means any structure or part thereof or device attached thereto or painted or represented thereon, which shall be used to attract attention to any object, product, place, activity, person, institution, organization or business, or which shall display or include any letter, word, model, banner, flag, pennant, insignia, device or representation used as, or which is in the nature of, an announcement, direction, or advertisement. For the purpose of this chapter, the term "sign" does not include the flag, pennant or insignia of any nation, state, city or other political unit, or other political, educational, charitable, philanthropic, civic, professional, religious or like campaign, drive, movement or event. See chapter 74 containing the sign code.

*Sign, advertising*, means a sign which directs attention to a business or commodity, service or entertainment conducted, sold or offered elsewhere than on the premises. See chapter 74 containing the sign code.

*Sign, business*, means a sign which directs attention to a business or profession conducted upon the premises. See chapter 74 containing the sign code.

**Social Service Center means a facility that provides services for persons recovering from chemical or alcohol dependency; survivors of abuse seeking support; persons transitioning from homelessness or prior incarceration; and persons with health and disability concerns. It does not include in-patient, overnight, or living quarters for recipients of the service or for the staff. Such service does not include medical examinations or procedures, or medical detoxification, dispensing of drugs or medications, or other treatments normally conducted in a medical office.**

*Storage facility, self-service*, means a building or group of buildings in a controlled access area that contains varying sizes of individual, compartmentalized, and controlled access stalls or lockers for the enclosed storage of customers goods, wares, or material.

*Story* means that portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above. Attic, habitable attic, and basements are not counted as stories.

*Story above grade* means any story having its finished floor surface entirely above grade except that a basement shall be considered as a story above grade when the finished surface of the floor above the basement is:

- (1) More than six feet above grade plane;
- (2) More than six feet above the finished ground level for more than 50 percent of the total building perimeter; or
- (3) More than 12 feet above the finished ground level at any point.

*Streetscape* means the visual elements of a street, including road width, building placement, street furniture, presence of shade trees and landscaping, sidewalk width and pedestrian activity that combine to form the street's character.

*Structure* means anything constructed or erected which requires location on or in the ground, or attached to something having location on or in the ground, including signs, billboards, fences and swimming pools.

*Theater* means a building or part of a building devoted to showing motion pictures or for dramatic dance, musical, or other live performances.

~~*Tourist home* means a private home with rooms leased for overnight transient accommodations. Also see *Motel, apartment, Boardinghouse, Hotel.*~~

*Tract* means an area, parcel, site, piece of land, or property, which is the subject of a development proposal and application.

*Transition point, Gilbo Avenue Overlay.* Locations visible from the public right-of-way at the edge of the Gilbo Avenue Design Overlay that mark the passage between the Gilbo Avenue Design Overlay and surrounding areas. These transition points shall exist at the intersections of Main Street and Emerald Street; Emerald Street and Ralston Street; Gilbo Avenue and West Street; School Street and West Street; and Wilson Street.

*Use* means the purpose for which land or a building is arranged, designed or intended; or for which either land or a building is or may be occupied or maintained.

*Use, accessory,* means a subordinate use which is located on the same lot as the main use, related to it, and is a usual or necessary adjunct to the main use.

*Use, incidental,* means a subordinate use which is located on the same lot as the main use and occurs in conjunction with the primary use. Incidental uses must be specifically permitted in this chapter.

*Use, primary,* means the major use of the land and/or buildings as determined by all available evidence, including but not limited to the percent of land and/or buildings used, and the percent of time used.

*Vehicle body shop.* See *Repair garage.*

*Warehousing* means inside storage of goods or materials for future processing or sale other than on the premises.

*Wholesaling* means the receipt, storage and sale of goods for resale.

*Yard, front,* means an open space extending across the full width of the lot and lying between the front lot line and the nearest point of the building.

*Yard, rear,* means an open space between the rearmost main building on the lot and the rear lot line, extending across the full width of the lot.

*Yard sale* means a sale in residential zones of normally used and/or unneeded household articles and goods. Usually done by the residents of the dwelling where the sale is held, but residents from nearby dwelling units may participate. Also may be called garage sale or tag sale. The purchasing of new and/or used articles for resale at a yard sale does not fit the definition of normally used and/or unneeded household articles and goods.

*Yard, side,* means an open space along the sideline of a lot, extending from the front yard line to the rear yard line; in the case of a corner lot, the side street yard extends to the rear lot line.

*Yield analysis* means a conceptual layout plan required as part of a conservation residential development application. A yield analysis shall demonstrate residential development pattern of a site that could reasonably be expected to be implemented under the conventional zoning standards of the underlying zone, taking into account the presence of wetlands, floodplains, steep slopes, existing easements or encumbrances and, if unsewered, the suitability of soils for subsurface sewage disposal.

*Zoning administrator* means the individual, or his designee, within the organizational structure of the government of the City of Keene with the responsibility for administering the zoning ordinance.

#### ARTICLE IV. - DISTRICTS

DIVISION 5. - RURAL (R)  
 Sec. 102-332. - Permitted uses.

Permitted uses in the rural (R) district are as follows:

Permitted Use	Subject to the Following:
Accessory dwelling unit	Subject to conditions and limitations as specified in section 102-896.
Bed and breakfast inn	Special exception. Parking: Must provide one off-street parking space for each room to be rented in addition to parking spaces required for residence.
Cemetery	
Dwelling, single-family	
Gravel pits	Special exception. Traffic: Primary access must be via an arterial street. Fumes/odors: No dust, odors, and/or fumes may escape boundaries of property. Also see chapter 54 pertaining to natural resources protection.
Greenhouses or nurseries for raising of flowers and other horticultural products, including raising of such products for sale on the premises	
Group home	<del>Utilities: City sewer and water required.</del> <del>Buffer: A continuous 50-foot wide area measured from the property line in which no buildings, parking lots or roads are permitted, except for authorized curb cuts, and in which all utilities must be underground.</del> Minimum setback: 75 feet rather than 50 feet for front, side and rear property lines. Parking: Minimum of one half space per unit.
Harvesting of forestry products	
Historic site open to the public	
Home occupation incidental to main residential use	Condition: See division 5 of article V of this chapter pertaining to home occupations.
Institutional use	Special exception. Subject to conditions and limitations as specified in division 12 of article V of this chapter pertaining to institutional use.
Kennel	Traffic: Primary access must be via an arterial street. Noise: Cannot exceed 65 dBA measured at the property line. Fumes/odors: No dust, odors, and/or fumes may escape boundaries of property.
Manufactured housing park and manufactured housing subdivisions	
Noncommercial outdoor recreation activity	Traffic: Primary access must be via an arterial street, except by special exception. Noise: Cannot exceed 65 dBA measured at the property line. Fumes/odors: No dust, odors, and/or fumes may escape the boundaries of the property.
Orchards and vineyards	

Outdoor recreational activity as a business	Subject to conditions outlined in division 3 of article VI of this chapter pertaining to outdoor recreation performance standards, and site plan review.
Raising and selling of farm animals and/or products	
Towers for transmission, communication, and/or cellular telephone transmission	Special exception.
Veterinary establishment	Traffic: Primary access must be via an arterial street. Noise: Cannot exceed 65 dBA measured at the property line. Fumes/odors: No dust, odors, and/or fumes may escape boundaries of property.

DIVISION 6. - LOW DENSITY (LD)

Sec. 102-362. - Permitted uses.

Permitted uses in the low density (LD) district are as follows:

Permitted Use	Subject to the Following:
Accessory dwelling unit	Subject to conditions and limitations as specified in section 102-896.
Dwelling, single-family	
<del>Group home</del>	<del>Special exception.</del>
Harvesting of forestry products	Special exception.
Historic site open to the public	
Home occupation incidental to main residential use	Condition: See division 5 of article V of this chapter pertaining to home occupations.
Institutional use	Special exception. Subject to conditions and limitations as specified in division 12 of article V of this chapter pertaining to institutional uses.
Noncommercial raising of farm animals	

DIVISION 7. - LOW DENSITY-1 (LD-1)

Sec. 102-372. - Permitted uses.

Permitted uses in the low density-1 (LD-1) district are as follows:

<i>Permitted use</i>	<i>Subject to the following:</i>
Accessory dwelling unit	Subject to conditions and limitations as specified in section 102-896.
Dwelling, single-family, detached	
<del>Group home</del>	<del>Special exception.</del>
Harvesting of forest products	Special exception.
Historic site open to the public	
Home occupation incidental to the main use	Condition: See division 5 of article V of this chapter pertaining to home occupations.

Noncommercial raising of farm animals	
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DIVISION 8. - MEDIUM DENSITY (MD)

Sec. 102-392. - Permitted uses.

Permitted uses in the medium density (MD) district are as follows:

Permitted Use	Subject to the Following:
Accessory dwelling unit	Subject to conditions and limitations as specified in section 102-896.
<b><u>Domestic Violence Shelter</u></b>	
Dwelling, multifamily	Condition: Maximum of three dwelling units per lot.
Dwelling, single-family	
Dwelling, duplex	
Group home	<del>Special exception.</del> <b><u>Subject to conditions and limitations as specified in Article XVII of Chapter 102 and Article XXIV of Chapter 46</u></b>
Historic site open to the public	
Home occupation incidental to main residential use	Condition: See division 5 of article V of this chapter pertaining to home occupations.
Institutional use	Special exception. Subject to conditions and limitations as specified in division 12 of article V of this chapter pertaining to institutional uses.
Noncommercial raising of farm animals	

DIVISION 9. - HIGH DENSITY (HD)

Sec. 102-422. - Permitted uses.

Permitted uses in the high density (HD) district are as follows:

Permitted Use	Subject to the Following:
Accessory dwelling unit	Subject to conditions and limitations as specified in section 102-896.
Bed and breakfast with meeting and dining facilities	Special exception.
	1. Access required from a street no more than one street removed from a state highway.
	2. Maximum of 60 people or eight times the number of bedrooms, whichever is less.
	3. Must provide on-site parking of two spaces for permanent resident, plus one space per guest bedroom, plus one space per 1.5 people using meeting and dining facilities.

	4. Attendance by registered guests, invited guests or participants in functions/meetings only. Dining facilities are not open to the public.
	5. A semiannual special license will be required for any activity involving more than 60 people. No more than 100 people will be allowed per special event during the period of the special license. Application for a special license is to be filed with the city clerk and shall require approval by the departments of police, fire and code enforcement. For each special license, the city shall determine hours of operation, parking requirements, traffic control and special requirements deemed necessary for public safety.
	6. Hours of operation for outside activities shall be restricted to 8:00 a.m. to 10:00 p.m.
	7. Five-acre minimum site required.
Bed and breakfast inn/ <del>tourist home</del>	Special exception. Parking: Must provide one off-street parking space for each room to be rented in addition to parking spaces required for residence.
<del>Boardinghouse</del> / <u>Lodginghouse</u>	<b><u>Subject to conditions and limitations as specified in Article XVII of Chapter 102 and Article XXIV of Chapter 46</u></b>
<b><u>Domestic Violence Shelter</u></b>	
Dwelling, duplex	
Dwelling, multifamily	
Dwelling, single-family	
<del>Fraternity/sorority</del>	<del>Special exception.</del>
Group home	<b><u>Subject to conditions and limitations as specified in Article XVII of Chapter 102 and Article XXIV of Chapter 46</u></b>
Historic site open to the public	
Home occupation incidental to main residential use	Condition: See division 5 of article V of this chapter pertaining to home occupations.
Institutional use	Special exception. Subject to conditions and limitations as specified in division 12 of article V of this chapter pertaining to institutional uses.
Neighborhood grocery stores	Special exception.
<b><u>Residential Care Facility</u></b>	<b><u>Subject to conditions and limitations as specified in Article XVII of Chapter 102 and Article XXIV of Chapter 46</u></b>
Senior center	

DIVISION 10. - HIGH DENSITY-1 (HD-1)

Sec. 102-452. - Permitted uses.

Permitted uses in the high density-1 (HD-1) district are as follows:

Permitted Use	Subject to the Following:
Accessory dwelling unit	Subject to conditions and limitations as specified in section 102-896.
Bed and breakfast with meeting and dining facilities	Special exception. See section 102-422 pertaining to performance standards, high density.
Dwelling, duplex	
Dwelling, multifamily	



Dwelling, single-family	
<del>Group home</del>	
Institutional use	Special exception. See division 12 of article V of this chapter pertaining to institutional uses.

DIVISION 11. - CENTRAL BUSINESS (CB)

Sec. 102-482. - Permitted uses.

Permitted uses in the central business (CB) district are as follows:

Permitted Use	Subject to the Following:
Art center	
Banking or lending institutions	
Clinic	
<b><u>Domestic Violence Shelter</u></b>	
Drive-in uses	Special exception.
Dwelling, multifamily	
<b><u>Food Pantry</u></b>	
Funeral parlor	
Garage, business	
Health and fitness center	Special exception required for all outdoor activities.
Historic site open to the public	
Hotel	
Institutional use	
Live/work space	
Nursery or child care facility	
Offices, including incidental warehousing, wholesaling or retailing	
Parking area (lot)	
Place of worship	
Private club, lodge or fraternal activity where function is indoors	
Private school	
Recreational activity as a business	Special exception.
Research and development	
<b><u>Residential Care Facility</u></b>	<b><u>Subject to conditions and limitations as specified in Article XVII of Chapter 102 and Article XXIV of Chapter 46</u></b>
Restaurants	
Retail sales/service and/or rental including indoor salesroom where motor vehicles are kept for sale	

<b><u>Social Service Center</u></b>	<b><u>Subject to conditions and limitations as specified in Article XVII of Chapter 102 and Article XXIV of Chapter 46</u></b>
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DIVISION 12. - CENTRAL BUSINESS LIMITED (CBL)

Sec. 102-512. - Permitted uses.

Permitted uses in the central business limited (CBL) district are as follows:

Permitted Use	Subject to the Following:
Banking or lending institutions	
Bed and breakfast inn/ <del>tourist home</del>	
<del>Boardinghouse</del> / <u>Lodginghouse</u>	<b><u>Subject to conditions and limitations as specified in Article XVII of Chapter 102 and Article XXIV of Chapter 46</u></b>
Clinic	
<b><u>Domestic Violence Shelter</u></b>	
Drive-in uses	
Dwelling, multifamily	Condition: Minimum of four or more dwelling units.
<b><u>Food Pantry</u></b>	
Funeral parlor	
Garage, business	
Health and fitness center	Special exception required for all outdoor activities.
Historic site open to the public	
<b><u>Homeless Shelter</u></b>	<b><u>Subject to conditions and limitations as specified in Article XVII of Chapter 102 and Article XXIV of Chapter 46</u></b>
Hotel	
Institutional use	
Motel/ <del>motel apartment</del>	
Motor vehicle dealership	Condition: No outside storage of dismantled vehicles or vehicle parts between building line and street. All outside storage must be screened from any adjacent residential use by a minimum six-foot-high fence, hedge or other impervious buffer along internal lot lines which separate such use from adjacent residential use. No display or storage within ten feet of curb or curblane.
Motor vehicle service station/filling station	Condition: See division 10 of article V of this chapter pertaining to filling stations, service stations, repair garages, paint shops, vehicle body shops.
Nursery or child care facility	
<del>Nursing home, sanitarium, convalescent home, home for the aged</del>	
Office	
Parking area (lot)	
Place of worship	

Private club, lodge, or fraternal activity where primary function is indoors	
Privately owned school	
Recreational activity as a business	Special exception.
Research and development	
Restaurant	
<b><u>Residential Care Facility</u></b>	<b><u>Subject to conditions and limitations as specified in Article XVII of Chapter 102 and Article XXIV of Chapter 46</u></b>
Retail sales and services	
Senior center	
<b><u>Social Service Center</u></b>	<b><u>Subject to conditions and limitations as specified in Article XVII of Chapter 102 and Article XXIV of Chapter 46</u></b>

DIVISION 13. - COMMERCE (COM)

Sec. 102-542. - Permitted uses.

Permitted uses in the commerce (COM) district are as follows:

Permitted Use	Subject to the Following:
Banking or lending institution	
Clinic	
<b><u>Domestic Violence Shelter</u></b>	
Drive-in use	
<b><u>Drug Treatment Clinic</u></b>	<b><u>Subject to conditions and limitations as specified in Article XVII of Chapter 102 and Article XXIV of Chapter 46</u></b>
<b><u>Food Pantry</u></b>	
Funeral parlor	
Garage, business	
Greenhouse, nursery	
Health and fitness center	Special exception required for all outdoor activities.
Historic site open to the public	
<b><u>Homeless Shelter</u></b>	<b><u>Subject to conditions and limitations as specified in Article XVII of Chapter 102 and Article XXIV of Chapter 46</u></b>
Hotel	
Institutional use	
Motel	
<del>Motel, apartment</del>	
Motor vehicle dealership	

Motor vehicle repair garage, paint shop, vehicle body shop	Condition: See division 10 of article V of this chapter pertaining to filling stations, service stations, repair garages, paint shops, vehicle body shops.
Motor vehicle service station/filling station	Condition: See division 10 of article V of this chapter pertaining to filling stations, service stations, repair garages, paint shops, vehicle body shops.
Nursery or child care facility	
Offices, including incidental warehousing, wholesaling or retailing	
Parking area (lot)	
Private club, lodge or fraternal activity where primary function is indoors	
Private school	
Publishing/printing	
Recreational activity as a business	
Research and development	
<b><u>Residential Care Facility</u></b>	<b><u>Subject to conditions and limitations as specified in Article XVII of Chapter 102 and Article XXIV of Chapter 46</u></b>
<b><u>Residential Drug/Alcohol Treatment Facility</u></b>	<b><u>Subject to conditions and limitations as specified in Article XVII of Chapter 102 and Article XXIV of Chapter 46</u></b>
Restaurants	
Retail sales/services	
<b><u>Social Service Center</u></b>	<b><u>Subject to conditions and limitations as specified in Article XVII of Chapter 102 and Article XXIV of Chapter 46</u></b>

DIVISION 15. - OFFICE (O)

Sec. 102-602. - Permitted uses.

Permitted uses in the office (O) district are as follows:

Permitted Use	Subject to the Following:
	Condition: All development, redevelopment, additions, and renovations in this zone are to maintain the look and feel of a residential zone or area. This is to be accomplished by the following:
	1. All changes are subject to the city site plan regulations.
	2. Specifically prohibited are concrete block exteriors, flat roofs, and rooftop HVAC equipment.
	3. All dumpsters must be located at the rear of the building, be enclosed or screened and not visible from the street. Exempt from this requirement are dumpsters temporarily located on a site during construction when a building permit has been issued.
	4. No parking and/or paving, except driveways, is permitted in the front setback or the area from the front lot line to the building front, whichever is greater.

	5. When a site is altered, requiring submittal of a site plan, there is to be provided a four-foot-high fence and/or landscape screen between all paving/driveways/parking and directly abutting residential property.
Accessory dwelling unit	Subject to conditions and limitations as specified in section 102-896.
Bed and breakfast/inn; <del>tourist home</del>	
Dwelling, duplex	
Dwelling, multifamily	
Dwelling, single-family	
Funeral parlor	
<b><u>Group Home</u></b>	<b><u>Subject to conditions and limitations as specified in Article XVII of Chapter 102 and Article XXIV of Chapter 46</u></b>
Historic site open to the public	
Home occupation	See division 5 of article V of this chapter pertaining to home occupations.
Institutional use	Special exception. Subject to conditions and limitations as specified in division 12 of article V of this chapter pertaining to institutional uses.
Nursery or child care facility	Special exception.
Office	
Parking area (lot)	Special exception.
Private club, lodge or fraternal activity where primary function is indoors	Special exception. Traffic: Primary access must be via an arterial street.
Senior center	

DIVISION 20. - REGIONAL HEALTH CARE (HC)

Sec. 102-760. - Permitted principal uses.

Permitted principal uses in the regional health care (HC) district are as follows:

Permitted Principal Uses	Subject to the Following:
Accessory (temporary) housing for family of patients admitted to hospital	
Adult day care	
Administrative offices which support a principal use within the medical facilities district, including, without limitation, billing, business, computer data processing, and records	
Clinic	
<del>Health</del> <b>Residential</b> care facility, including skilled nursing home, extended care, and assisted and sheltered care facilities	<b><u>Subject to conditions and limitations as specified in Article XVII of Chapter 102 and Article XXIV of Chapter 46</u></b>
Health care professional services and offices, including doctors, nurses, occupational and rehabilitative services, hospice, community health	

education, nutrition, and other providers of health, human, and mental health services	
Heliport for emergency use	Minimum 400-foot front setback.
Hospital	
Housing for health care professional students, such as medical interns and residents	
Parking garage	Minimum 400-foot front setback.
<b><u>Residential Drug/Alcohol Treatment Facility</u></b>	<b><u>Subject to conditions and limitations as specified in Article XVII of Chapter 102 and Article XXIV of Chapter 46</u></b>

DIVISION 21. – RESIDENTIAL PRESERVATION (RP)

Sec. 102-770.1. - Permitted principal uses.

Any mixture of these primary uses is permitted.

Permitted Use	Subject to the Following:
Accessory dwelling unit (ADU)	< 800 SF
Bed and breakfast inn/ <del>tourist home</del>	
Bed and breakfast with meeting/dining facilities	Special exception
Single-family dwelling	
Noncommercial raising of farm animals	
Nursery/child care facility	< 2,500 SF

DIVISION 22. - BUSINESS GROWTH AND RE-USE DISTRICT (BGR)

Sec. 102-771.1. - Permitted principal uses.

Any mixture of these primary uses is permitted:

Permitted Use	Subject to:
Assembly	Any one use may occupy no more than 30,000 gross square feet of floor space. Special exception subject to criteria for > 30,000 square feet.
Bed and breakfast inn/ <del>tourist home</del>	
Bed and breakfast with meeting/dining facilities	
Bulk storage and distribution of goods, accessory to main manufacturing use	Any one use may occupy no more than 30,000 gross square feet of floor space. Special exception subject to criteria for > 30,000 square feet.
College: Undergraduate, graduate and industrial training programs	Any one use may occupy no more than 30,000 gross square feet of floor space. Special exception subject to criteria for > 30,000 square feet.
Health and fitness center	Special exception required for all outdoor activities. Accessory use only.
Historic site	

Home occupation/live-work	
Home offices (insurance/publishing companies, manufacturing firms)	
Manufacturing/processing	Any one use may occupy no more than 30,000 gross square feet of floor space. Special exception subject to criteria for > 30,000 square feet.
Mixed-use development	
Multi-dwelling structure	Special condition: Mixed use only when connected to a commercial or industrial use.
Neighborhood grocery store	< 3,500 SF
Nursery/greenhouse	
Office, small scale corporate, business or professional purposes	Any one use may occupy no more than 20,000 gross square feet of floor space. Special exception subject to criteria for > 20,000 square feet.
Repair garage	Condition: All outside vehicles must be screened from view by a minimum six-foot-high impervious fence or hedge.
Research and development laboratory	Any one use may occupy no more than 30,000 gross square feet of floor space. Special exception subject to criteria for > 30,000 square feet.
<b><u>Residential Care Facility</u></b>	<b><u>Subject to conditions and limitations as specified in Article XVII of Chapter 102 and Article XXIV of Chapter 46</u></b>
Restaurant	As distinguished from a bar and less than 50 seats.
Warehousing	Any one use may occupy no more than 30,000 gross square feet of floor space. Special exception subject to criteria for > 30,000 square feet.
Wholesaling	Any one use may occupy no more than 30,000 gross square feet of floor space. Special exception subject to criteria for > 30,000 square feet.

DIVISION 23. – NEIGHBORHOOD BUSINESS (NB)

Sec. 102-772.1. - Permitted principal uses.

Any mixture of these primary uses is permitted:

<b>Permitted Use</b>	<b>Subject To:</b>
Accessory dwelling unit (ADU)	< 800 SF
Bed and breakfast inn/ <del>tourist home</del>	
Bed and breakfast with meeting/dining facilities	Special exception
Duplex /two family dwelling	
Funeral Parlor	< 3,750SF
Health and fitness center	< 2,500 SF
Historic site	
Home occupation/live-work	

Mixed-use development	
Multi-dwelling structure	
Neighborhood grocery store	< 3,500 SF
Nursery/greenhouse	< 5,000 SF
Nursery/child care facility	< 3,000SF
Office, professional	< 5,000 SF
Restaurant	< 3,500 SF
Retail sales/service	< 3,500 SF
Single family dwelling	

**ARTICLE XIII. - SUSTAINABLE ENERGY EFFICIENT DEVELOPMENT OVERLAY**

Sec. 102-1434. - General standards.

(a) Central business district, central business limited district use regulations: In addition to the uses allowed in the central business district and central business limited district, the following uses shall be permitted in any combination when a proposed development has received a finding of eligibility:

- (1) Mixed-use development

(b) Commerce district, industrial district, and high density district within SEED Area A Use Regulations: In addition to the uses allowed in the commerce district, high density and industrial district, the following uses shall be permitted in any combination when a proposed development has received a finding of eligibility:

- (1) All uses allowed within the central business district, **with the exception of food pantry and social service center unless otherwise permitted in the underlying zoning district.**
- (2) Mixed-use development.

(c) High density district within SEED Area B Use Regulations: In addition to the uses allowed in the high density district, the following uses shall be permitted when a proposed development has received a finding of eligibility:

- (1) Mixed-use development;
- (2) Banking or lending institutions;
- (3) Clinic;
- (4) Nursery or child care facility;
- (5) Parking area (lot).

**ARTICLE XVII. SOCIAL SERVICES AND CONGREGATE LIVING**

**Section 102-1498. Conditional Use Permit Applicability**

**Any change of use or new occupancy of any building or portion thereof to the following social services or congregate living uses shall require a conditional use permit issued by the Planning Board. The following uses are as defined in Section 102-2.**

- a) **Drug Treatment Clinic**
- b) **Group Home**
- c) **Homeless Shelter**
- d) **Lodginghouse**



- e) Residential Care Facility
- f) Residential Drug/Alcohol Treatment Facility
- g) Social Service Center

**Section 102-1498. Conditional Use Permit General Criteria**

In addition to the Planning Board Development Standards, the Planning Board shall consider the following criteria when deciding whether to grant a conditional use permit.

- a) The proposed use will not have a significant adverse impact on the general welfare, safety, and health of the neighborhood or community, including that of the client population being served by such uses.
- b) The proposed use is compatible with the character of the surrounding area in terms of operational characteristics including hours of operation, outdoor lighting, noise, and traffic generation.
- c) For certain uses, additional standards must be met. These standards are listed below by use.
  - i. Group Home
    - a. Group home facilities must maintain the appearance of a residential structure. When located in an existing residential structure, the design and operation of the facility must not alter the residential character of the structure.
  - ii. Residential Care Facility
    - a. When located in an existing residential structure, the design and operation of the facility must not alter the residential character of the structure.
  - iii. Residential Drug/Alcohol Treatment Facility
    - a. Facilities shall not be located directly adjacent to a zoning district that allows for single family dwelling units.
  - iv. Social Service Center
    - a. Social Service Centers shall not be located directly adjacent to a zoning district that allows for single family dwelling units.
  - v. Homeless Shelter
    - a. Homeless Shelters shall not be located directly adjacent to a zoning district that allows for single family dwelling units.
  - vi. Drug Treatment Clinic
    - a. Security lighting is required. Such lighting must be adequate to deter or detect intrusions or other criminal activity during non-daylight hours.
    - b. Drug Treatment Clinics shall not be located directly adjacent to a zoning district that allows for single family dwelling units.

**Section 102-1498. Conditional Use Permit Application Procedure.**

All applications for a Social Service and Congregate Living Conditional Use Permit shall be made to the Planning Board in accordance with the submission and procedural requirements set forth in the Planning Board Site Plan and Subdivision Regulations, as they may be amended, and RSA 676:4.

**Section 102-1499. –On-Site Posting of Public Hearing.**

An applicant for a Social Service and Congregate Living Conditional Use Permit shall, not less than 10 days prior to the date before the public hearing on the application, post a sign obtained from the Community Development Department providing notice of the use applied for and the date and time of the public hearing in a location of the premises visible to the public. This sign shall be removed by the applicant

**no later than 10 days after completion of the hearing and returned to the Community Development Department.**

**Section 102-1500. - Enforcement.**

- a) **Enforcement of this article shall be by the City of Keene under the provisions set forth in RSA 676 as it may be amended.**
- b) **A conditional use permit issued under this Article shall only be valid if a Social Service and Congregate Living License is received and maintained in accordance with Chapter 46 Article XXIV of the City Code.**

Nineteen

Relating to Social Services and Congregate Living License

That the City Code of the City of Keene, New Hampshire, as amended, is hereby further amended by adding the bolded underlined text and deleting the stricken text in the following sections:

- Chapter 18. Article I. “In General” - Section 18-2 “Definitions”;
- Chapter 46. Article I. “In General” - Section 46-1 “Definitions”;
- Chapter 46. Article II. “Licensing Generally” - Division 2. “Administration” - Sec. 46-63. “Designated licensing officials”;
- Chapter 46. Article II. “Licensing Generally” - Division 3. “Application, Review, Appeal” - Sec. 46-94. “Fair hearing and review by City Manager”;
- Chapter 46. Article X. “Lodginghouses”
- Appendix B. Fee Schedule – Chapter 46

and, is further amended by adding new Article XXIV. Entitled “Social Services and Congregate Living,” as follows:

CHAPTER 18 - BUILDING REGULATIONS

ARTICLE 1. – IN GENERAL

Sec. 18-2. - Definitions.

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

CHAPTER 46 – LICENSES AND PERMITS

ARTICLE I. - IN GENERAL

Sec. 46-1. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Charitable or nonprofit solicitation* means to request directly or indirectly money, credit, property, financial assistance, or other thing of value on the plea or representation that such money, credit, property, financial assistance, or other thing or any portion thereof shall be used for a charitable purpose or benefit a charitable trust. A solicitation shall be deemed to have taken place whether or not the solicitation is by person or by telephone and whether or not the person making the solicitation receives any contribution. For example: United Way or March of Dimes.

*Charitable organization* means a religious, educational, charitable, civic, veterans' or fraternal organization or political committee or political party which shall have been in existence for at least two years and which is registered with the charitable trust division of the attorney general's office.

*Commercial solicitation (noncharitable)* means a request for money, credit, property, financial assistance, or other thing of any kind in exchange for goods, merchandise or services or any other thing of any kind of value. Without limiting the scope of such terms, solicitation includes the following methods of requesting or securing such money, credit, property, financial assistance or other thing of value:

- (1) An oral or written request
- (2) Telemarketing originating within the city limits.

*Downtown* means:

- (1) Central Square.
- (2) Railroad Square, except on pavers.
- (3) Main Street to Marlboro Street.
- (4) Court Street to Vernon Street.
- (5) Washington Street to Vernon Street.
- (6) West Street to Federal Street.
- (7) Roxbury Street to Roxbury Plaza.
- (8) Gilbo Avenue to St. James Street.

**Drug Treatment Clinic means a non-residential facility authorized by the state to provide treatment and licensed drugs to persons, including, but not limited to, methadone or suboxone, to manage and treat drug dependencies.**

*Food service establishment* means any fixed or mobile restaurant; temporary food service establishment; cafeteria; coffeeshop; cocktail lounge; catering kitchen; sidewalk cafe; commissary; grill; luncheonette; short-order cafe; sandwich shop; soda fountain; tearoom; drive-in; nightclub; taverns; liquor lounges; bars; clubs; roadside stand; industrial feeding establishment; private, public or nonprofit organization or institution serving the public; or similar place in which food or drink is prepared for sale for food service on the premises or elsewhere; and any other eating or drinking establishment where food is served or provided for the public with or without charge. A food service establishment also means a grocery store, meat market, bakery or any establishment where food is stored, manufactured and/or processed, or packaged.

**Group home means a facility in a residential dwelling, providing living accommodations and care for five or more unrelated persons who are in need of personal care services and/or are in need of supervision. Group home may include non-medical drug and alcohol rehabilitation.**

*Hawker and peddler* means any person, either principal or agent, who travels either by foot, cart or vehicle from town to town or from place to place in the same town selling or bartering or carrying for sale or barter or exposing therefore any goods, wares, merchandise or offering to perform personal services for household repairs or improvements. For example: hot dog vendor or vinyl siding vendor.

*Health authority* means the city health director.

**Homeless Shelter means a facility that provides temporary shelter without a fee to persons who are homeless. The facility shall be managed by a public or non-profit agency with in-house supervision provided during operation.**

*Itinerant vendor* means any person, either principal or agent, including any person whose principal place of business is not in this state, who engages in a temporary or transient business in this state, either in one locality or traveling from place to place, selling goods, wares and merchandise, with a total value greater than \$500.00 from stock or by sample for future delivery, and who, for the purpose of carrying on such business, hires or occupies a temporary place [of] business. The term "temporary place of business" means any public or quasipublic place, including but not limited to a hotel, motel roominghouse, storeroom, building, part of a building, tent, vacant lot, railroad car, or trailer temporarily occupied for the purpose of making retail sales of goods to the public. For example: a rug merchant or furniture sales out of a trailer.

*Licensing authority* means the city council or its designee duly authorized by city ordinance or resolution

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

**Personal Care Services means non-medical services provided to assist individuals with activities of daily living such as bathing, dressing, medication management, meal preparation and transportation.**

*Public way* means the traveled portion of the highway, sidewalk, shoulder, tree, lawn, grass strip or all other areas used by the public between private property lines.

**Residential Care Facility means a licensed facility that provides 24-hour medical and/or non-medical care to persons in need of personal care services, supervision, or assistance essential for sustaining the activities of daily living, or for the protection of the individual. A residential care facility may include nursing care, assisted living, hospice care, and continuum of care facilities. Continuum of care facilities may also include independent living facilities as part of the continuum. Residential care facility does not include a residential drug/alcohol treatment facility.**

**Residential Drug/Alcohol Treatment Facility means a licensed facility that provides 24-hour in house supervision for medical and/or non-medical/therapeutic care of persons seeking rehabilitation from a drug and/or alcohol addiction. Such facilities may include medical detoxification.**

*Restaurant* means an establishment where the primary business/use is the preparation and retail sale of food for consumption on or off premises.

*Sanitary food code* means the state Rules for the Sanitary Production and Distribution of Food Code (chapter He-P 2300).

*Sidewalk café* means an outdoor dining area on a public sidewalk or public way where patrons may consume food and/or beverages provided by a licensed restaurant. Such restaurants may either provide table service in the outdoor dining areas or sell take-out items to be consumed in the outdoor dining areas.

**Social Service Center means a facility that provides services for persons recovering from chemical or alcohol dependency; survivors of abuse seeking support; persons transitioning from homelessness or prior incarceration; and persons with health and disability concerns. It does not include in-patient, overnight, or living quarters for recipients of the service or for the staff. Such**

**service does not include medical examinations or procedures, or medical detoxification, dispensing of drugs or medications, or other treatments normally conducted in a medical office.**

*Solicitor* means any person, whether as owner, agent, consignee or employee, whether a resident of the city or not, who solicits.

*Taxicab* means a vehicle for hire, having a manufacturers' rated capacity of not more than seven passengers, that uses the city streets for the purpose of carrying passengers for hire to or from points chosen or designated by the passenger. The passenger does not control the operation. A taxicab is a vehicle which is offered to the public principally as a means of transportation as opposed to a mixed use having social or recreational connotations as for a limousine.

ARTICLE II. - LICENSING GENERALLY

DIVISION 2. - ADMINISTRATION

Sec. 46-63. - Designated licensing officials.

The following city officials shall have the authority to review, to approve and to suspend, revoke or modify the licenses indicated in accordance with this chapter:

<b>Type of License/Permit</b>	<b>Licensing Official</b>
Bike race, road race, parade	City clerk
Central Square Common or Railroad Square	Parks, recreation and facilities director
Charitable and nonprofit solicitation	City clerk
Commercial solicitation	City clerk
Community Event	City council
Food Service Establishments	Health/Code enforcement
General Use of City property	City clerk
Hawkers and peddlers	City clerk
Itinerant vendor	City clerk
Lodging house	City council

Outdoor periodic event	City clerk
Pawnbroker	Police department
Public transportation	City clerk
Raffle	City clerk
Sidewalk Café	City clerk
Sidewalk obstruction	City clerk
<b><u>Social Service and Congregate Living</u></b>	<b><u>Community Development Director</u></b>
Street fair	City council
Temporary sign on city property	City clerk
Walk-a-thon	City clerk

### DIVISION 3. - APPLICATION, REVIEW, APPEAL

#### Sec. 46-94. ~~Fair Hearing and review by city manager.~~

(a) Any person who has been aggrieved by any decision of a designated city official to grant, deny, suspend, revoke or modify a license may petition the ~~city manager~~ **City Manager** for a **fair hearing** to review ~~of that~~ **the** decision.

~~(b) Before a currently valid and lawfully issued license may be suspended, revoked, or modified, a fair hearing shall be afforded the license holder.~~ Reasonable notice will be provided stating the reasons for such hearing, **the date and the time of the hearing**, and the action which may be taken. The hearing shall be before the city manager, the police chief, and the ~~fire chief~~ **city clerk**. **The Petitioner and the licensing official may present information or testimony relevant to the matter as may be determined by the panel.** The majority of such panel shall decide what action shall be taken by the designated licensing official after hearing the evidence and arguments for and against the action.

~~(b)(e)~~ A license may be **immediately** suspended, revoked or modified by the designated licensing official, with the concurrence of the city manager, without a hearing in cases of fraud or emergency; however, in such cases, the license holder may petition that a hearing be conducted as promptly thereafter as may be reasonable and practicable.

~~ARTICLE X. LODGINGHOUSES~~

~~DIVISION 1. GENERALLY~~

~~Sec. 46-561. Reserved.~~

~~Sec. 46-562. Enforcement officer.~~

~~For the purposes of this article, the enforcement officer shall be the police chief. However, where compliance with building, plumbing, wiring and housing codes is concerned, the enforcement officer shall be the superintendent of code enforcement, and for fire and life safety codes, the enforcement officer shall be the fire chief.~~

~~Sec. 46-563. Fraternity and sorority houses.~~

~~Fraternity and sorority house shall mean a place of residence, with or without meals, for more than four persons attending a college or university, who are all members of, or pledged to, a local or national fraternity or sorority that is recognized by a college or university with a Keene campus. For purposes of this article, a fraternity or sorority shall be treated as a lodging house.~~

~~Sec. 46-564. Resident agent.~~

~~Resident agent shall mean the owner or operator of a lodginghouse and/or his or her agent who resides on the premises. Each lodginghouse operator shall cause his resident agent to reside on the premises and shall authorize such agent to be responsible for the day-to-day operation of the lodginghouse, to receive notices in his name and to be responsible for the conduct of persons therein.~~

~~Sec. 46-565. Penalties.~~

~~Any person who operates a lodginghouse without having first obtained a license in accordance with this article shall be fined \$275.00 for each day that such operation continues. Any person who operates and/or any owner who permits a lodginghouse, to operate without a license shall be fined \$275.00 for each day that such operation continues. Any person who violates the provisions of this article shall also be subject to the penalties provided in RSA 676:15 (injunctive relief); RSA 676:17 (fines and penalties); and RSA 676:17 a (cease and desist orders).~~

~~Secs. 46-566—46-585. Reserved.~~

~~DIVISION 2. LICENSE Sec. 46-586. Required.~~

~~From and after the effective date of the ordinance from which this article derives and notification by the city, no person shall keep, permit or suffer to exist a lodginghouse without first having obtained a license from the licensing authority. Such license shall list the following:~~

- ~~(1) The owner of the property;~~
- ~~(2) The operator of the lodginghouse or the resident agent;~~
- ~~(3) The addresses and business and home telephone numbers of each;~~
- ~~(4) The number of persons authorized to reside on the premises; and~~
- ~~(5) The effective and expiration dates.~~



~~Sec. 46-587. – Certificates of compliance.~~

~~Prior to the issuance of a license under this division, all enforcement officers shall make or cause to be made an inspection to determine if applicable laws, ordinances, codes and rules and regulations have been complied with.~~

~~Sec. 46-588. – Expiration.~~

~~Each license issued under this division shall expire one year from its effective date. No renewals or postponements of the effective date shall be granted, but each license shall be a new license each year.~~

~~Sec. 46-589. – Display.~~

~~The license issued pursuant to this division shall be displayed in a prominent place on the ground floor near the front door of the lodginghouse.~~

~~Sec. 46-590. – Suspension or revocation.~~

~~A lodginghouse license may be suspended for a stated period of time for cause or revoked for cause by the licensing authority on complaint of one of the enforcement officers. Notice shall be sufficient if sent by certified mail to the owner of the premises and the operator of the lodginghouse at their addresses as listed on the license.~~

~~Sec. 46-591. – Fee.~~

~~The fee for each lodginghouse license issued shall be as set forth in the schedule of fees in appendix B to this Code.~~

~~Sees. 46-592 – 46-620. – Reserved.~~

## **ARTICLE XXIV. – SOCIAL SERVICES AND CONGREGATE LIVING**

### **Sec. 46-4030. - Applicability.**

**From and after the effective date of the ordinance from which this article derives no person shall keep, permit or suffer to exist any of the following social services or congregate living uses as defined in this chapter without first having obtained a license from the licensing authority for each property location.**

- a) **Drug Treatment Clinic**
- b) **Group home**
- c) **Homeless Shelter**
- d) **Lodginghouse**
- e) **Residential Care Facility**
- f) **Residential Drug/Alcohol Treatment Facility**
- g) **Social Service Center**

### **Sec. 46-4031. - Application Requirements.**

**In addition to the application requirements of Division 4 of this Chapter, the following information may be required and may be used by the licensing authority in evaluation of an application for a Social Services and Congregate Living License:**

- 1. Description of the property location including street address and tax map number.**

2. Description of the client population to be served.
2. The maximum number of beds or persons intended to be served by the facility.
3. Name, phone number, and address of the property owner.
4. Name, phone number, and address of a person acting as the operator, who will serve as a point of 24-hour contact for the public and the City.
5. A management plan detailing operation of the use, number and professional qualifications of staff, management of volunteers, and policy for client conduct and potentially violent clients.
6. A security plan, to ensure safe operation of the facility for staff, clients, and abutters or neighbors.
7. Evidence that all required governmental licenses, permits or authority to operate have been obtained.
8. A list of directly abutting properties, including the abutting property owners' name, street address, mailing address and tax map number, current to within 10 days of the license application, together with payment of the required fee for certified mailing for each listed abutter.

Sec. 46-4032. - Abutter Notification.

The licensing authority shall provide written notice to each listed abutter stating the license applied for, and instructing that any comments relevant to the license application may be submitted to the licensing authority within 10 days of the date of the notice.

Sec. 46-4033. - Compliance.

Prior to the issuance of an initial license, and prior to the reissuance of an annual license, all appropriate enforcement officers shall make or cause to be made an inspection to determine if all applicable laws, ordinances, codes, permits, rules and regulations have been complied with, including but not limited to applicable management and security plans.

The licensing authority shall either grant or to deny the license application within 30 days of the receipt of the application. In the event that the application is denied, the licensing authority shall provide a written statement to the applicant stating the specific reasons for the denial. Any person aggrieved by the decision of the licensing authority to issue or to deny a license may appeal such decision as provided in City Code Section 46-94.

Sec. 46-4034. - Expiration.

Each license issued under this article shall expire on March 31 of the year subsequent to its issuance date notwithstanding the date of the initial issuance. No postponements of the expiration date shall be granted except for good cause shown and as determined by the licensing authority; provided that the license has been applied for prior to the annual expiration date.

Sec. 46-4035. - Display.

The license issued pursuant to this division shall be displayed in a prominent place on the exterior ground floor near the front door of the building.

Sec. 46-4036. - Suspension or revocation.

A social services and congregate living license may be suspended for a stated period of time for cause, or revoked for cause, by the licensing authority on complaint of one of the enforcement officers,

**stating the specific basis for the suspension or revocation, the necessary corrective action to be taken, and the effective date of the suspension or revocation for non-compliance. Notice shall be sufficient if sent by certified mail to the property owner and to the operator of the facility at their addresses as listed on the license. A license may be suspended immediately if the licensing authority determines that immediate suspension is required to protect public health or safety. Any suspension or revocation may be appealed as provided by Code Section 46-94.**

**Sec. 46-4037. - Enforcement.**

**For the purposes of this article, the licensing authority shall be the Community Development Director or their designee. Where compliance with zoning, building, plumbing, wiring and housing codes is concerned, the enforcement officer shall be the Building Official, and for fire and life safety codes, the enforcement officer shall be the Fire Chief.**

**Sec. 46-4038. - Penalties.**

**Any person who operates a social services or congregate living use as listed in Section 46-4030 of this Chapter without having first obtained a license in accordance with this Article, or who operates such a use without a valid license, shall be subject to a violation in accordance with City Code, Section 1-15 and subject to a fine of \$250.00.**

**Sec. 46-4039. - Fee.**

**The fee for each Social Services and Congregate Living License application shall be as set forth in the schedule of fees in Appendix B to this Code.**

**Secs. 46-4038—46-4045. - Reserved.**

APPENDIX B. FEE SCHEDULE

Chapter 46. Licenses and Permits

§ 46-284. Commercial solicitation permit fee, for each 30-day period ..... 30.00

§ 46-332. Employment office license, annually ..... 25.00

§ 46-387. Food service establishment permit fees:

Class I: Food service establishments having a seating capacity of 100 persons or more, supermarkets, establishments with more than one preparation area, and commercial food processing operations processing more than 100,000 or more packages of food/year ..... 350.00

Class II: Food service establishments having a seating capacity of less than 100 persons, establishments with one preparation areas, commercial food processing operations processing less than 100,000 or more packages of food/year ..... 300.00

Class III: Food service establishments having a seating capacity of less than 25 persons, clubs, establishments and mobile food operations selling only prepackaged products, mobile food operations selling only hot dogs, commercial food processing operations of non-time/temp control for safety bulk food and homestead kitchens ..... 200.00

Class IV: Temporary food service establishments ..... 50.00

Plus, per day of operation ..... 10.00

Class V: Nonprofit or charitable organizations not holding a liquor license, private and parochial schools, public schools funded by the city, governmental facilities ..... No Fee

Late renewal fee: In addition to the above, for any renewal application received after October 10 .....1/12 of the fee per whole month late

Class VI: Sellers of prepackaged frozen USDA meat or poultry ..... 100.00

Re-inspection fee: In addition to the above, any re-inspection required for reinstatement of a suspended permit, or for correction of violations shall require a fee equal to 25 percent of the applicable license class.

Determining seating capacity: For the purposes of determining seating capacities for drive-in food service establishments, each car space provided shall be counted as the equivalent of five seats. The health authority shall have the final say in determining which category is applicable to an individual food service.

§ 46-474. Hawkers and peddlers license fee, for one year ..... 150.00

Use of city vending spot, for one year ..... 250.00

§ 46-530. Itinerant vendor license fee, for one year or any part thereof ..... 150.00

~~§ 46-593. Lodginghouse license fee ..... 165.00~~

§ 46-642. Outdoor periodic event license fee, per day ..... 150.00

§ 46-695. Parade, bike race or footrace license fee ..... 25.00

§ 46-743. Pawnbroker's license ..... 100.00

§ 46-846. Public transportation vehicle license, per vehicle ..... 25.00

§ 46-909. Charitable raffle license fee ..... 20.00

§ 46-959. License fees for sidewalk obstructions:

Per storefront area, per year ..... 100.00

Additional fee for merchant requesting use of areas beyond the immediate area in front of his establishment ..... 100.00

Business other than on ground floor, per storefront ..... 100.00

§ 46-1056. License fee to display temporary sign on city property ..... 15.00

§ 46-1111. Walk-a-thon permit fee ..... 25.00

§ 46-1195. License fees for sidewalk cafes.

Initial application with code enforcement review ..... 125.00

Subsequent renewals for 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, and 5<sup>th</sup> year ..... 100.00

Additional fee per storefront area that extends beyond the immediate area in front of the licensed establishment ..... 100.00

**§ 46-4039. Social Services and Congregate Living License Fee....\$200.00**



City of Keene, N.H.  
*Transmittal Form*

July 12, 2019

**TO:** Mayor and Keene City Council

**FROM:** Tara Kessler, Senior Planner

**THROUGH:** Elizabeth A. Dragon, City Manager

**ITEM:** I.2.

**SUBJECT:** Relating to Social Service and Congregate Care Uses and License

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**COUNCIL ACTION:**

In City Council July 18, 2019.

Ordinance O-2019-13 referred to the Joint Planning Board and Planning, Licenses and Development Committee. Ordinance O-2019-14 referred to the Planning, Licenses and Development Committee.

**RECOMMENDATION:**

Move to refer Ordinance O-2019-13 and Ordinance O-2019-14 to the PLD/Planning Board Joint Committee for a Public Workshop.

**ATTACHMENTS:**

**Description**

Application

Narrative

Ordinance O-2019-13

Ordinance O-2019-14

**BACKGROUND:**

Ordinances O-2019-13 and O-2019-14 include amendments to Chapters 46, 102, 18 and Appendix B of the City Code of Ordinances. These amendments propose the introduction of land uses categorized broadly as Social Service and Congregate Living uses into the Zoning Ordinance as well as a conditional use permit and City operating license for some of these uses.

In recent years, the City has seen an increase in the number of applications related to uses that could be characterized as group homes, homeless shelters, residential treatment facilities, and other congregate living and social service facilities. The current use table within the City's Zoning Ordinance does not provide an adequate structure for classifying many of these proposed uses nor does it offer conditions or criteria for which these uses may be allowed.

In late December 2018, the City contracted with the consulting firm, Camiros Ltd., to provide recommendations for classifying and defining these types of land uses within the City's zoning ordinance, identifying where these uses should be allowed, and the criteria by which these uses should be permitted. Camiros Ltd., which has national experience working on zoning ordinances addressing social service and

congregate living uses and is currently working with the City of Keene to develop a Form Based Downtown Zoning District, based their recommendations on a review of best practices from across the country and their understanding of Keene's land use context and Comprehensive Master Plan. City staff have ensured that there is coordination and consistency among the proposed ordinances and the State Building and Fire Codes.

**A high-level summary of the changes proposed to Chapters 102 and 46 included in the attached narrative.**