



AGENDA

Joint Planning Board and Planning, Licenses & Development Committee

March 9, 2020

6:30 PM

Council Chambers

1. Roll Call
2. Approval of Meeting Minutes – January 13, 2020
3. Continued Public Workshop:

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 – Monday, April 13, 2020
5. Adjourn

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**CITY OF KEENE
NEW HAMPSHIRE**

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

Monday, January 13, 2020

6:30 PM

Council Chambers

Planning Board Members Present

Doug Barrett, Chairman
Andrew Weglinski
Mayor George Hansel
Pamela Russell Slack
Tammy Adams, Alternate

Planning Board Members Not Present

Chris Cusack, Vice-Chair
Michael Burke

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

Councilor Kate Bosley
Councilor Phil Jones
Councilor Gladys Johnson
Councilor Mitch Greenwald
Councilor Katherine Workman

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

Staff Present

Rhett Lamb, Community Development Director
Mari Bruner, 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. December 9, 2019 meeting minutes

A motion was made by Mayor George Hansel that the Joint Committee accept the December 9, 2019 meeting minutes as amended. The motion was seconded by Councilor Phil Jones and was unanimously approved.

3. Approval of 2020 Meeting Calendar

A motion was made by Councilor Jones to approve the 2020 meeting calendar. The motion was seconded by Pamela Russell Slack and was unanimously approved.

4. Continued Public Workshop: 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.

Assistant City Manager/Community Development Director Rhett Lamb and Senior Planner Tara Kessler addressed the Committee. Ms. Kessler began by providing a reminder of the reason for the proposed changes. She noted that the City's zoning ordinance is outdated and does not include/permit uses that are more modern. Some of the uses that have been proposed to locate in Keene, but are not explicitly allowed in the zoning ordinance, include residential drug/alcohol treatment facility and homeless shelter. The City Council asked staff to draft an ordinance to introduce uses, which are being categorized as "Congregate Living/Social Service" uses, into the zoning code. Ms. Kessler went on to say the ordinance before the Joint Committee today was introduced to City Council in August and the first public workshop was held on September 9. Since this time, the public workshop on this ordinance has been continued.

The Congregate Living / Social Service uses that are addressed in this ordinance include: Homeless Shelter, Domestic Violence Shelter, Residential Drug/Alcohol Treatment Facility, Drug Treatment Clinic, Residential Care Facility, Food Pantry, Social Service Center, Group Home, and Lodging House.

Ms. Kessler then referred to the minor amendments to the ordinance that have been discussed by the Committee prior to this meeting.

- *Remove abutter notice requirement for Operating License* – Abutter notification is still proposed to be required for a Conditional Use Permit (CUP). A CUP is a permit issued by the Planning Board to allow a certain use to occur if use-specific standards/criteria are met. For a CUP, abutters within 200-feet of the proposed use would need to be notified. The CUP is a one-time permit that would be required prior to a use being allowed to operate. In addition to the CUP, staff is proposing that an annual operating license be issued administratively each year thereafter for some of the proposed uses.
- *Remove requirement for annual Operating License fee of \$200* – Many organizations applying for an operating license are likely to be non-profit organizations or charitable organizations. Some members of the public expressed concern for the fee amount being proposed at previous meetings. Staff have proposed to remove the license fee requirement.
- *Redefine and rename Social Service Center to “Group Resource Center”* – Ms. Kessler noted that there have been many questions about the use “social service center.” Staff have tried to clarify what is a social service center in a revised definition and are proposing to call it group resource center instead.
- *Place max of 16 unrelated persons on Group Home* – In the current draft ordinance, a group home is defined as being for five or more unrelated people. Staff are proposing to include a maximum of 16 persons that can live in a group home in the proposed use definition.
- *Propose that only one group home be allowed per parcel and that only one lodging house be allowed per parcel* – Ms. Kessler noted that group homes and lodginghouses would not be treated the same way a dwelling unit would be by the zoning ordinance, even though they are all residential uses. In zoning districts that allow for multiple dwelling units on a lot, there are lot size requirements for each dwelling unit. As a group home or lodginghouse would not be subject to these additional lot size requirements, staff propose that only one group home or one lodginghouse shall be allowed per lot.
- *Revise use locations to include proposed downtown sub-districts* – Ms. Kessler noted that she would be presenting an overview of proposed use locations later in the meeting. She explained that the City is in the process of updating the zoning districts in the downtown. Some of the existing zoning districts may be replaced by these proposed districts in the near future. Staff have proposed where the Congregate Living / Social Services would be allowed in the proposed new downtown zoning districts.
- *Revise Conditional Use Permit Criteria* – Ms. Kessler noted she would address this later in the meeting.

Ms. Kessler reviewed the current definition for Social Service Center in the proposed ordinance, which is as follows: *“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.”*

Staff have proposed that the term be changed to Group Resource Center and that the definition be changed to: *“An establishment designed with the primary purpose of providing access to services related to counseling, personal care, or social well-being in a group setting. It does not include in-patient, overnight services, or treatments normally conducted in a medical office, such as medical procedures, or medical detoxification, dispensing of drugs or medications.”*

Ms. Kessler explained the reason for distinguishing social service center from an office setting, and for emphasizing the group meeting aspect.

Councilor Jones stated that in areas like Massachusetts there are locations for needle swaps and asked whether that type of location would fit into this definition. Ms. Kessler noted that it would depend on how the location was being used. Councilor Workman noted there is such a program that currently exists in Keene.

Ms. Kessler then reviewed the proposed locations of the each Congregate Living / Social Service use.

Starting with Domestic Violence Shelter, Ms. Kessler stated this use is proposed to be allowed by-right and a CUP and annual operating license would not be required. It is proposed to be allowed in the following zoning districts: Downtown Core*, Downtown Growth*, Downtown Edge*, Downtown Limited*, Medium Density, High Density and Commerce. Districts marked with an asterisk are proposed new districts in the downtown of Keene.

Ms. Kessler displayed maps of where these zoning districts are located in the City.

Ms. Russell asked how far up Court Street does this travel to. Ms. Kessler stated the upper boundary of medium density would North Street to the north.

The next use Ms. Kessler referred to was Food Pantry. Ms. Kessler noted this is another use that would not be required to have a CUP and operating license prior to being allowed.

This use is being proposed to be allowed in the following zoning districts: Downtown Core*, Downtown Growth*, Downtown Edge*, Downtown Limited*, and Commerce. She referred to where these zoning districts are located on a map.

Ms. Kessler then reviewed Residential Care Facility. Ms. Kessler stated that it is proposed that this use would require a CUP and would also require an annual operating license. She noted the reason for requiring a CUP is to allow for more flexibility for where these uses could occur and to make sure the use is compatible with the surrounding neighborhood. This use is being proposed to be allowed in the following zoning districts: Downtown Core*, Downtown Growth*, Downtown Edge*, Downtown Limited*, Commerce, Business Growth and Reuse, Neighborhood Business, Regional Health Care, High Density and High Density 1. Using a map Ms. Kessler went over where this use would be located.

The next use Ms. Kessler addressed was Residential Drug/Alcohol Treatment Facility. Similar to Residential Care Facility, this use would require a CUP and would also require an annual operating license. This use is being proposed to be allowed in the following zoning districts: Downtown Core*, Downtown Growth*, Downtown Edge*, Downtown Limited*, Commerce, and Regional Health Care.

After reviewing where this use is proposed to be allowed on a map, Ms. Kessler discussed where Drug Treatment Clinic are proposed to be allowed. As proposed, this use would require a CUP and would also require an annual operating license. This use is being proposed to be allowed in the Downtown Growth*, Commerce, and Regional Health Care districts.

Ms. Kessler referred to the next use, Group Resource Center, which has been referred to up until this meeting as Social Service Center. As proposed, this use would require a CUP to be allowed and would also require an annual operating license. This use is being proposed to be allowed in the following zoning districts: Downtown Core*, Downtown Growth*, Downtown Edge*, Downtown Limited*, Commerce, and Regional Health Care Districts.

Ms. Kessler noted that Lodginghouses, as proposed, would require a CUP and would also require an annual operating license. Ms. Kessler noted that, at the present time, an annual operating license is required for this

use and is issued by the City Council. This use is being proposed to be allowed in the following zoning districts: Downtown Core*, Downtown Growth*, Downtown Edge*, Downtown Limited*, Downtown Transition*, Office, High Density, and Medium Density. Staff are proposing that only one lodging house be allowed per parcel to control for the amount of density on a lot.

Councilor Jones asked whether the present licensing system would continue for lodging houses. Ms. Kessler stated staff is proposing that all of the congregate living / social services uses that require an operating license be approved administratively instead of by the City Council. She noted this is staff's recommendation; however, the committee should discuss this topic further if it does not agree. The Councilor noted a while back this issue did come up where it was proposed the current lodginghouse license be approved administratively but the PLD Committee asked it be approved by City Council as the Council wants the opportunity to add conditions into these licenses. Mr. Lamb stated staff is aware this is an issue that would require added discussion. Councilor Jones asked whether staff is proposing to eliminate fees for building inspection and fire inspection. Ms. Kessler stated the proposal is to eliminate the operating license fee for all of the congregate living / social service; however, she noted that the Committee can make changes and amendments to this draft.

Councilor Greenwald stated he is opposed to eliminating fees for inspections. The Councilor asked how parking requirements fit into this discussion. Ms. Kessler stated outside of the proposed downtown the parking requirements will still apply for any of these uses. This is outlined in the zoning ordinance based on the number of units and square footage calculations. Mr. Lamb noted the existing Central Business District does not require on-site parking now and the proposed form-based downtown zoning will preserve some of those requirements.

Ms. Kessler went on to review Group Homes. She noted that staff are proposing to amend the definition of Group Home to limit the number of people living in this type of facility to between 5 and 16 people. Ms. Kessler noted 16 is the number that would switch the building code review of a facility from the residential to institutional code. Staff feels the maximum number will help control density in neighborhood settings and the proposal is to allow only one per parcel.

As proposed, this use would require a CUP and would also require an annual operating license. It is proposed to be allowed in the following zoning districts: Downtown Transition*, Office, High Density and Medium Density. These are districts that allow for both single family and multifamily homes and are intended to be residential neighborhoods.

Councilor Workman asked if, similar to the maximum number of people proposed for the group home, could a maximum number be placed for lodging houses as well or whether this is something that would be discussed during the CUP process. Councilor Jones stated the Fire Department is the entity that places a number for lodginghomes.

Mr. Lamb addressed the CUP and how staff is proposing to set it up. He explained the CUP allows some uses to be permitted in areas under certain criteria reviewed by the Planning Board. At the present time, telecommunication uses requires a CUP approved by the Planning Board, surface water and hillside ordinances also require a CUP.

Councilor Johnson asked for clarification on domestic violence shelters – is it a place where people would stay or is it for offices which would facilitate where people stay. Ms. Kessler stated it is a place where people would reside on a temporary basis. Councilor Johnson asked whether there is a cap for the number of people this facility could accommodate. Ms. Kessler stated staff has not proposed a cap on the number.

Ms. Kessler stated all but two of the uses she mentioned (food pantry and domestic violence shelter) would require a CUP as well as an annual operating license. The requirement for the annual operating license is to ensure there is an annual inspection for life safety, fire and adherence to building codes. The proposal is to have these licenses approved and issued administratively rather than through the City Council. Mr. Lamb

noted that to obtain a CUP the applicant would have to go through a public hearing process in front of the Planning Board. The operating license would need to be obtained after the issuance of a CUP.

Ms. Russell Slack asked how many lodginghouses the city currently has. Mr. Lamb stated the city currently has between three and four facilities operating like lodginghouses. Ms. Russell Slack asked whether there would be any appeal process that an entity could take to the Council. Ms. Kessler stated the appeal for the license would go to the City Manager.

Ms. Kessler then went over the criteria the Planning Board would use to approve a CUP.

- *The proposed use is compatible with the character of the surrounding area in terms of operational characteristics including the following.*
 - *Proposed hours of operations.*
 - *Outdoor lighting, which shall comply with the Planning Board's Lighting Standard.*
 - *Proposed noise levels*
 - *Anticipated traffic generation*
- *The proposed use is located in proximity to pedestrian facilities (e.g. multiuse trails and sidewalks) and public transportation.* Ms. Kessler stated this condition is to make sure the individuals being served have access to adequate transportation options.
- *All development, redevelopment, additions, and renovations in a residential zoning district shall maintain the look and feel of a residential zone or area.*
- *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. All parking areas shall be adequately screened from adjacent properties and public rights of way.* Ms. Kessler stated this standard is consistent with the current Planning Board standards to indicate parking is located to the side or rear of a building and that they are appropriately screened.
- *When a use is located directly adjacent to a residential zoning district there shall be:*
 - *A building setback of 50' from property line(s) directly abutting residential zoning districts, unless an alternative solution is approved by the Planning Board.*
- *The Planning Board may impose conditions to the extent the Board concludes such conditions are necessary to minimize any adverse effect of the proposed use on adjoining properties, and to preserve the intent of the Board's Regulations and the Keene Zoning Ordinance.* Ms. Kessler stated this condition gives the Board flexibility to add conditions to protect the site plan/subdivision regulations and the zoning ordinance.

Councilor Jones asked staff for the next time to provide a better definition for non-profit organizations as the tax office has two different definitions they use.

Mr. Lamb then went over next steps. He indicated when this ordinance started quite a few months ago the plan was to have it adopted and integrated it into the existing zoning. However, as the drafting of the unified development ordinance (UDO) and form based zoning ordinance has become concurrent, it no longer makes sense to integrate this proposed ordinance into the existing zoning. Hence, the only sensible way to move forward on this ordinance is to integrate the text of the proposed Congregate Living / Social Service Ordinance into the unified development ordinance as it is introduced in the next couple of months. He added the ordinance as it is drafted refers to the old zoning map. He suggested the committee take public comment, have staff work on the next set of revisions and continue the public hearing into the future when these two ordinances effectively will be wrapped into one. Ms. Kessler explained the purpose of the UDO is to combine all the land use regulations into one document. The draft of the UDO will come before the Joint Committee first for the public workshop phase. From the Joint Committee the document then will be forwarded on to City Council, which will hold public hearings. It will then be forwarded to the PLD Committee for their recommendation and back to City Council for their adoption. Ms. Kessler added it is difficult to predict how many sessions it will take for a final document to be approved.

Mr. Lamb noted if the Committee was to move forward just on the document before it tonight and put it forward to the public hearing for Council adoption – there are going to be uses created in zoning districts which may not exist six months from now. He felt this latter approach would create a lot more confusion.

Councilor Greenwald asked this item to be moved forward and once the UDO is adopted make the necessary changes to this document at that time.

Councilor Johnson asked what timeline staff had in mind for this process. Ms. Kessler stated for the Social Service and Congregate Living Ordinance the process started in January 2019 and at that time staff did not realize how close these two projects would overlap.

Councilor Bosley asked whether the proposal is to see the first draft of UDO in March. Ms. Kessler stated this was staff's plan even though there are a few items that are outside of staff's control such as consulting contracts – but noted staff is very close to having a draft ready. The Councilor asked if the Congregate Living / Social Service Ordinance that would go into the UDO is that same as language as what is in front of the Joint Committee this evening. Ms. Kessler stated that was staff's understanding coming into the meeting, unless they heard otherwise from the committee. The Councilor suggested addressing some of the proposed edits from tonight and introduce those changes in March and address the UDO at the same time. Mr. Lamb stated this was a reasonable way to proceed – continue this item to the March Joint Committee session. However, Ms. Kessler noted that it would not be possible to bring the draft UDO forward at the same time they continue to review the Congregate Living / Social Service Ordinance, as it is a component of the UDO.

Chair Barrett asked for public comment next.

Mr. Carl Jacobs of 376 Chapman Road addressed the Committee. He noted the map referred to shows all districts but the chart staff presented tonight does not have all districts outlined. Mr. Jacobs asked for clarification on the term medical detoxification. Ms. Kessler stated it is staff's understanding this term refers to the use of drugs or other medical treatments to help in the process of detoxification. Staff agreed to come back with clarification on this term.

Mr. Jacobs then addressed the issue of administrative approval versus Council approval of licenses. He felt for the first instance the item should be approved by the Council.

Mindy Cambiar of 100 Nights Shelter noted there was no mention of Homeless Shelters in staff's presentation. Ms. Kessler stated this was an unintended oversight and that she would revisit that slide, if the Committee Chair would allow her to. Ms. Cambiar stated her biggest concern is the decision for location of 100 Nights. She noted they have missed the January cycle for funding and doesn't seem like they would meet the March deadline either. She asked whether applying for a variance might be the best way to proceed. She stated she would like to have some practical advice. Ms. Cambiar went on to say they are at 49 beds every night, the shelter has four families, and have helped more families than they have any time in the past.

Ann Savastano of 75 Winter Street addressed the Committee next. Ms. Savastano agreed the licensing permit and the CUP should initially go to the City Council. She questioned why group homes will only be allowed in the Downtown Transition District. She applauded the social services Keene has to offer but raised concern of these services being concentrated in the downtown and stated she has heard comments from downtown businesses and college students who have raised concern about individuals with special needs frequenting businesses downtown. Ms. Savastano stated this is not a compassion issue but more about a nervousness issue.

Councilor Jones in response stated there are four districts being proposed for group homes – Downtown Transition, Medium Density, High Density, and Office.

Ms. Slack clarified when the maps are put together and the streets are labeled whether this information will be available to the public. Ms. Kessler agreed and stated they would be available on the Joint Committee's page on the city website (Boards and Commissions Page).

Mr. Richard Newton of 318 Hurricane Road asked for the timeline for getting the social service ordinance approved versus incorporating it into the UDO. Ms. Kessler outlined the two processes and their related timeframes. She explained that if the Congregate Living / Social Service Ordinance were to be amended and voted on by the Joint Committee it would go on to the City Council for a Public Hearing, it would then be reviewed by PLD, and then sent to City Council for a final vote. The soonest this process could take is around three months. Ms. Kessler noted that the UDO would follow the same process for adoption; however, it involves much greater changes to the zoning ordinance and City's land use regulations and would likely require a lengthier review process.

Chair Barrett asked for the timeline if this ordinance was to wait for the UDO to be completed. Ms. Kessler stated it would be the same process but a longer process because of the volume of material for the committees/Council to review – it will most likely take longer than May for the UDO to get adopted. Mr. Newton asked whether it also could mean it might not be adopted this year. Mr. Lamb stated this would not be staff's intention. Mr. Newton stated he would like to reiterate Ms. Cambiar's concern; the need for a new homeless shelter would relieve the stress on 100 Nights and getting a new facility depends on funding, and their funding cycle starts in January

Mayor Hansel clarified if this item was to be moved forward before the newly adopted map it could open up more areas in the downtown than was discussed tonight. Director of Economic Development and Special Projects, Med Kopczynski stated the original proposal for this item was limited and was based on the existing zoning map and this map does not provide for much opportunity for homeless shelters. Mr. Kopczynski stated even though there might be a delay, the proposed future downtown zoning district would provide for much more flexibility for 100 nights. In addition, the way the current ordinance is drafted, it might not achieve the goals 100 Nights is trying to achieve.

Ms. Kessler addressed the item Homeless Shelter which was previously overlooked. She noted this use would require a CUP and would also require an annual operating license, as proposed. It is proposed to be allowed in the Downtown Growth* and Commerce districts.

With no further comments, the Chairman closed the public workshop.

Mayor Hansel felt if this ordinance was to be rushed through, it would allow homeless shelters to be located in Central Business because of the way the downtown map exists at the present time –it is not broken up in the proposed form based zoning subdistricts. He felt this would be challenging to get through the public process.

Councilor Jones stated he does not like the idea of waiving the fee for non-profits. He used a fraternity house as an example and did not feel taxpayers should have to bare this cost. He also felt the more issues that can be put before elected officials the better – he indicated it is the elected officials that individuals call when they have problems in their neighborhood. He felt this process needs to be changed.

Ms. Russell Slack stated there has to be some step that takes the operating license back to Council. She questioned what temporary shelter means with respect to homeless shelter and asked for clarification. She asked what the average homeless shelter stay was and what number the city has for the homeless population. She noted that 100 Nights not only serves the City of Keene, but the County, the State and stated there is a crisis across the state when it comes to homeless shelters in general. She felt the city was fortunate it has four shelters. Mr. Lamb added the city would rely on the individuals who run these facilities for that type of information.

Councilor Bosley stated this data does exist and there are New Hampshire Systems that collect such data and did not feel it would be difficult to have a resource make a presentation for the Council on this topic.

Councilor Greenwald stated he too would like to see initial licenses go through City Council.

Mayor Hansel stated he has concern about the lodging house definition; he felt the intent is to group fraternities and sororities in the lodging house definition. He noted there is a trend to create workforce housing, which could be lodginghouse and suggested keeping fraternities and sororities separate from this use. Mr. Lamb stated staff will look at this issue. He further stated there seems to be a consensus regarding the operating licenses being approved by City Council as well as wanting to charge a fee for licenses. He added there could be quite a few of these licenses and this could be a workload for the PLD and wanted the committee to be aware of it.

Chair Barrett stated he was in agreement with the initial approval for license going before the PLD Committee. However, should the workload be more than was anticipated, he asked whether the ordinance would need to be amended and go through the public hearing process. Mr. Lamb answered in the affirmative.

Mr. Kopczynski clarified the license issue is not a zoning code change; it is an ordinance change, hence the ability to change it would be much easier.

Chair Barrett asked staff a question related to timing of the UDO and the Congregate Living / Social Service Ordinance. He asked if it makes a difference to staff whether the Ordinance come back to the Joint Committee in March for inclusion into the UDO or if the Ordinance move on to City Council for approval before the UDO is completed. Ms. Kessler stated this would mean staff is working on two separate but related efforts at the same time. If the Ordinance moves forward to City Council, staff will need to invest attention on this process and not have as much focus on completing the UDO.

Councilor Bosley clarified this discussion is focusing on one entity and their one proposed site, which would not be allowed under the current ordinance, and it seems that fast tracking this item will not really help the applicant with respect to this one proposed site.

Ms. Adams felt there should be a mechanism to waive the license fee as there were many groups early in the process who indicated this would be burdensome for them. Mr. Lamb stated at the present time under chapter 14 of the ordinance there is no mechanism to waive the fee, but there is that option under Planning Board fees. Councilor Greenwald asked whether the council has the option to waive the fee. Mr. Lamb stated language would need to be added to the ordinance. Mr. Kopczynski reiterated what was stated by staff and added staff will get back to the committee on this item. As far as location, this ordinance opens up more opportunities than has existed in the past.

Chair Barrett asked regardless of which scenario the committee went with whether staff sees a benefit in continuing this item to March and not extend it through June. Mr. Lamb agreed with March and added what staff is trying to do is to avoid the confusion as to which workshop the public should attend.

A motion was made by Mayor George Hansel to continue this public workshop for O-2019-13 and O-2019-14 to the March 9, 2020 meeting. The motion was seconded by Tammy Adams and was unanimously approved.

5. Adjourn

The meeting adjourned at 8:35 PM.

Respectfully submitted,

Krishni Pahl,
Minute Taker

Reviewed and edited by Tara Kessler, Senior Planner

PROPOSED CONGREGATE LIVING / SOCIAL SERVICE ORDINANCE AMENDMENTS (Updated February 28, 2020)

Included below is a summary of the City ordinance changes proposed by the draft Congregate Living / Social Service Ordinance (O-2019-13 and O-2019-14), which was introduced to City Council in August of 2019. Staff are recommending that these proposed changes be incorporated into the draft Unified Development Ordinance/Land Development Code.

Within this summary document, the **bolded and underlined text** represents amendments that were discussed at the January 13, 2020 Joint Committee public workshop to the draft Congregate Living / Social Service Ordinance O-2019-13 and O-2019-14.

Proposed Congregate Living / Social Service Uses & Definitions:

The following definitions would be added to the Zoning Ordinance and Chapter 46 of City Code.

- *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 of 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.
- *Group home* means a facility in a residential dwelling, providing living accommodations and care **for between five and sixteen** 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.
- **Group Resource Center means an establishment designed with the primary purpose of providing access to services related to counseling, personal care, or social well-being in a group setting. It does not include in-patient or overnight services, or treatments normally conducted in a medical office such as medical procedures or medical detoxification.**
- *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.
- *Lodginghouse* shall mean any dwelling for more than four unrelated persons, which provides separate rooms for sleeping for a fee, without personal care services 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.**
- *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.

- *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.

Proposed Locations:

The table below displays the proposed locations for the Congregate Living / Social Service Uses. In this table, CUP means Conditional Use Permit, and P means Permitted. If there is a CUP or P in the table, it means that the use is allowed in the Zoning District either by Conditional Use Permit (CUP) (which would be issued by the Planning Board) or is Permitted (P) and would not require additional approval or review.

The proposed zoning districts listed in the table include DT-C (Downtown Core), DT-G (Downtown Growth), DT-E (Downtown Edge), DT-L (Downtown Limited), and DT-T (Downtown Transition). These districts are not yet adopted, and will be introduced as part of the Unified Development Ordinance / Land Development Code.

USE	PROPOSED ZONING DISTRICTS					ZONING DISTRICTS							ANNUAL OPERATING LICENSE
	DT-C	DT-G	DT-E	DT-L	DT-T	MD	HD	HD-1	COM	O	HC	BGR	
Group Home	-	-	-	-	<u>CUP</u>	CUP	CUP	-		CUP			Y
Lodginghouse	<u>CUP</u>	<u>CUP</u>	<u>CUP</u>	<u>CUP</u>	<u>CUP</u>	CUP	CUP			CUP			Y
Domestic Violence Shelter	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	-	P	P		P				N
Drug Treatment Clinic	-	<u>CUP</u>	-	-	-				CUP		CUP		Y
Food Pantry	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	-				P				N
Homeless Shelter	-	<u>CUP</u>	-	-	-				CUP				Y
Group Resource Center	<u>CUP</u>	<u>CUP</u>	<u>CUP</u>	<u>CUP</u>	-				CUP		CUP		Y
Residential Care Facility	<u>CUP</u>	<u>CUP</u>	<u>CUP</u>	<u>CUP</u>	-		CUP	CUP	CUP		CUP	CUP	Y
Residential Drug / Alcohol Treatment Facility	<u>CUP</u>	<u>CUP</u>	<u>CUP</u>	<u>CUP</u>	-				CUP		CUP		Y

Proposed Congregate Living / Social Service Conditional Use Permit Criteria:

The following are proposed criteria that would be used by the Planning Board when it reviews conditional use permit applications for Congregate Living / Social Service uses.

- 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.
 - Drug Treatment Clinic
 - Group Home
 - Homeless Shelter
 - Lodginghouse
 - Residential Care Facility
 - Residential Drug/Alcohol Treatment Facility
 - Group Resource Center

- 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 is compatible with the character of the surrounding area in terms of operational characteristics including the following.
 - 1. Proposed hours of operations.
 - 2. Outdoor lighting, which shall comply with the Planning Board's Lighting Standard.
 - 3. Proposed noise levels
 - 4. Anticipated traffic generation
 - b) **The proposed use is located in proximity to pedestrian facilities (e.g. multiuse trails and sidewalks) and public transportation.**
 - c) **All development, redevelopment, additions, and renovations in a residential zoning district shall maintain the look and feel of a residential zone or area.**
 - d) **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. All parking areas shall be adequately screened from adjacent properties and public rights of way.**
 - e) **When a use is located directly adjacent to a residential zoning district there shall be:**
 - 1. **A building setback of 50' from property line(s) directly abutting residential zoning districts, unless an alternative solution is approved by the Planning Board.**
 - f) **The Planning Board may impose conditions to the extent the Board concludes such conditions are necessary to minimize any adverse effect of the proposed use on adjoining properties, and to preserve the intent of the Board's Regulations and the Keene Zoning Ordinance.**

- 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.

- 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.

- Enforcement of this article shall be by the City of Keene under the provisions set forth in RSA 676 as it may be amended.

- 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.

Congregate Living and Social Service Operating License:

The following are proposed changes that would be made to Chapter 46 of City Code, which addresses licensing procedures. Although it is not displayed below, one of the proposed changes is for Article X Lodginghouses of Chapter 46 of the Keene City Code of Ordinances to be replaced by this section on Congregate Living/Social Service License.

- *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.
 - Drug Treatment Clinic
 - Group home
 - Homeless Shelter
 - Lodginghouse
 - Residential Care Facility
 - Residential Drug/Alcohol Treatment Facility
 - Group Resource Center
- *Licensing Authority.* The licensing authority shall be the City Council.
- *Application Requirements.* In addition to the application requirements of Division 4 of Chapter 46, 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:
 - Description of the property location including street address and tax map number.
 - Description of the client population to be served.
 - The maximum number of beds or persons intended to be served by the facility.
 - Name, phone number, and address of the property owner.
 - 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.
 - 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.
 - A security plan, to ensure safe operation of the facility for staff, clients, and abutters or neighbors.
 - Evidence that all required governmental licenses, permits or authority to operate have been obtained.
- *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.
- *Expiration.* Each license issued under this article shall expire on **July 1** 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.

- *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.
- *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.
- *Enforcement.* For the purposes of this article, the licensing authority shall be the **City Council**. 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.
- *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.
- *Fee.* The fee for each Social Services and Congregate Living License application shall be **\$165.00** as set forth in the schedule of fees in Appendix B to this Code.

DOMESTIC VIOLENCE SHELTER

A facility that provides temporary shelter, protection & support for those escaping domestic violence & intimate partner violence, including victims of human trafficking.

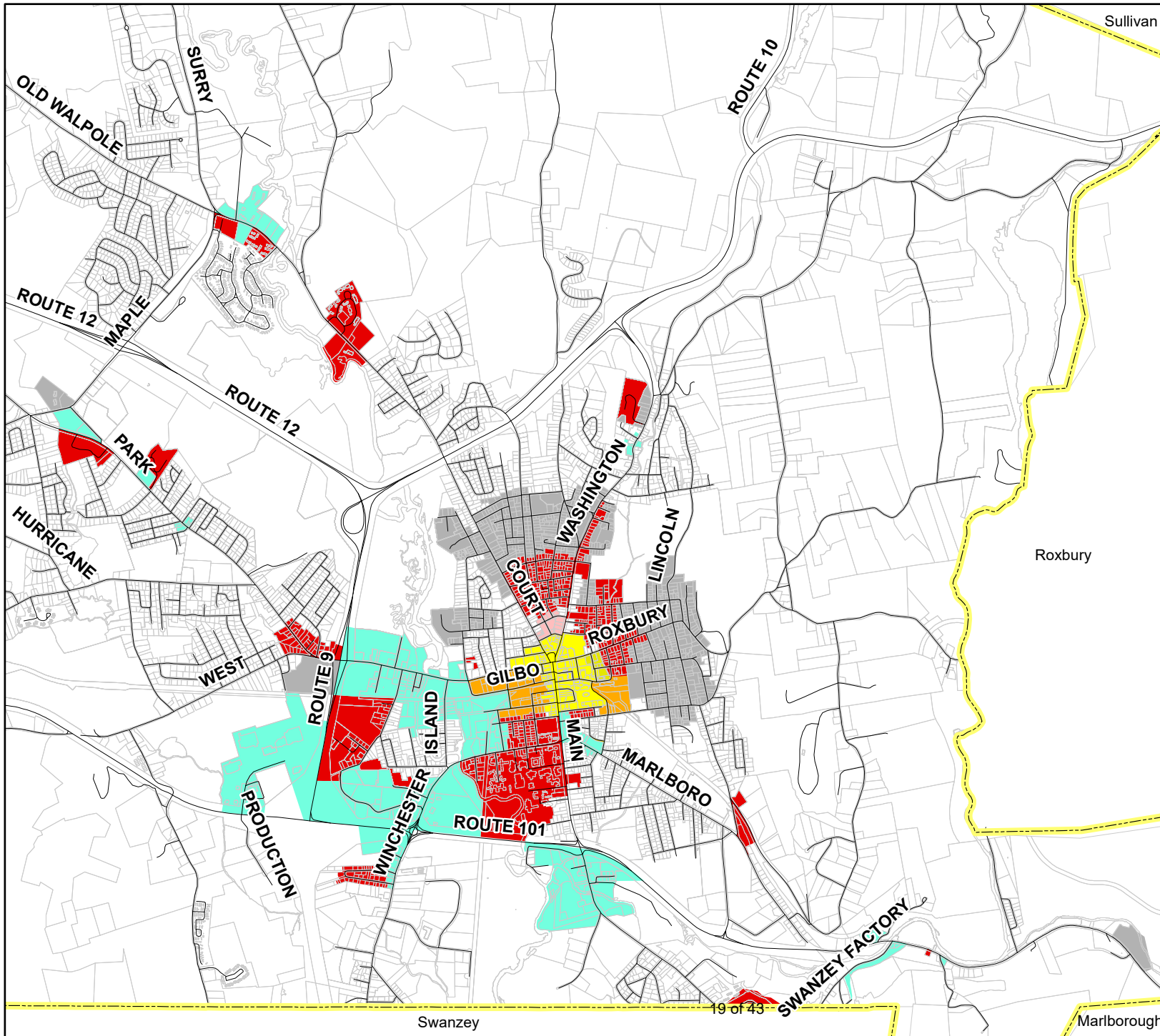
May accommodate the minor children of such individuals.

May offer a variety services to help individuals & their children including counseling & legal guidance.

Shall be managed by a public or non-profit agency with in-house supervision provided on a 24-hour basis.

- CUP or annual Operating License not required
- Allowed in:
 - DT - Core
 - DT - Growth
 - DT - Edge
 - DT - Limited
 - Medium Density
 - High Density
 - Commerce

DOMESTIC VIOLENCE SHELTER - PROPOSED ZONING DISTRICTS



LEGEND

- Roads
- ▭ Parcel Boundary

ZONING DISTRICTS

- ▭ Commerce
- ▭ High Density
- ▭ Medium Density

Downtown Subdistricts (Proposed):

- ▭ Core
- ▭ Growth
- ▭ Limited
- ▭ Edge

N

0 0.25 0.5 1 Miles

Date updated: 1/13/20

FOOD PANTRY

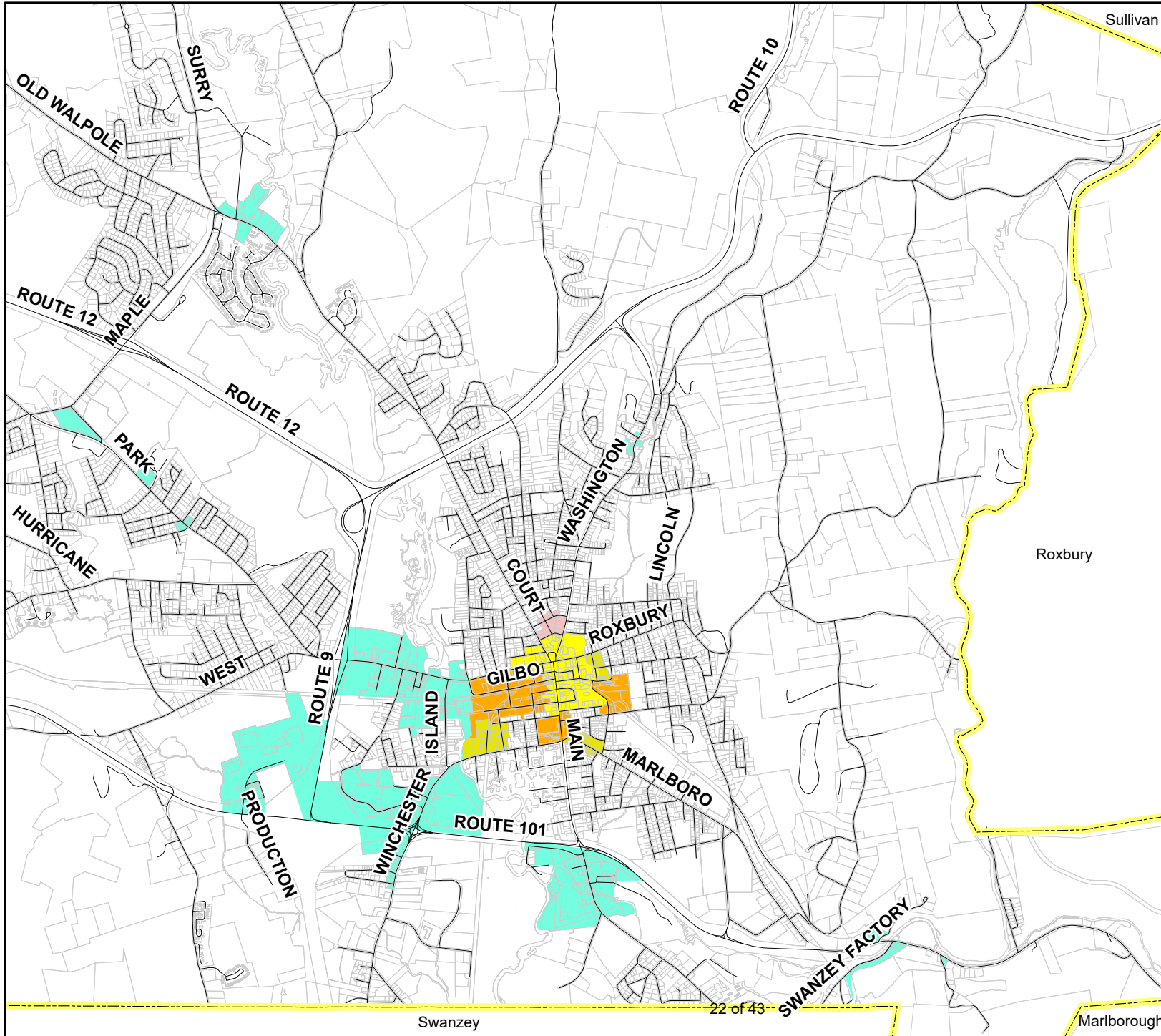
A non-profit organization that provides food directly to those in need.

May receive, buy, store, & distribute food and may also prepare meals to be served at no cost to those who receive them.

May be part of a place of worship, social service center, homeless shelter, & domestic violence shelter.

- CUP or annual Operating License not required
- Allowed in:
 - DT - Core
 - DT - Growth
 - DT - Edge
 - DT - Limited
 - Commerce

FOOD PANTRY - PROPOSED ZONING DISTRICT



LEGEND

- Roads
- ▭ Parcel Boundary

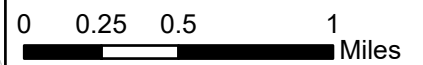
ZONING DISTRICTS

- ▭ Commerce

PROPOSED SUBDISTRICTS

- ▭ Core
- ▭ Growth
- ▭ Limited
- ▭ Edge

N



Date updated: 1/13/20

RESIDENTIAL CARE FACILITY

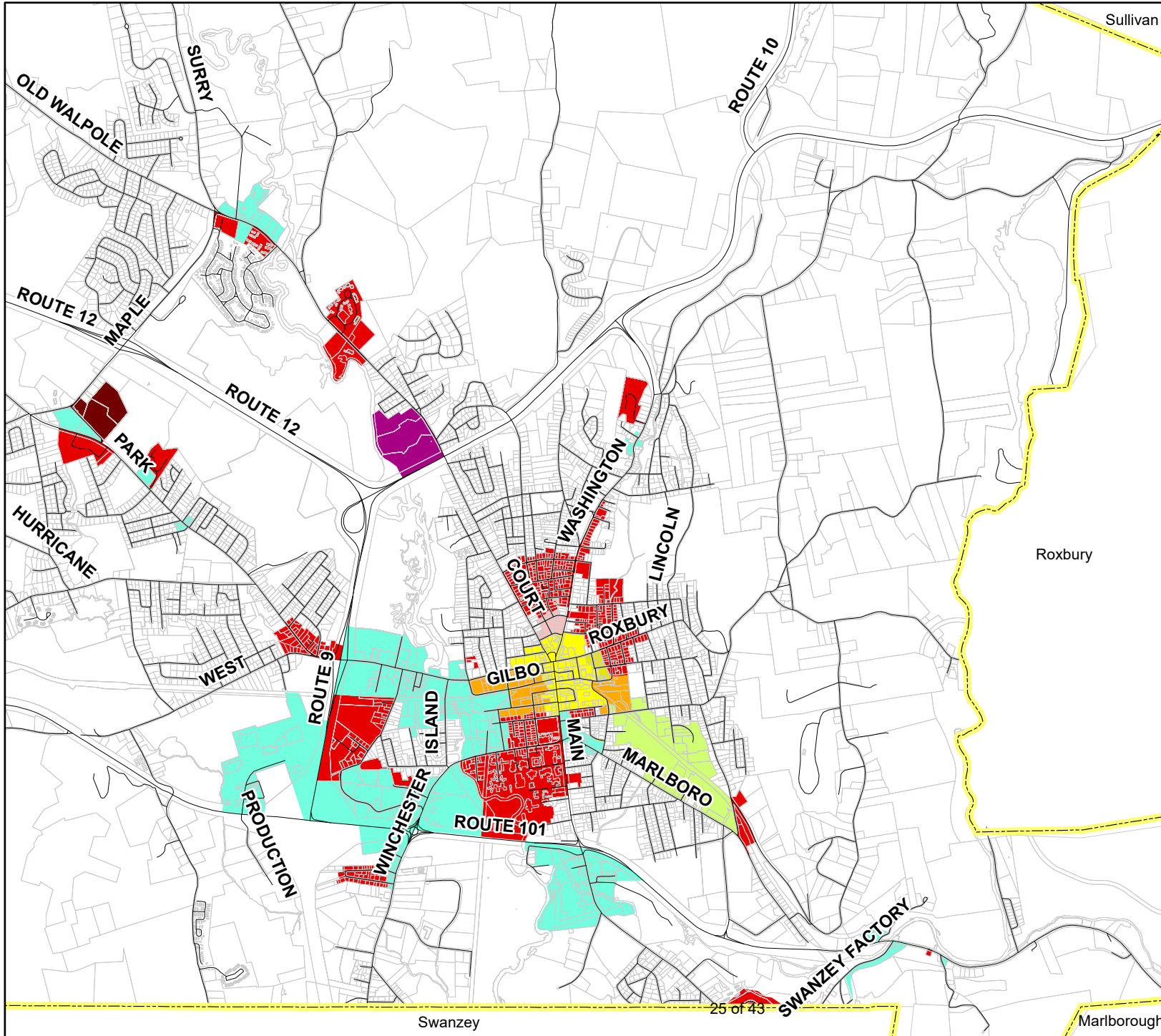
A licensed facility that provides 24-hour medical and/or non-medical care to persons in need of personal care services, supervision, or assistance essential for sustaining the activities of daily living, or for the protection of the individual.

May include nursing care, assisted living, hospice care, & continuum of care facilities. Continuum of care facilities may also include independent living facilities as part of the continuum.

Do not include a residential drug/alcohol treatment facility.

- CUP & annual Operating License **required**
- Allowed by CUP in:
 - DT - Core
 - DT - Growth
 - DT - Edge
 - DT - Limited
 - Commerce
 - Business, Growth, Reuse
 - Neighborhood Business
 - Regional Health Care
 - High Density
 - High Density 1

RESIDENTIAL CARE FACILITY - PROPOSED ZONING DISTRICTS





LEGEND

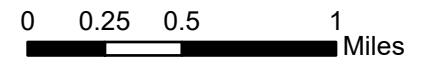
-  Roads
-  Parcel Boundary

ZONING DISTRICTS

-  Business Growth Reuse
-  Commerce
-  Health Care
-  High Density
-  High Density 1

Downtown Subdistricts (Proposed):

-  Core
-  Growth
-  Limited
-  Edge



Date updated: 1/13/20

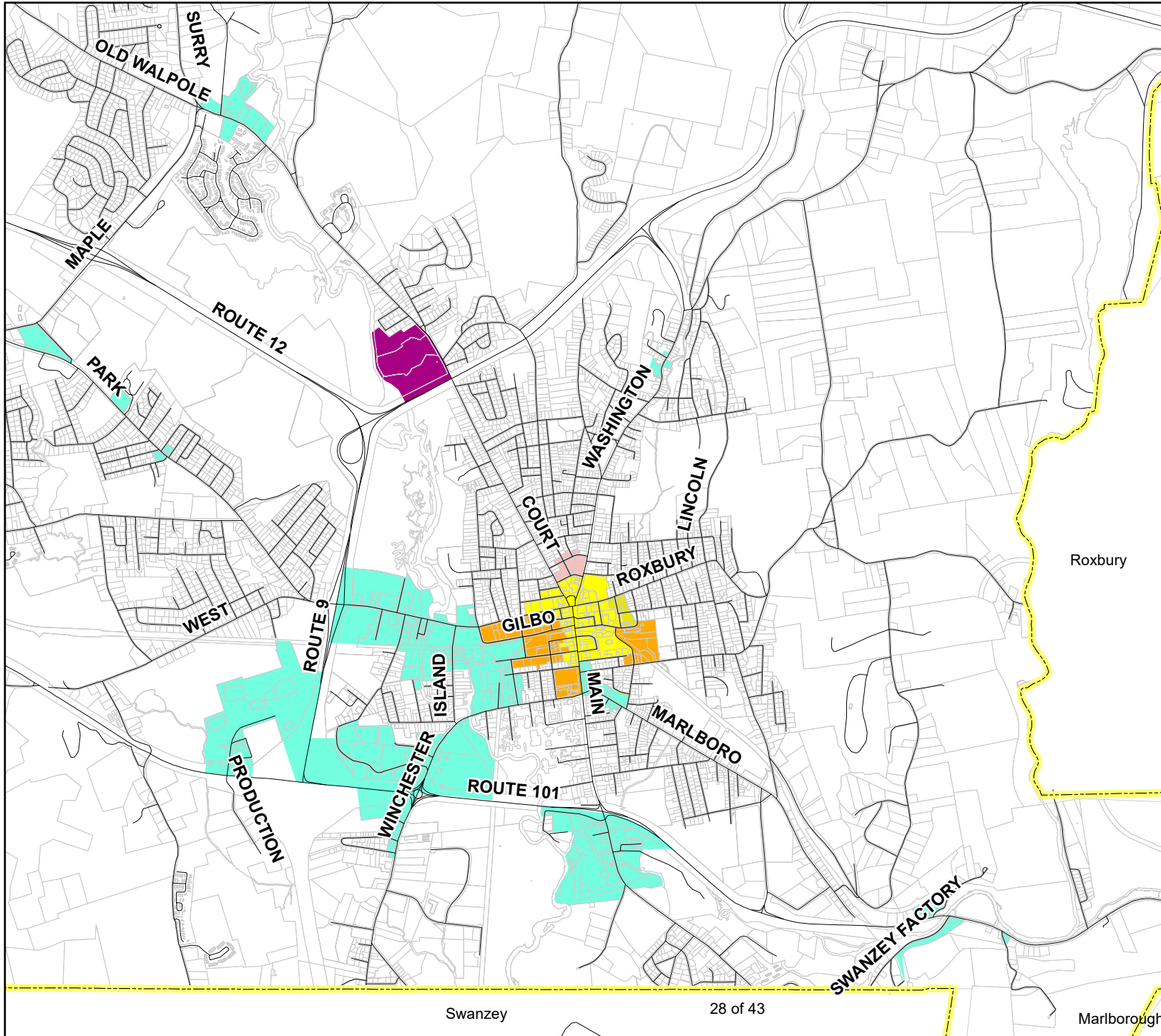
RESIDENTIAL DRUG/ALCOHOL TREATMENT FACILITY

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.

May include medical detoxification.

- CUP & annual Operating License **required**
- Allowed by CUP in:
 - DT - Core
 - DT - Growth
 - DT - Edge
 - DT - Limited
 - Commerce
 - Regional Health Care



RESIDENTIAL DRUG/ALCOHOL TREATMENT FACILITY - PROPOSED ZONING DISTRICTS







LEGEND

-  Roads
-  Parcel Boundary

ZONING DISTRICTS

-  Commerce
-  Health Care

Downtown Subdistricts (Proposed):

-  Core
-  Growth
-  Limited
-  Edge

Roxbury

N



0 0.25 0.5 1 Miles

Swanzey

28 of 43

Marlborough

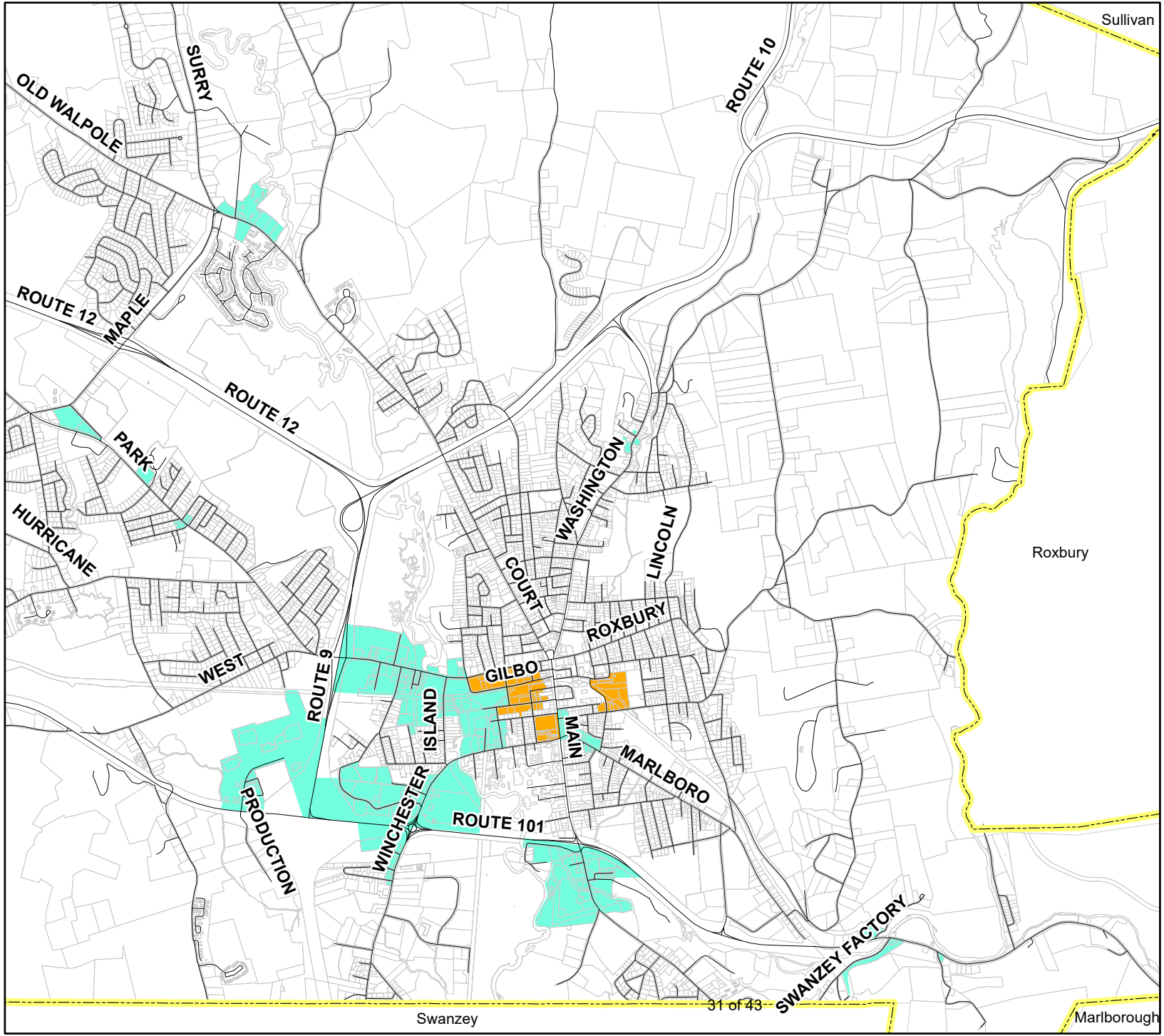
Date updated: 1/13/20

DRUG TREATMENT CLINIC

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.

- CUP & annual Operating License **required**
- Allowed by CUP in:
 - DT - Growth
 - Commerce
 - Regional Health Care

DRUG TREATMENT CLINIC - PROPOSED ZONING DISTRICTS



LEGEND

- Roads
- Parcel Boundary
- ZONING DISTRICTS**
- Commerce
- Downtown Subdistricts (Proposed):**
- Growth

N

0 0.25 0.5 1 Miles

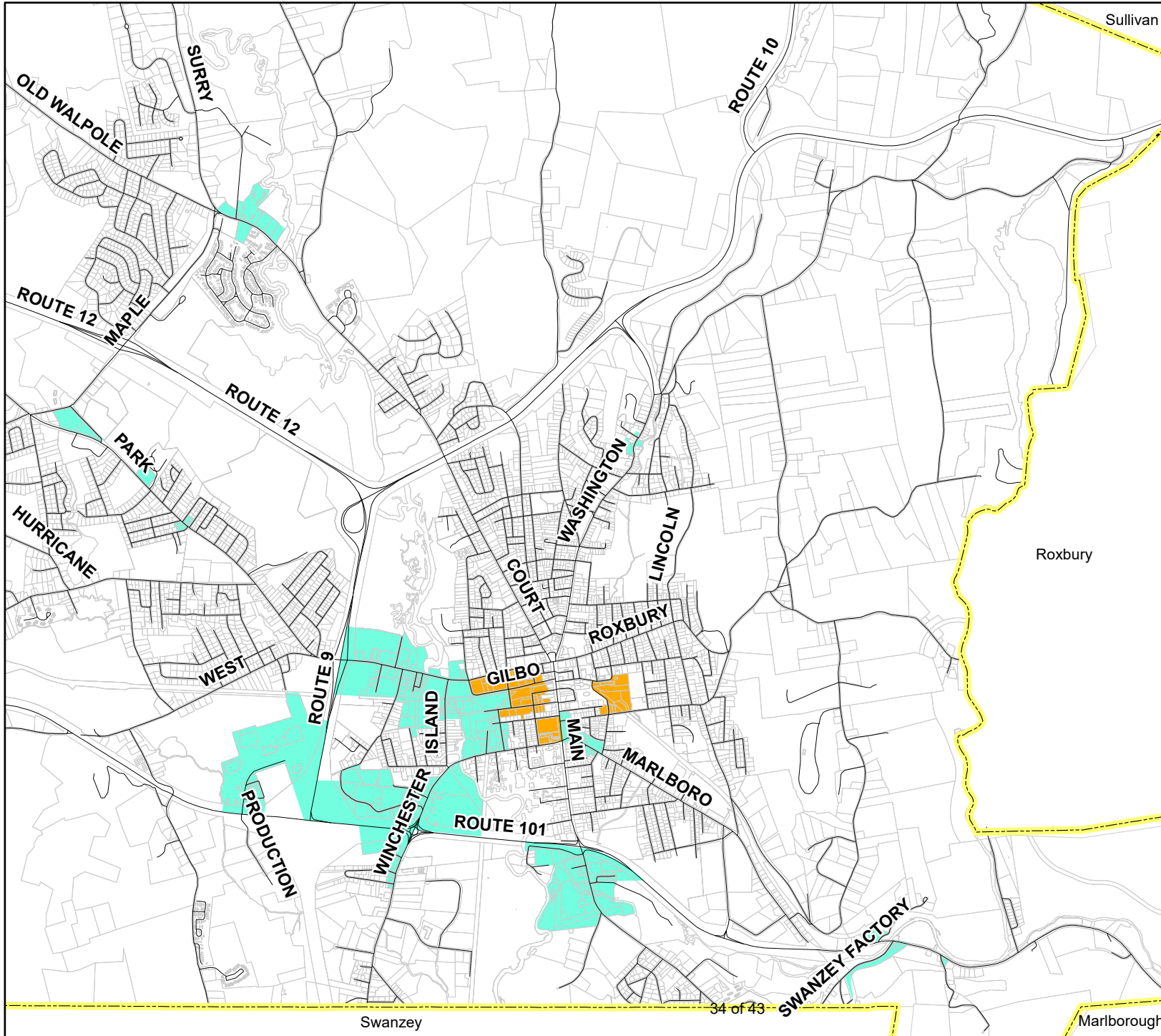
Date updated: 1/13/20

HOMELESS SHELTER

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.

- CUP & annual Operating License **required**
- Allowed by CUP in:
 - DT - Growth
 - Commerce

HOMELESS SHELTER - PROPOSED ZONING DISTRICTS



LEGEND

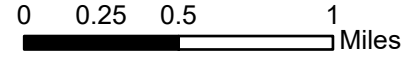
- Roads
- ▭ Parcel Boundary

ZONING DISTRICTS

▭ Commerce

Downtown Subdistricts (Proposed):

▭ Growth



Date updated: 1/13/20

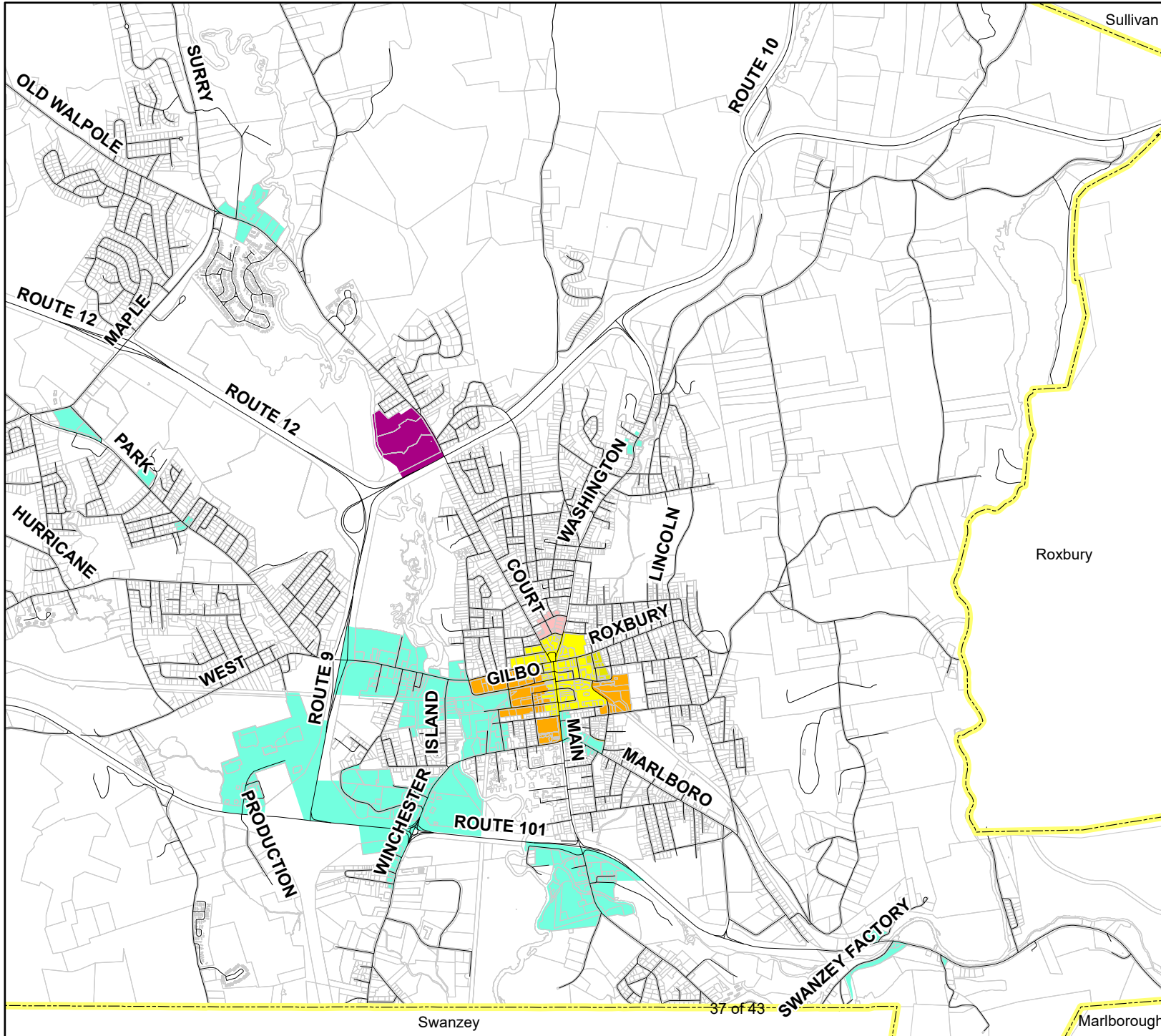
GROUP RESOURCE CENTER *(Formerly Social Service Center)*

An establishment designed with the primary purpose of providing access to services related to counseling, personal care, or social well-being in a group setting.

It does not include in-patient, overnight services, or treatments normally conducted in a medical office, such as medical procedures, or medical detoxification, dispensing of drugs or medications.

- CUP & annual Operating License **required**
- Allowed by CUP in:
 - DT - Core
 - DT - Growth
 - DT - Edge
 - DT - Limited
 - Commerce
 - Regional Health Care

GROUP RESOURCE CENTER - PROPOSED ZONING DISTRICTS



LEGEND

- Roads
- Parcel Boundary

ZONING DISTRICTS

- Commerce
- Health Care

Downtown Subdistricts (Proposed):

- Core
- Growth
- Limited
- Edge

N



0 0.25 0.5 1 Miles

Date updated: 1/13/20

LODGING HOUSE

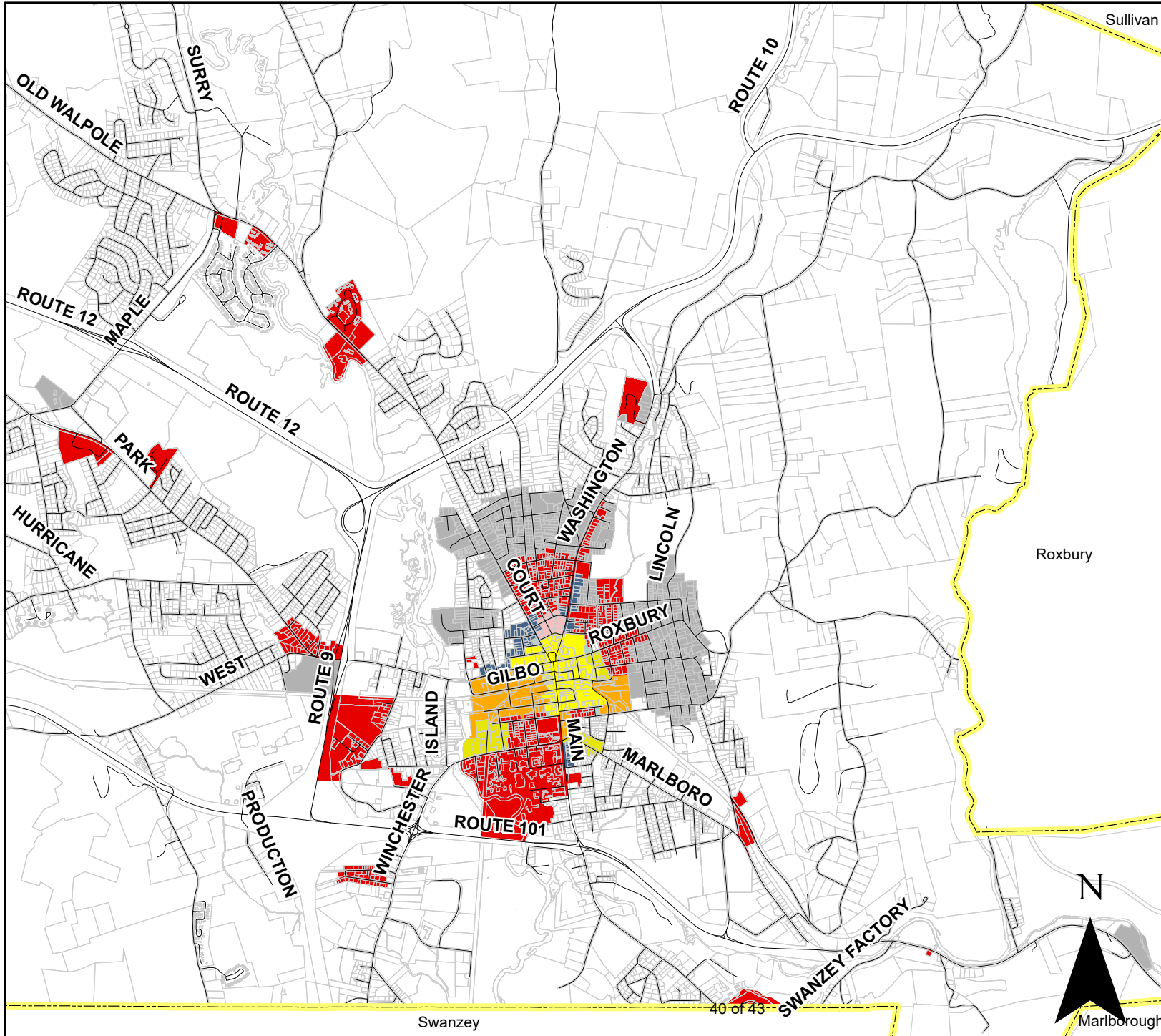
Any dwelling for more than 4 unrelated persons, which provides separate rooms for sleeping for a fee, without personal care services & without separate cooking facilities for individual occupants.

Shall not include a hotel or motel.

Shall include fraternity and/or sorority house.

- CUP & annual Operating License **required**
- Allowed by CUP in:
 - DT - Core
 - DT - Growth
 - DT - Edge
 - DT – Limited
 - DT – Transition
 - Office
 - High Density
 - Medium Density
- Propose that only 1 Lodginghouse be allowed per parcel

LODGINGHOUSE - PROPOSED ZONING DISTRICTS



LEGEND

- Roads
- Parcel Boundary

ZONING DISTRICTS

- High Density
- Medium Density
- Office

Downtown Subdistricts (Proposed):

- Transition
- Core
- Growth
- Limited
- Edge

0 0.25 0.5 1 Miles

Date updated: 1/13/20

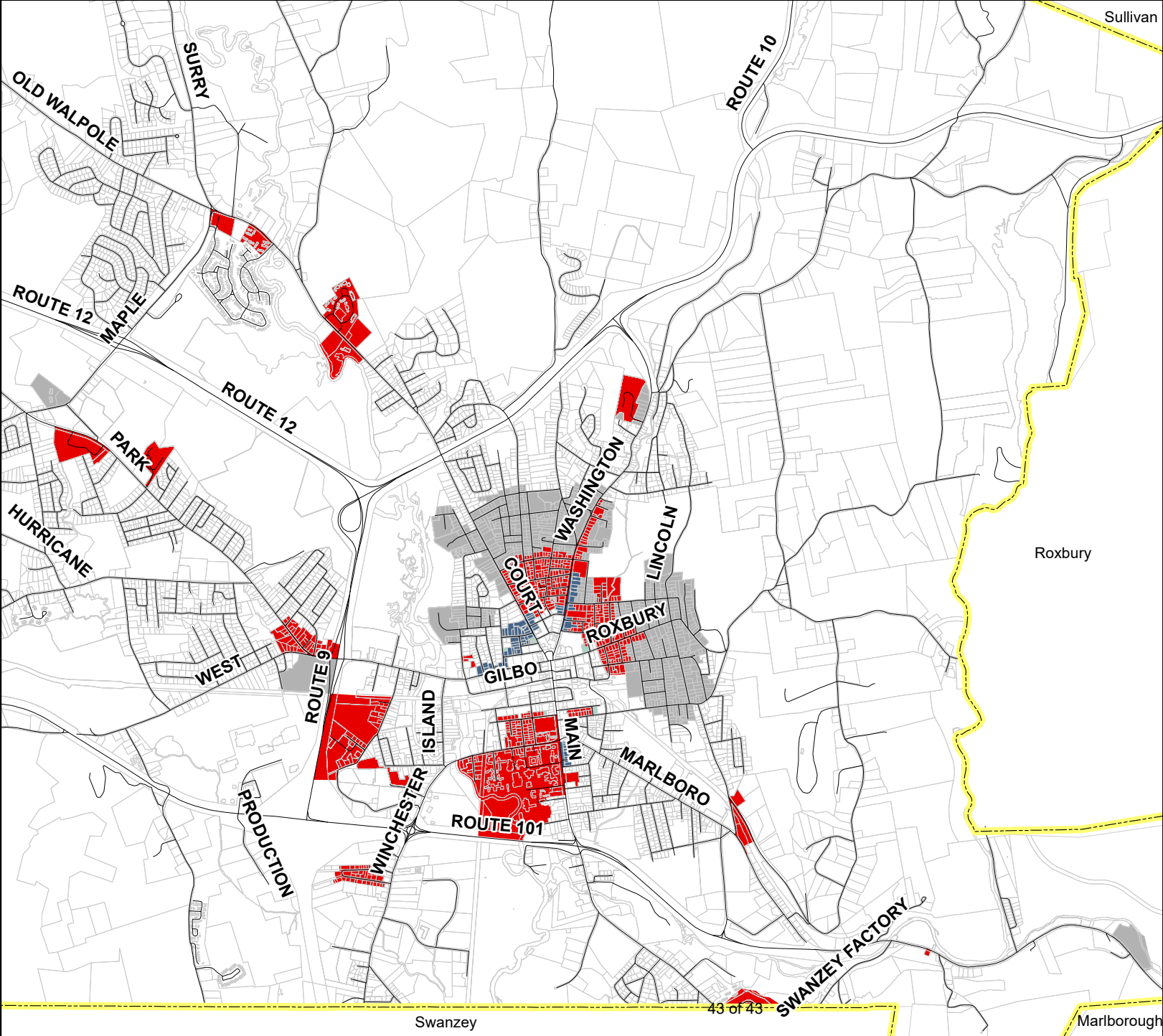
GROUP HOME

A facility in a residential dwelling, providing living accommodations and care for between 5 and 16 unrelated persons who are in need of personal care services and/or are in need of supervision.

May include non-medical drug and alcohol rehabilitation.

- CUP & annual Operating License **required**
- Allowed by CUP in:
 - DT – Transition
 - Office
 - High Density
 - Medium Density
- Propose that only 1 Group Home be allowed per parcel

GROUP HOME - PROPOSED ZONING DISTRICTS



LEGEND

- Roads
- Parcel Boundary

Zoning Districts

- High Density
- Medium Density
- Office

Downtown Subdistricts (Proposed):

- Transition

0 0.25 0.5 1 Miles

Date updated: 1/13/20