



## Joint Committee of the Planning Board & Planning, Licenses, & Development Committee

### AGENDA

**December 14, 2020 at 6:30 PM**

This meeting will be conducted remotely.\* The public may access this meeting by using the options provided in the box on the right side of this agenda.

1. **Statement of Authority to Hold Remote Meeting**
2. **Call to Order & Roll Call**
3. **Minutes of November 9, 2020 & November 16, 2020**
4. **Adoption of 2021 Meeting Schedule**
5. **Continued Public Workshop**

**Ordinances O-2020-10 & O-2020-11** – Relating to the establishment of the City of Keene Land Development Code and changes to the City's downtown zoning districts. Petitioner, City of Keene Community Development Department, proposes to update and unite the City of Keene's regulations related to land use and development, including the Zoning Regulations, into the City of Keene Land Development Code; to establish 6 new zoning districts in Keene's downtown area (*Downtown Core, Downtown Growth, Downtown Limited, Downtown Edge, Downtown Transition, Downtown Institutional Campus*); to remove the Gilbo Avenue Design Overlay District and the Downtown Railroad Property Redevelopment Overlay District; and, to modify the SEED Overlay District. This proposed map change would affect 316 parcels, encompassing a total land area of approximately 220-acres, and would result in the removal of the Central Business and Central Business Limited Zoning Districts. The full text of the ordinances and the proposed Land Development Code is available at [www.keenebuildingbetter.com/lcd](http://www.keenebuildingbetter.com/lcd), or by appointment at City Hall. To make an appointment, email [communitydevelopment@ci.keene.nh.us](mailto:communitydevelopment@ci.keene.nh.us) or call (603) 352-5440.

- a. **Discussion on Materials Addressed at November 9 & 16 Meetings**
- b. **Review of Articles 19 through 22 of the proposed City of Keene Land Development Code**
- c. **Public Comment**

6. **Next Meeting – Monday, January 11, 2020**

7. **Adjourn**

#### OPTIONS FOR ACCESSING THIS MEETING:

- **To participate online:**
  - Go to [www.zoom.us/join](http://www.zoom.us/join)
  - Enter Meeting ID - 893 8296 4232
- **To participate by telephone:**
  - Call (646) 558-8656 or (888) 475-4499 (*toll-free*)
  - Enter Meeting ID - 893 8296 4232
- **Technical Issues:** If you encounter issues accessing this meeting call (603) 209-4697 during the meeting.
- **Meeting Information** (including agendas and minutes) will be available on the Joint Committee webpage at: [ci.keene.nh.us/joint-planning-board-planning-licenses-and-development-committee](http://ci.keene.nh.us/joint-planning-board-planning-licenses-and-development-committee).
- **If you have concerns** related to accessing/participating in this or future public workshops, please contact City staff at 603-352-5440 or via email at: [communitydevelopment@ci.keene.nh.us](mailto:communitydevelopment@ci.keene.nh.us)
- **Written comments** on the ordinances may be emailed in advance of the meeting to: [communitydevelopment@ci.keene.nh.us](mailto:communitydevelopment@ci.keene.nh.us) or mailed to: City Hall, 3 Washington St, 4<sup>th</sup> Floor, Keene, NH 03431.
- **Cheshire TV** will broadcast this meeting live on Channel 1302.

\*In Emergency Order #12, issued by the Governor pursuant to Executive Order #2020-04, which declared a COVID-19 State of Emergency, the requirement that a quorum of a public body be physically present at the meeting location under RSA 91-A:2, III(b), and the requirement that each part of a meeting of a public body be audible or otherwise discernible to the public at the meeting location under RSA 91-A:2, III(c), have been waived. Public participation may be provided through telephonic and other electronic means.

CITY OF KEENE  
NEW HAMPSHIRE

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

Monday, November 9, 2020      6:30 PM      Council Chambers

**Planning Board Members Present**

Doug Barrett, Chairman  
Chris Cusack, Vice-Chair  
Mayor George Hansel  
Chris Cusack, Vice-Chair  
Michael Burke  
Gail Somers  
Pamela Russell Slack  
Councilor Michael Remy  
David Orgaz  
Emily Lavigne Bernier, Alternate

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

Councilor Kate Bosley, Chairman  
Councilor Mitch Greenwald  
Councilor Philip Jones  
Councilor Catherine Workman

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

Councilor Gladys Johnsen

**Planning Board Members Not Present**

Michael Burke  
Andrew Weglinski  
Tammy Adams, Alternate

**Staff Present**

Rhett Lamb, Community Development Director  
Mari Brunner, Planner  
Tara Kessler, Senior Planner

**1. Statement of Authority to Hold Remote Meeting**

Chair Bosley began the meeting by reading the following statement with respect to holding remote meetings: *“In Emergency Order #12, issued by the Governor of the State of New Hampshire pursuant to Executive Order #2020-04, certain provisions of RSA 91-A regulating the operation of public body meetings have been waived during the declared COVID-19 State of Emergency.*

*Specifically:*

- *The requirement that a quorum of a public body be physically present except in an 18 emergency requiring immediate action under RSA 91-A:2, III(b);*
- *The requirement that each part of a meeting of a public body be audible or otherwise 20 discernible to the public at the location specified in the meeting notice as the location of the 21 meeting under RSA 91-A:2, III(c).*
- *Provided, however that the public body must:*
  - *Provide access to the meeting by telephone, with additional access possibilities by 24 video or other electronic means;*
  - *Provide public notice of the necessary information for accessing the meeting;*
  - *Provide a mechanism for the public to alert the public body during the meeting if 27 there are problems with access; and*
  - *Adjourn the meeting if the public is unable to access the meeting.*
- *All votes are to be taken by roll call.*

33 • *All board participants shall identify the location from where they are participating and who is*  
34 *present in the room with them.*

35  
36 Chair Bosley said the public may access the meeting online by visiting the Zoom website,  
37 www.zoom.us/join, and entering the Meeting ID 893 8296 4232, or call (888) 475-4499 and  
38 enter the Meeting ID 893 8296 4232, or view live on Cheshire TV Channel 1302. She added if  
39 anyone had issues accessing the meeting to call 603-209-4697. She added the agenda and  
40 supporting materials are available at: ci.keene.nh.us/joint-planning-board-planning-licensesand-  
41 development-committee.

42  
43 **2. Call to Order & Roll Call**

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

45  
46 **3. Approval of Meeting Minutes – September 14, 2020 meeting minutes**

47 A motion was made by Councilor Jones that the Joint Committee accept the September 14, 2020  
48 meeting minutes. The motion was seconded by Councilor Mitch Greenwald and was  
49 unanimously approved.

50  
51 **4. Public Workshop Ordinances O-2020-10 & O-2020-11 – Relating to the establishment of**  
52 **the City of Keene Land Development Code and changes to the City's downtown zoning**  
53 **districts. Petitioner, City of Keene Community Development Department, proposes to update**  
54 **and unite the City of Keene's regulations related to land use and development, including the**  
55 **Zoning Regulations, into the City of Keene Land Development Code; to establish 6 new zoning**  
56 **districts in Keene's downtown area (Downtown Core, Downtown Growth, Downtown Limited,**  
57 **Downtown Edge, Downtown Transition, Downtown Institutional Campus); to remove the**  
58 **Gilbo Avenue Design Overlay District and the Downtown Railroad Property Redevelopment**  
59 **Overlay District; and, to modify the SEED Overlay District. This proposeGd map change**  
60 **would affect 316 parcels, encompassing a total land area of approximately 220-acres, and**  
61 **would result in the removal of the Central Business and Central Business Limited Zoning**  
62 **Districts.**

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64 Community Development Director/Assistant City Manager Rhett Lamb addressed the  
65 Committee first and noted this is an item that has been worked on by many different departments  
66 in the City. He thanked the Joint Committee for their attendance today and their participation.  
67 Mr. Lamb stated this is a significant response to goals of the Comprehensive Master Plan and  
68 Economic Development Plan and has the potential to impact economic development in Keene  
69 for years to come.

70  
71 Other members of the project team introduced themselves. These members included Senior  
72 Planner Tara Kessler, Building and Health Official John Rogers, Planner Mari Brunner, and  
73 Director of Economic Development, Initiatives and Special Projects Med Kopczynski. Mr.  
74 Kopczynski stated this journey started 15 years ago and what is before the Committee will shape  
75 what the community is and will become. He noted the purpose of this document is to make land  
76 use regulations easier to understand for its users. He noted this work essentially started in 1927  
77 (with the initial adoption of zoning regulations in Keene), then again in 1970 (the last time the  
78 City's zoning regulations were comprehensively updated), and then more recently this project,  
79 which is an outcome of the Master Plan and the direction of the City Council.

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81 Ms. Kessler addressed the Committee and stated that land use regulations can be a complicated  
82 to understand, and not many have the experience working with them directly.

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Ms. Kessler explained that an ordinance is a law established at the municipal level, and in New Hampshire, towns and cities have only the powers that the State of New Hampshire grants to them. She noted that as a city, Keene follows a different process to adopting and creating land use regulations than towns in New Hampshire. Ms. Kessler went over that process.

The first step is an Ordinance Application submission to City Council (Ordinances O-2020-10 and O-2020-11 were introduced in October to the City Council). The City Council then refers the Ordinance to the Joint Committee for a public workshop. The Joint Committee is made up of the nine member Planning Board, which is appointed by the City Council, and five member Planning Licenses and Development Committee which is a subcommittee of the City Council. Ms. Kessler noted for this ordinance staff anticipates there will be at least seven public workshops. She noted this process is slightly different as a number of different regulations are being reviewed in addition to the Zoning Regulations. As a result, the Historic District Commission and Planning Board will also be holding public hearings on specific sections of the proposed Code, and ultimately the City Council will hold a public hearing to hear public comments on the Ordinance. Ms. Kessler noted there will be many opportunities for the public to make comments/ask questions, and it is likely amendments will be made to the proposed Code before it is finally adopted.

Ms. Kessler went over the proposed public workshop schedule next. The meeting dates and topics of focus are listed below.

- November 9, 2020 at 6:30 pm (remote meeting) today’s focus would be on reviewing Articles 1 – 9 of proposed Land Development Code and address comments/questions from previous meeting.
- November 16, 2020 at 6:30 pm (remote meeting) to review Articles 10-18 of the proposed Land Development Code and address comments/questions from previous meeting.
- December 14, 2020 at 6:30 pm (Keene Recreation Center) and February 8, 2021 6:30 pm (Keene Recreation Center). Tentative in-person opportunity for public to provide comments/questions on proposed Ordinances. (If this session cannot happen due to COVID related safety concerns, it will take place remotely).
- January 11, 2021 at 6:30 pm (remote meeting) to review of Articles 19 – 22 of proposed Land Development Code and address comments/questions from previous meeting.
- January 19, 2021 at 6:30 pm (remote meeting) to review of Articles 23 - 28 of proposed Land Development Code and to address comments/questions from previous meeting.
- February 8, 2021 at 6:30 pm (Keene Recreation Center). Tentative in-person opportunity for public to provide comments/questions on proposed Ordinances. (If this session cannot happen due to COVID related safety concerns, it will take place remotely).
- March 8, 2021 at 6:30 pm (remote meeting) for Committee to vote on consistency with Master Plan and to recommend the Mayor set a Public Hearing Date.

132 Ms. Kessler noted as the process moves forward there could be more meetings in the public  
133 workshop phase.

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135 Ms. Kessler went over the ways in which the public can participate and provide comments. The  
136 public can view meetings live online or on Chehsire TV, or can view recorded meetings on the  
137 City Website. All meeting materials will be posted to the City website. The public can submit  
138 written comments via email to [communitydevelopment@ci.keene.nh.us](mailto:communitydevelopment@ci.keene.nh.us), mail, or hand deliver at  
139 City Hall by 3 pm on the day of the meeting. The public can also meet with city staff and city  
140 officials by appointment if they would like to review questions or provide comments to be shared  
141 with the Committee. Additional information is available by visiting  
142 [www.keenebuildingbetter.com](http://www.keenebuildingbetter.com).

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144 Ms. Kessler noted that the reason the city is updating its land use regulations now is because as  
145 mentioned earlier, the most recent comprehensive update was in 1970. There are uses the City  
146 wasn't anticipating today as compared to what was happening in 1970. The need for an update  
147 was identified as a top priority of the City's 2010 Comprehensive Master Plan. She explained  
148 that the current regulations are difficult to navigate, sometimes inconsistent or outdated. She  
149 referred to the many documents one would have to review to complete a commercial  
150 development including the Planning Board Subdivision and Site Plan Regulations, Zoning  
151 Ordinance, Historic District Regulations, and many other city code chapters. Ms. Kessler went  
152 on to say another reason for this update is to enhance economic opportunities while maintaining  
153 the City's unique character.

154  
155 There were three guiding principles staff followed when working on the proposed Code, that it  
156 be simple and easy to read and understand, promoted an efficient process for review, and be  
157 thoughtful.

158  
159 A major goal of this project is to have all land use regulations in one document. While staff was  
160 merging all information into one document, staff was also making sure all codes were up to date,  
161 and making it easy to understand by including graphics and changing language.

162  
163 Another significant aspect of this proposed Code is proposed changes to the City's downtown  
164 zoning districts. The reason for updating Downtown Zoning is to allow for mixed uses and  
165 modern uses and to more closely align the dimensional standards with the existing pattern of  
166 development. In addition, the proposed changes address transition/buffer areas between the  
167 commercial downtown and adjacent residential areas. In the past there have been issues with  
168 residential areas that are located directly adjacent to the downtown.

169  
170 Ms. Kessler noted that the process to update/consolidate the proposed Code has been going on  
171 for the last 2 ½ years. There has been a lot of outreach to the public over the course of this time.  
172 Presentations to community groups and organizations, meetings with individuals and small  
173 groups, public workshops and open houses, use of a downtown storefront, direct notices mailed  
174 to all property owners, use of local media, and the project website are some examples.

175  
176 Ms. Kessler noted that many are wondering, how will this project impact me? For residents and  
177 business owners outside of downtown, there won't be much impact. The regulations will be  
178 easier to understand and there will be some changes to permitted uses. For property owners /  
179 businesses in the downtown, there are more significant changes proposed that would mostly  
180 impact new development.

181

182 Ms. Kessler noted existing properties that are legally non-conforming, those uses and lots will  
183 continue to be allowed.

184  
185 Ms. Kessler indicated staff have been working very closely with the development community  
186 and they feel this land use ordinance will create a clearer roadmap for development and will help  
187 to reduce confusion caused by the current regulations.

188  
189 For City Boards and staff, this change will make the review and approval process clearer and  
190 easier to administer.

191  
192 Ms. Kessler then explained what land use is; it is how a piece of property is used, including what  
193 activities are occurring on the land. For example, the land use most commonly seen in  
194 neighborhoods is single family residences. In the downtown, there are a variety of commercial  
195 land uses that are likely to be seen. In more rural areas, agricultural land uses may be more  
196 apparent.

197  
198 Ms. Kessler reviewed what zoning is generally. Zoning is a tool used by communities to protect  
199 property rights and prevent against nuisances by making sure uses that are located near each  
200 other are compatible and the size and placement of buildings are appropriate for the areas they  
201 are located. Zoning does this through the establishment of districts. Some districts are focused on  
202 residential uses, while others are focused on commercial activity. Keene has had zoning in place  
203 since 1925 and the last comprehensive update to zoning happened in 1970. Each zoning district  
204 in Keene has different permitted uses and dimensional requirements. Ms. Kessler noted if a use  
205 is not listed as being permitted in that District, it would not be allowed to occur as the principal  
206 use of a lot. Uses that are accessory to a principal use may be allowed without being listed as a  
207 permitted use, however. Zoning regulations are a chapter of the City Code of Ordinances.

208  
209 Ms. Kessler noted that commercial uses and multifamily dwellings are subject to the Planning  
210 Board's Site Plan Regulations. The Planning Board also oversees the Subdivision Regulations.

211  
212 The City has a Historic District in the Downtown that has its own set of regulations. These  
213 regulations apply only to properties within the Historic District Boundaries.

214  
215 The Zoning, Site Plan, Subdivision, Historic District regulations are proposed to be merged into  
216 one Code, as well as the Floodplain Regulations, Street Standards, and application procedures.

217  
218 Ms. Kessler stated for tonight she will be focusing on the first nine Articles of the proposed Land  
219 Development Code.

220  
221 **Article 1 - Introductory Provisions:**

222 Ms. Kessler noted that this section addresses the legal aspects related to the code, and is mostly  
223 introductory provisions for how to interpret the code which are present in the current regulation.  
224 It also has a section on Rules of Measurements and Exceptions which the current code does not  
225 have.

226  
227 **Article 2 – Establishment of Zoning Regulations & Districts:**

228 Ms. Kessler noted that this section establishes the Zoning Map, the Zoning Districts, and the  
229 Zoning Overlay Districts. The city has four Overlay Zoning Districts that encompass the  
230 downtown area - Downtown Historic District, SEED District, Downtown Railroad Property  
231 Redevelopment District, and the Gilbo Avenue Design District. Ms. Kessler referred to a map

232 which showed how these districts overlapped with each other. The proposed code is proposing to  
233 remove two of these districts – the Gilbo Avenue Design District and the Downtown Railroad  
234 Property Redevelopment District. The SEED District will be modified substantially (this will be  
235 discussed at the November 16 meeting).

236

237 **Article 8 – Permitted Uses:**

238

239 Ms. Kessler noted that this section talks about principal uses and where they are allowed and by  
240 what processes. There are two types of uses - Principal Uses and Accessory Uses. Principal uses  
241 are the main use of a lot. For example, a single family home may be the principal use of a  
242 particular lot and a chicken coop or solar array on that same lot may be considered an accessory  
243 uses. Accessory uses must be subordinate and incidental to the principal use.

244

245 Principal Uses in the city are allowed by one of the following processes:

246

(1) By-right (Permitted without limitations).

247

(2) Some uses are permitted with limitations – e.g. bed and breakfast has a limit to the  
248 number of guest rooms permitted.

249

(3) Conditional Use Permit (CUP)

250

(4) Special Exception

251

252 For Conditional Use Permit (CUP) there are standards specific to the proposed that apply, there  
253 is an application process and public hearing is required before the Planning Board. For a Special  
254 Exception (SE) it is same as above but the Zoning Board would review and act on these uses.

255

256 Some of the big changes being proposed with this Land Development Code are as follows:

257

- The principal uses are grouped by categories (e.g. residential, commercial, institutional, etc.).

258

- New terms/use types have been introduced to update clarify existing uses and to create more  
259 flexibility as to where a use may occur.

260

- The standards related to specific uses have been consolidated with the definitions for the use  
261 in one section.

262

- Greater guidance is provided on use determinations made by Zoning Administrator – the City  
263 cannot account for all uses that are likely to occur, and the Zoning Administrator has the  
264 authority to determine if a proposed use is similar in nature to an existing permitted use.

265

- It establishes a CUP for two new categories of uses, Congregate Living Social Service Uses  
266 and Solar Energy System Uses (will be discussed in length on November 16).

267

- It deletes the use “Institutional Use”, which is broadly defined today and some of these uses  
268 are duplicated under other use tables. Today the uses that fall under institutional use include:

269

*health care facility, hospital, accessory (temporary) housing for families of patients admitted  
270 to a hospital, clinic, nursing home, sanitarium, convalescent home, home for the aged,*

271

*private school, child care facility, place of worship, senior center, and museum. Institutional*

272

Use is permitted today in many zoning districts by SE or by right. The proposal is to replace  
273 Institutional Use with the specific institutional uses including: Community Center, Cultural

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Facility, Hospital, Senior Center, Place of Worship, and Private School. The proposed code

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designates where these uses would be permitted. These uses will continue to be permitted on

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the street list that exists in the current Zoning Regulations and no changes are proposed to

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this list. Overtime the City has determined a list of street these uses can be permitted

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regardless of the zoning district.

279

280 Ms. Kessler noted that the uses permitted in residential districts will remain mostly as they are  
281 currently but the major uses being proposed are the introduction of Solar Energy Systems,  
282 Congregate Living & Social Service Uses (e.g. group home, lodginghouse, homeless shelter,  
283 drug treatment facilities) to some of these districts. Only a few residential areas will be impacted  
284 by these uses.

285  
286 There are some uses being proposed that will have low impact – staff is still seeking feedback  
287 and they are Conservation Areas, Community Gardens and Telecommunications Facilities.  
288 Telecommunications Facilities are not listed on a use table currently but by state and federal law  
289 the City cannot define where they can be located; however, there are standards that would still  
290 need to be adhered to. There are some uses proposed to be removed due to incompatibility with  
291 residential areas (e.g. noncommercial raising of farm animals).

292  
293 For Downtown and Commercial Districts, the proposal is to add more retail uses such as Micro-  
294 brewery (not permitted the downtown today as there is no category for it).

295  
296 The changes proposed to the Industrial District would not significantly alter what would be  
297 permitted. One change is that there would be two use types: Industrial, Light (doesn't have  
298 outside impacts) and Industrial, Heavy (has potential outdoor impacts), whereas today there are a  
299 number of different types of industrial uses listed.

300  
301 **Article 3 - Residential Zoning Districts:**

302 Ms. Kessler noted that these districts encompass much of the land area in the City and include,  
303 Rural, Residential Preservation, Low Density, Low Density 1, Medium Density, Medium  
304 Density, High Density and High Density 1. She then reviewed the proposed changes to each  
305 district. These changes are summarized below.

306  
307 Rural District - No changes are being proposed to dimensional requirements but changes are  
308 being proposed to permitted uses. There are some minor changes for the uses being permitted,  
309 including the addition of Animal Care Facility (already allowed as a veterinary clinic),  
310 Community Garden, Conservation Area, Telecommunication Facilities and the addition of Solar  
311 Energy System (Small-Scale), Solar Energy System (Medium-Scale) by CUP, Solar Energy  
312 System (Large-Scale) by CUP. Some uses are proposed to be removed including: Group Home,  
313 Historic Site, Institutional Use, Outdoor Recreational Activity as a Business. Some uses are  
314 proposed to be amended such as Harvesting of Forestry Products (would be allowed under  
315 farming) and Noncommercial Outdoor Recreation Activity (would continue to be allowed).

316  
317 Residential Preservation District – Ms. Kessler noted this area is located between Marlboro  
318 Street and Main Street. No changes are being proposed to dimensional requirements but changes  
319 are proposed to the permitted uses. The uses proposed to be added include Community Garden,  
320 Conservation Area and Telecommunications Facilities. The uses proposed to be removed include  
321 Child Care Center (would still be permitted as a home business) and Noncommercial Raising of  
322 Farm Animals.

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324 Low Density District – This District focuses on single family homes. No changes are being  
325 proposed to dimensional requirements but changes are proposed to permitted uses. The uses  
326 proposed to be added include Community Garden, Telecommunications Facilities. The uses  
327 proposed to be removed include Group Home, Institutional Use, and Historic Sites. The Uses  
328 proposed to be amended include Harvesting of Forestry Products and Noncommercial Raising of  
329 Farm Animals.



330  
331 Low Density 1 District – This District affects three parcels in the City of Keene. No changes are  
332 being proposed to dimensional requirements but changes are proposed to permitted uses. The  
333 uses proposed to be added include Community Garden, Conservation Area, and  
334 Telecommunications Facilities. The uses proposed to be removed include Group Home, Historic  
335 Sites, Harvesting of Forestry Products, and Noncommercial Raising of Farm Animals.  
336

337 Medium Density District – Includes single, two and multi-family homes. No changes are being  
338 proposed to dimensional requirements but changes are proposed to permitted uses. The uses  
339 proposed to be added include Community Garden, Conservation Area. Domestic Violence  
340 Shelter (with use limitations) and Telecommunications Facilities The uses proposed to be  
341 removed include Institutional Use, Historic Site and Noncommercial Raising of Farm Animals.  
342 The uses proposed to be amended include Group Home, which would be allowed with up to  
343 eight residents by CUP.  
344

345 High Density District – Promotes highest density and allows all types of residential settings with  
346 no limitations to number of units. No changes are being proposed to dimensional requirements  
347 but changes are proposed to permitted uses. The uses proposed to be added include Community  
348 Garden, Conservation Area, Domestic Violence Shelter with use limitations and  
349 Telecommunications Facilities. The uses proposed to be removed include Institutional Use,  
350 Historic Site, Fraternity / Sorority (currently allowed as lodginghouse. The uses proposed to be  
351 amended include Group Home, which would be allowed up to 16 residents by CUP,  
352 Lodginghouse, would be allowed up to 16 residents by CUP, Residential Care Facility to be  
353 allowed by CUP, and Senior Center to be allowed by Special Exception rather than by right.  
354

355 High Density 1 District - Impacts only a few parcels in the city, oriented more towards  
356 apartment buildings. No changes are being proposed to dimensional requirements but changes  
357 are proposed to permitted uses. The uses proposed to be added include Community Garden,  
358 Conservation Area, Telecommunications Facilities. The uses proposed to be removed include  
359 Institutional Use. The uses proposed to be amended include Residential Care Facility to be  
360 allowed by CUP, which is currently allowed as SE as an institutional use  
361

362 **Article 5– Commercial Zoning Districts :**

363 Ms. Kessler noted that the commercial zoning districts include Commerce, Commerce Limited,  
364 Neighborhood Business, Office, Business Growth and Reuse.  
365

366 Commerce District - There are no changes proposed to dimensional requirements in this district  
367 but there are changes proposed to permitted uses. The uses proposed to be removed include  
368 Historic Site. The uses proposed to be amended include Outdoor Recreation as Business (it  
369 would be allowed under a new use proposed - Recreational / Entertainment Facility – Indoor &  
370 Outdoor) and Institutional Use. Ms. Kessler listed uses that are proposed to be added to this  
371 District. She explained that uses with an \* next to them may be allowed today but under a  
372 different use name in the current zoning. Uses proposed to be added include Animal Care  
373 Facility\*, Art Gallery\*, Art or Fitness Studio\*, Bar\* (currently falls under restaurant), Car  
374 Wash\*, Event Venue\*, Neighborhood Grocery Store\* , Recreational / Entertainment Facility –  
375 Indoor & Outdoor\*, Specialty Food Service\*, Vehicle Rental Service\*, Community Center\*,  
376 Cultural Facility\*, Place of Worship\*, Senior Center\*, Private School\*, Drug Treatment Clinic  
377 by CUP\*, Group Resource Center by CUP\*, Residential Care Facility by CUP\*, Residential  
378 Drug/Alcohol Treatment Facility by CUP\*, Micro-Brewery/Micro-Distillery/MicroWinery, Food  
379 Pantry, Homeless Shelter by CUP, Lodginghouse by CUP, Artisanal Production, Data Center,

380 Industrial Light by SE, Outdoor Storage Yard, Conservation Area, Solar Energy System (Small-  
381 Scale), Solar Energy System (Medium-Scale) by CUP and Telecommunications Facilities.  
382

383 Commerce Limited District – This District encompasses a small number of parcels along Route  
384 10 South of NH Route 101. No changes are proposed to dimensional requirements but changes  
385 are proposed to permitted uses. Ms. Kessler listed uses that are proposed to be added to this  
386 District. She explained that uses with an \* next to them may be allowed today but under a  
387 different use name in the current zoning. Uses proposed to be added include Animal Care  
388 Facility\*, Art Gallery\*, Art or Fitness Studio\*, Bar\* (currently falls under restaurant), Car  
389 Wash\*, Recreational / Entertainment Facility – Indoor & Outdoor\*, Specialty Food  
390 Service\*, Vehicle Fueling Station, Vehicle Rental Service\*, Artisanal Production\*, Data Center\*,  
391 Industrial Light by SE\*, Outdoor Storage Yard Conservation Area\*, Conservation Area\*,  
392 Community Garden Solar Energy System (Small-Scale)\*, Solar Energy System (Medium-Scale)  
393 by CUP\*, and Public Utility Facilities by SE. Uses that are not currently allowed but are  
394 proposed to be added to this district are Banking or Lending Institution, Clinic, Heavy Rental &  
395 Service Establishment, Micro-Brewery/Micro-Distillery/MicroWinery, Outdoor Storage Yard,  
396 Community Garden, Public Utility Facilities by SE, and Telecommunications Facilities.  
397

398 Neighborhood Business District – This district was established in 2016 along Marlboro Street.  
399 The intent was to create pedestrian-oriented area like Main Street with smaller sized businesses.  
400 Changes proposed to the building height requirements in this District. Today there is an  
401 allowance of 4 stories in height if there is first floor parking, which is proposed to be removed.  
402 The maximum building height would be 2 stories.  
403

404 Uses proposed to be added in this district include Art Gallery\*, Art or Fitness Studio\*, Banking  
405 or Lending Institution, Specialty Food Service, Residential Care Facility by CUP, Community  
406 Garden, Conservation Area, Telecommunications Facilities. Uses proposed to be removed  
407 include Greenhouse / Nursery, Health / Fitness Center, Historic Site. Uses proposed to be  
408 amended include Bed and Breakfast by SE, Day Care Center by SE.  
409

410 Business Growth & Reuse District - This district was created in 2016 and the intent was to  
411 change a predominantly industrial area to an area supporting light industrial and research and  
412 development uses. The changes proposed to the dimensional requirements include the removal of  
413 green building height and parking incentives. In its place, the maximum building height in this  
414 district would be 3 stories by right. If there is first floor parking, the maximum height may be 4  
415 stories. This proposed change is not to discourage green building but more to encourage  
416 redevelopment in this area. Also, it is proposed to remove the requirement that all buildings be a  
417 minimum of two stories.  
418

419 Uses proposed to be added in this district include Art Gallery\*, Art or Fitness Studio\*, Day  
420 Care Center Specialty Food Service\*, Community Center by SE, Senior Center by SE,  
421 Artisanal Production\*, Data Center\*, Industrial, Light\*, Community Garden Conservation,  
422 Area Solar Energy System (Small-Scale), Solar Energy System (Medium-Scale) by CUP, Solar  
423 Energy System (Large-Scale) by CUP, and Telecommunications Facilities. Uses proposed to be  
424 removed include Vehicle Repair Facility – Major and Minor. Ms. Kessler noted this use was  
425 originally not intended to be included in this district but it was allowed to accommodate an  
426 existing business but this business is no longer active.  
427

428 Office District – This district is mostly along areas of Court and Washington Street with the  
429 intent of serving as a transition zone from downtown and to allow for lighter impact non-

430 residential uses. It was also created to preserve historic residential structures by permitting mixed  
431 use buildings. No changes are proposed to dimensional requirements but changes are proposed to  
432 permitted uses.

433  
434 Uses proposed to be added in this district include Group Home, Small by CUP (not more than 8  
435 residents), and Telecommunications Facilities Uses. Uses proposed to be removed include  
436 Parking Lot (would still be permitted as an accessory use). Uses proposed to be amended include  
437 Community Center, Cultural Facility, Senior Center (which would be allowed by SE).

438  
439 **Article 6– Industrial Zoning Districts:**  
440 These districts include Corporate Park, Industrial and Industrial Park.

441  
442 Corporate Park District - No changes are proposed to dimensional requirements but changes are  
443 proposed to permitted uses. The uses proposed to be added include Solar Energy System (Small-  
444 Scale), Solar Energy System (Medium-Scale) by CUP, Solar Energy System (Large-Scale) by  
445 CUP, and Telecommunications Facilities. The uses proposed to be removed include  
446 Recreational/Athletic Facilities (permitted as an accessory use). The uses proposed to be  
447 amended include Public Utility Facilities (change of use name)

448  
449 Industrial District - No changes are proposed to dimensional requirements but changes are  
450 proposed to permitted uses. The uses proposed to be added include Art or Fitness Studio\*, Car  
451 Wash, Greenhouse/Nursery, Heavy Rental & Service Establishment, Artisanal Production\*,  
452 Data Center\*, Outdoor Storage Yard\*, Conservation Area\*, Solar Energy System (Small-  
453 Scale)\*, Solar Energy System (Medium-Scale) by CUP\*, Solar Energy System (Large-Scale) by  
454 CUP\*, Public Utility Facilities, and Telecommunications Facilities. The uses proposed to be  
455 removed include Institutional Use, Historic Site, and College. The uses proposed to be amended  
456 include Self Storage Facility to be allowed By Right instead of SE.

457  
458 Industrial Park District –No changes are proposed to dimensional requirements but changes are  
459 proposed to permitted uses. The uses proposed to be added include Data Center\*, Industrial,  
460 Light\*, Conservation Area, Solar Energy System (Small-Scale)\*, Solar Energy System  
461 (Medium-Scale) by CUP\*, Solar Energy System (Large-Scale) by CUP\*, and  
462 Telecommunications Facilities. The uses proposed to be removed include Institutional Use, and  
463 Bulk Storage & Distribution of Goods, Including Flammable Material as an accessory use. The  
464 uses proposed to be amended include Research and Development to be By-Right (instead of SE)

465  
466 **Article 7– Special Purpose Zoning Districts:**  
467 **These include** the Regional Healthcare District (Most all land area is owned by Cheshire  
468 Medical Center), Agriculture District (located in the outskirts of Keene) and Conservation  
469 District.

470  
471 Health Care District - No changes are proposed to dimensional requirements but changes are  
472 proposed to permitted uses. The Uses Proposed to be Added include Research and Development,  
473 Drug Treatment Clinic by CUP, Group Resource Center by CUP Conservation Area Solar  
474 Energy System (Small-Scale), Solar Energy System (Medium-Scale) by CUP, and  
475 Telecommunications Facilities Parking Lot (Principal Use).

476  
477 Agriculture District - No changes are proposed to dimensional requirements but changes are  
478 proposed to permitted uses. The uses proposed to be added include Animal Care Facility, Event  
479 Venue by SE, Kennel, Cemetery, Community Garden, Conservation Area, and

480 Telecommunications Facilities. The uses proposed to be removed include Institutional Use,  
481 Historic Site, and Harvesting of Forestry Products. The uses proposed to be amended include  
482 Recreation / Entertainment Facility – Outdoor proposed to be by SE.

483

484 Conservation District - No changes are proposed to dimensional requirements but changes are  
485 proposed to permitted uses. The uses proposed to be added include Conservation Area, and  
486 Telecommunications Facilities. The uses proposed to be removed include Day Camp, Historic  
487 Site, and Harvesting of Forestry Products

488

#### 489 **Article 4– Downtown Zoning Districts**

490 Ms. Kessler noted the biggest change proposed with this ordinance is the changes to zoning in  
491 the downtown area. She noted that the City work with a consultant with expertise in zoning of  
492 downtown areas to develop the proposed zoning districts and their associated dimensional  
493 standards. The consultant conducted a thorough site analysis of the city - measuring where  
494 buildings are placed on lots and building heights, evaluating similarities and differences in the  
495 built environment in areas of the downtown, and understanding existing regulations and the  
496 City’s Master Plan goals. She displayed a map of the downtown area and referred to a section  
497 outlined in red and explained that all of the properties inside this line encompass the downtown  
498 area that would be subject to zoning changes. Ms. Kessler reviewed each of the proposed  
499 districts and displayed a map of the existing and proposed zoning for each district.

500

501 Downtown Core – Ms. Kessler described the geographic area that is district will cover. The  
502 district is primarily along Main Street between Central Square and north of the  
503 Main/Winchester/Marlboro roundabout. This area will switch from Central Business (CB) to  
504 Downtown Core and will have dimensional requirements that are different than what exist today.  
505 Similar to what exists in the current Central Business District, there will be no minimum lot area  
506 required. Today in the Central Business District, there are no setback requirements.

507

508 In Downtown Core, a new building would need to be located right at the property line this is to  
509 preserve the pedestrian friendly development pattern of buildings lining the sidewalks along  
510 Main Street. There would also be a requirement that between 60-80% of the front building line  
511 be at the property line, depending on what street it is located. There would be a requirement for  
512 how long buildings can be – maximum of 250 feet. There would be a minimum building height  
513 of 18 feet and a maximum of 85 feet (up to seven stories, which is a recommendation in the  
514 master plan). Today there is no minimum building height, and maximum height is 55 feet or 75  
515 feet with a special exception. If a building was to be over 65 feet tall, height stepback would be  
516 required. Ms. Kessler went on review other dimensional standards including: a minimum ground  
517 floor height of 14 feet, a maximum blank wall area of 20 feet, a maximum building entry spacing  
518 is being proposed to be 50 feet for property on Type A streets, and minimum ground floor  
519 transparency is proposed at 50% to encourage connection between pedestrian and store front.

520

521 Ms. Kessler then reviewed Type A and Type B streets. Type A streets are the portions of Main  
522 Street, Central Square, and Gilbo Avenue in the Downtown Core and Downtown Growth  
523 Districts, which require a different dimensional requirements due to the development pattern in  
524 these areas. Type B streets include all other streets in the Downtown Core and Downtown  
525 Growth Districts.

526

527 Downtown Growth District – Ms. Kessler reviewed the proposed boundaries of this district. She  
528 reviewed the types of uses that would be permitted in this district, which includes Multi-family  
529 residences. Single and two-family uses would not be permitted. Institutional uses such as place

530 of worship, school, community center, will also be allowed. There are also industrial uses such  
531 as data center, artisanal production and industrial light that would be permitted in addition to a  
532 wide array of commercial uses. Parking structure or lots as a principal use would also be  
533 permitted as well as community gardens.

534  
535 There is no minimum lot size requirement proposed for this District. For Type A streets, new  
536 buildings would need to be placed between 0 and 5 feet from the property line. For Type B  
537 streets, buildings would need to be placed between 5 and 15 feet from the property line. There  
538 are no side setbacks required. The maximum building length would be 350 feet unless there is  
539 pedestrian passage provided, then it can be up to 500 feet. For new buildings, 80% of the front  
540 building line must be along the front property line on Type A streets and 60% for Type B streets.  
541 There would be a minimum building height of 24 feet being proposed for this district (no  
542 minimum in current code), with a maximum of 85 feet or seven stories. The minimum ground  
543 floor height requirement would be 14 feet.

544  
545 Downtown Edge District – Ms. Kessler stated today there are pocket of smaller scale commercial  
546 development on the outskirts of the commerce and central business districts that are a transition  
547 area from the downtown core to residential areas. Many have of these businesses have parking in  
548 front and are mixed use establishments. The City is proposed to zone these pockets as Downtown  
549 Edge. These areas are located along sections of Marlboro Street, Roxbury Street and Foundry  
550 Street. The intent of the Downtown Edge District to continue to support these businesses and to  
551 provide more flexibility than what would be required in the Downtown Core and Growth  
552 Districts. It is also intended to provide a transition district from the more intense commercial  
553 uses to neighborhoods.

554  
555 There are a number of commercial uses proposed to be permitted in this district, but not as many  
556 as the Core and Growth Districts. Some of these uses include data center, artisanal production,  
557 small-scale solar, parking structure or lots as a principal use, Institutional uses such as place of  
558 worship, school, and community center. Congregate living and social service uses are also  
559 permitted. Residential uses that would be permitted are multi-family or two-family duplex.

560  
561 Downtown Edge has different dimensional requirements compared to Downtown Core and  
562 Growth Districts. There would be a minimum lot area of 10,000 square feet and a minimum lot  
563 width of 50 feet. The front setback would be between 0 and 20 feet. There would be no side  
564 setback requirement unless a lot is next to a residential zoning district – in which case the  
565 setback requirement would be 20 feet. The maximum building height would be 40 feet or three  
566 stories.

567  
568 Downtown Limited District – Ms. Kessler noted that this is a small area of the city. Today all of  
569 this area is in the central business district. It is located north of Vernon Street and south of Elm  
570 Street. Most of the buildings are old mill buildings and multi-family homes that supported the  
571 mills. The proposed uses include single family dwelling, limited commercial uses, such as  
572 funeral homes, day care centers, bed and breakfast, office. Some Institutional uses such as senior  
573 center, community center, and cultural center would be permitted, as well as some congregate  
574 uses such as group homes and community gardens. There would be no minimum lot size  
575 requirement. New buildings would need to be placed between 0 and 15 feet from property line.  
576 There would be no side setback requirement unless a lot is next to a residential zoning district –  
577 in which case the setback requirement would be 10 - 15 feet.

578

579 The area of a lot covered by buildings would be limited to 65% or less, and the total maximum  
580 impervious lot coverage would be 80% or less. The maximum building height would be 35 feet  
581 or 2.5 stories. There would be a requirement for minimum 30% ground floor transparency and  
582 15% upper floor transparency. The maximum height of the building threshold would not be able  
583 to be higher than four feet from sidewalk.

584  
585 Downtown Transition District – Today areas of the office district serves as a transition area from  
586 the Central Business District to residential areas. Some of the office district is being proposed to  
587 be changed to downtown transition district. The areas proposed to be changed to downtown  
588 transition district are near School Street, a pocket on Washington Street near Vernon Street and a  
589 pocket across from Keene State College. The Downtown Transition District is proposed for other  
590 areas of the downtown, including Spring St, Roxbury Court, Davis St, and Dunbar St.

591  
592 The uses proposed for this district would be identical to what is proposed for the Office District.  
593 The dimensional requirements would be very similar to the Office District except the maximum  
594 building height would be 40 feet (3 stories) instead of 35 feet (2 stories). In addition, commercial  
595 uses in this district would require minimum ground floor transparency of 25% and the maximum  
596 height of the building threshold cannot be higher than 5 feet from sidewalk.

597  
598 Downtown Institutional Campus District – This District encompasses a portion of the Keene  
599 State College campus (at the corner of Winchester Street along Main Street to Wyman Way).

600  
601 The proposed permitted uses in this district include Clinic, Bank and Lending Institution, Art or  
602 Fitness Studio, Art Gallery, Hotel/Motel, Event Venue, Health Center/Gym, Office, Restaurant,  
603 Specialty Food Service, Personal Service Establishment, Recreation Facility (indoor and  
604 outdoor), Retail, Community Center, Cultural Facility, Place of Worship, Private School,  
605 Fraternity/Sorority, Group Resource Center, Artisanal Production, Solar Energy System Small  
606 and Medium Scale, and Parking Lot/Structure as a principal use.

607  
608 New buildings would need to be placed no closer than 30 ft from the front property line. There  
609 would be a corner side setback of 15 feet. Buildings would be a maximum of 350 feet long,  
610 unless there is a pedestrian passage and then it could be 500 feet. The maximum building  
611 coverage would be 50% and the maximum impervious surface coverage would be 75%. There  
612 would be no minimum building height but the maximum building height would be 50 feet.

613  
614 Councilor Greenwald referred to the Rural District and asked whether farm animals will still  
615 allowed. Ms. Kessler replied in the affirmative. The Councilor referred to recreational use in the  
616 Rural District and asked whether ATVs would be permitted with SE. Ms. Kessler replied that  
617 this use would not be allowed if it is a commercial enterprise and the primary use on a lot.  
618 With respect to outdoor recreational uses, it was proposed to be removed because of concern that  
619 the category was broad. Ms. Kessler stated this is something the Committee could discuss.  
620 Walking trails and riding trails would be permitted by right.

621  
622 The Councilor asked where auto repair facilities will be permitted. Ms. Kessler noted that there  
623 would be two types of this use. Vehicle Repair Facility Minor would be permitted in Commerce,  
624 Commerce Limited, Industrial, Downtown Edge and Downtown Growth Districts. Vehicle  
625 Repair Facility Major would be permitted in Commerce, Commerce Limited, and Industrial  
626 District.

627

628 The Councilor asked whether educational use or hotel will be permitted on Gilbo Avenue /  
629 Emerald Street area. Ms. Kessler noted that hotel and educational use would be permitted on  
630 Gilbo Avenue as well as in the Downtown Core District.

631

632 **Article 9– Parking & Driveway Standards**

633 Ms. Kessler stated the current zoning standards call for minimum onsite parking requirements for  
634 properties. She provided the example of a residential dwelling unit, there is a requirement that  
635 two parking spaces be provided on a site. For commercial uses this parking requirement is often  
636 based on square footage of a building. She noted the current standards are outdated and are based  
637 on the 1970 zoning ordinance. The Zoning Administrator does not have guidelines on how to  
638 determine parking standards for some of the newer uses, which are not listed in the current  
639 regulations. Parking standards are also currently listed in eight different areas.

640

641 With this new ordinance the parking and driveway standards have been consolidated into one  
642 chapter and staff have removed overlapping standards. It also proposes new minimum onsite  
643 parking requirements and where onsite parking is not required. Central Business is the only  
644 district today that does not require onsite parking. The reason for this is to recognize that much  
645 of Keene’s downtown around Main Street is composed of historic buildings that were developed  
646 well before the zoning regulations required parking onsite. There is not available space on these  
647 lots for parking to be provided, and requiring parking on these properties might mean that  
648 historic buildings would need to be demolished to provide space for vehicles, which is not  
649 aligned with the City’s Master Plan goals. This ordinance proposes to enlarge the area where  
650 parking onsite is not required beyond the current boundaries of the Central Business District.  
651 Onsite parking would not be required in the proposed Downtown Growth, Downtown Core, and  
652 Downtown Limited Districts. However, residential dwelling units in these districts would be  
653 required to provide 1 space per unit. Ms. Kessler stated staff worked with a parking consultant to  
654 look at parking in the downtown and to establish this standard.

655

656 Ms. Kessler noted that there are updates proposed to the screening standards for parking lots. In  
657 addition, there are options built into these proposed parking standards to obtain relief from the  
658 requirement to provide a minimum amount of parking onsite based on certain conditions. A  
659 property owner can seek a reduction of up to 10% of required minimum parking from the Zoning  
660 Administrator, or up to 50% from the Zoning Board of Adjustment. The area where remote  
661 parking may be provided is proposed to expand from 300-ft to 1,000-ft. This would provide  
662 more options for property owners to satisfy their minimum parking requirements on another  
663 parcel. Ms. Kessler also drew attention to the proposal to allow for property owners to carry any  
664 existing parking deficits on a site to a new use proposed. For example, if a site does not currently  
665 have enough parking to meet the parking requirements for a use, and a new use is proposed, the  
666 deficit from the previous use may be applied to the new parking requirement.

667

668 This concluded Ms. Kessler’s presentation.

669

670 Ms. Sommers commended Ms. Kessler’s presentation. Chair Bosley agreed. Councilor Jones  
671 commended Ms. Kessler’s presentation and noted he was part of this process 13 years ago. He  
672 noted Planning, Zoning and Code Enforcement is now under one umbrella referred to as  
673 Community Development which is the start of what is before the Committee today. He noted  
674 smart growth is what is being envisioned with this ordinance. The proposed ordinance outlines  
675 all regulations under one document and makes the process a lot easier for the development  
676 community and makes it user friendly for everyone. Mayor Hansel stated he too agreed with  
677 what the two councilors just stated. He felt this initiative is a priority for not only for the

678 development community but for everyone else in the city and felt it will serve the community for  
679 many decades.

680

681 Chair Bosley noted the items regarding congregate living and social services and the solar  
682 portions of the land development, those will be discussed at the next meeting on November 16 in  
683 Chapters 15 and 16.

684

685 The Chair asked for public comment next.

686

687 Mr. Peter Espieffs of Middle Street addressed the committee and referred to a letter he had  
688 written which is part of the committee's packet. Mr. Espieffs felt the density proposed for District  
689 entitled DT-T (Downtown Transition) will be too burdensome for their neighborhood. He noted  
690 this was an office type district and felt the zoning should remain as is – he was not in favor of the  
691 institutional uses being proposed. He felt uses such as group homes should not be mixed in with  
692 the rest of the city and should be segregated in a park type environment. Chair Bosley noted  
693 these comments are related to congregate living and social services and this will be addressed at  
694 the next meeting. She indicated Mr. Espieffs' letter does address a proposal regarding community  
695 services and care planning board and will address that item at the end of the meeting.

696

697 Mr. Espieffs questioned whether institutional use proposed for his neighborhood is limited to  
698 community center, cultural center and senior center. Ms. Kessler stated the area being referred is  
699 currently zoned as the Office District and is proposed to become the Downtown Transition  
700 District. In the current Office District the broad category of institutional use is allowed by SE. In  
701 the new district, the following are the only institutional uses that would be permitted: cultural  
702 facilities by SE, group home small, senior centers by SE (currently allowed by right), community  
703 center by SE.

704

705 Mr. Espieffs clarified group home in this district will permit eight people and asked whether this  
706 means eight families. Ms. Kessler stated it is no more than eight unrelated people and it will be  
707 through a conditional use permit – a process that will come before the Planning Board for their  
708 approval and the appropriate standards need to be met and the Board will determine whether that  
709 use is compatible with the neighborhood based on specific criteria. She further added that  
710 approval would carry with the property not the owner as long as the standards that were placed  
711 by the Board are adhered to. An annual operating license will also be required from the City  
712 Council. Mr. Espieffs noted the housing crisis in New Hampshire is causing zoning problems. He  
713 stated he was also opposed to the increase in vibrancy that is being envisioned for downtown –  
714 he noted to pages 38 and 39 of the master plan.

715

716 Mr. Morris Rosenthal of North Hampton, MA addressed the committee next. Mr. Rosenthal  
717 stated he is interested in purchasing a home on 27-29 Center Street, which is currently zoned  
718 Office District. He noted there is a single driveway but the parking is not sufficient for the full  
719 use of the building. He asked how someone would go about utilizing the reduction up to 50% of  
720 required minimum. Ms. Kessler stated this would go before the Zoning Board through a public  
721 hearing as a Special Exception. Chair Bosley encouraged Mr. Rosenthal to reach out to the  
722 Community Development Department to discuss the specifics of this property. Mr. Rosenthal  
723 noted according to the Historic District Regulations, that body also evaluates the interior of a  
724 property and asked for clarification. Ms. Kessler stated the Historic District Regulations are  
725 limited to the exterior of the building and the site and stated she would appreciate to learn more  
726 from Mr. Rosenthal about what language or sections of the regulations may have caused this  
727 confusion. Mr. Lamb noted the new regulations are looking at providing more flexibility for



728 someone like Mr. Rosenthal for the reuse of this building either through an administrative  
729 approval or by going before the ZBA. Chair Bosley asked whether remote parking could be used  
730 to satisfy parking requirements. Mr. Lamb stated this is something that would need to be  
731 reviewed by the Zoning Administrator. Mr. Kopczynski noted the change to parking regulations  
732 also expands the distance and felt this was a timely discussion.

733  
734 Mr. David Curran of 16 Prescott Street referred to a letter he submitted to the Committee and  
735 stated he was concerned about buffer zones between the Residential Preservation District and the  
736 proposed Downtown activities. He encouraged the Committee to review these transition areas.

737  
738 Mr. Gary Kinyon of Chapman Road asked Ms. Kessler to explain to him about the interplay in  
739 the proposed ordinance between mixed uses, one primary use on a lot and primary and accessory  
740 use on a lot. Ms. Kessler noted the current code has a difference between primary and accessory  
741 use on a lot – primary use is the main activity on a lot and accessory use is the incidental use of a  
742 lot. Mixed use is the allowance of more than one primary use on one lot. She noted in the  
743 proposed ordinance mixed use is proposed to be allowed on any lot except in residential zoning  
744 districts. If mixed uses are proposed, all uses occurring as primary uses on a lot must be  
745 permitted in that particular district, and the dimensional requirements of that district shall apply.  
746 These standards are described in Article 8.

747  
748 Mr. Kinyon noted the criteria for obtaining a variance as opposed to a special exception from the  
749 ZBA is more stringent and asked why the CUP now is being approved by the Planning Board.  
750 Ms. Kessler stated RSA 674:21 gives the municipality the right to choose which public body  
751 would issue the CUP and the City of Keene has chosen the Planning Board as that body to grant  
752 CUP's for solar uses, and congregate living and social service uses because the Planning Board  
753 has experience evaluating land use impacts and looking at projects on a site by site basis and  
754 evaluating the nature of these uses. Mr. Lamb added by saying the first time the CUP was  
755 applied in the city was for Telecommunication Facilities, the ordinance for which was adopted in  
756 the early 2000s. He noted this is another instance to streamline the process and if the CUP was  
757 going to be combined with a Site Plan application it could all be done under one public hearing.  
758 Mr. Kinyon noted it was mentioned the CUP was similar to the SE in many ways and noted the  
759 CUP is a good item for the Planning Board when there are technical aspects attached to them.  
760 When it comes to more community issues, he felt the CUP should perhaps go before the ZBA.

761  
762 With no further comment, the Chair closed the public hearing.

763  
764 A motion was made by Councilor Mitch Greenwald to continue this public hearing to November  
765 16. The motion was seconded by Mayor George Hansel and was unanimously approved by roll  
766 call vote.

767  
768 **5. Letter from Mr. Espiefs Regarding Community Services and Care Planning Board**

769  
770 Chair Bosley referred to the letter from Mr. Espiefs which refers to a Community Services and  
771 Care Planning Board and noted the Joint Committee does not have authority to act on this. She  
772 stated she will accept this letter as information and requested Mr. Espiefs to direct the letter to  
773 the Mayor and City Council

774  
775 **6. Adjourn**

776 The meeting adjourned at 9:45 pm

777

778 Respectfully submitted,  
779  
780 Krishna Pahl,  
781 Minute Taker  
782  
783 Tara Kessler,  
784 Senior Planner

CITY OF KEENE  
NEW HAMPSHIRE

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

Monday, November 16, 2020          6:30 PM          Council Chambers

**Planning Board Members Present**

Douglas Barrett, Chairman  
Christopher Cusack, Vice-Chair  
Mayor George Hansel  
Councilor Michael Remy  
David Orgaz  
Pamela Russell Slack  
Emily Lavigne Bernier

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

Councilor Kate Bosley, Chairman  
Councilor Mitch Greenwald  
Councilor Philip Jones  
Councilor Gladys Johnsen  
Councilor Catherine Workman

**Planning Board Members Not Present**

Tammy Adams, Alternate  
Gail Somers  
Andrew Weglinski  
Michael Burke

**Staff Present**

Rhett Lamb, Community Development Director  
Mari Bruner, Planner  
Tara Kessler, Senior Planner  
Med Kopczynski, Economic Development  
Director

**1. Statement of Authority to Hold Remote Meeting**

Chair Bosley began the meeting by reading the following statement with respect to holding remote meetings: *“In Emergency Order #12, issued by the Governor of the State of New Hampshire pursuant to Executive Order #2020-04, certain provisions of RSA 91-A regulating the operation of public body meetings have been waived during the declared COVID-19 State of Emergency.*

Specifically:

- *The requirement that a quorum of a public body be physically present except in an emergency requiring immediate action under RSA 91-A:2, III(b);*
- *The requirement that each part of a meeting of a public body be audible or otherwise discernible to the public at the location specified in the meeting notice as the location of the meeting under RSA 91-A:2, III(c).*
- *Provided, however that the public body must:*
  - *Provide access to the meeting by telephone, with additional access possibilities by video or other electronic means;*
  - *Provide public notice of the necessary information for accessing the meeting;*
  - *Provide a mechanism for the public to alert the public body during the meeting if there are problems with access; and*
  - *Adjourn the meeting if the public is unable to access the meeting.*
- *All votes are to be taken by roll call.*
- *All committee participants shall identify the location from where they are participating and who is present in the room with them.*

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Chair Barrett said the public may access the meeting online by visiting the Zoom website, [www.zoom.us/join](http://www.zoom.us/join), and entering the Meeting ID 893 8296 4232 or call (888) 475-4499, Enter Meeting ID: 893 8296 4232. View live on Cheshire TV channel 1302. For issues with access during the meeting call: (603) 209-4697. The agenda and supporting materials are available at: [ci.keene.nh.us/joint-planning-board-planning-licenses-and-development-committee](http://ci.keene.nh.us/joint-planning-board-planning-licenses-and-development-committee). Members of the public shall not be permitted to speak nor shall comments be taken until the Chair asks for public comment.

**2. Call to Order & Roll Call**

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

**3. Ordinances O-2020-10 & O-2020-11** – Relating to the establishment of the City of Keene Land Development Code and changes to the City's downtown zoning districts. Petitioner, City of Keene Community Development Department, proposes to update and unite the City of Keene's regulations related to land use and development, including the Zoning Regulations, into the City of Keene Land Development Code; to establish 6 new zoning districts in Keene's downtown area (Downtown Core, Downtown Growth, Downtown Limited, Downtown Edge, Downtown Transition, Downtown Institutional Campus); to remove the Gilbo Avenue Design Overlay District and the Downtown Railroad Property Redevelopment Overlay District; and, to modify the SEED Overlay District. This proposed map change would affect 316 parcels, encompassing a total land area of approximately 220-acres, and would result in the removal of the Central Business and Central Business Limited Zoning Districts.

Chair Barrett explained staff will continue from where they left off last week; Articles 10 – 18 of the proposed Land Development Code will be addressed today. Senior Planner Tara Kessler addressed the committee next. Ms. Kessler noted the next meeting of the Joint session will be on December 14 at 6:30 PM and will be an in person session but also allowing for a remote opportunity. This session will tentatively take place at the Keene Recreation Center. Ms. Kessler stated staff is reviewing the proposal for this in person session with the City's Emergency Management Director and the Building and Health Official to determine if this meeting is still viable, given the recent spikes in active COVID 19 cases in the area. If this session cannot happen in person it will still happen via the remote format.

Councilor Greenwald commended Ms. Kessler for her presentation last week. He asked what limitations are being proposed with this ordinance. Ms. Kessler stated that she will try to highlight how this ordinance would affect property owners and business owners throughout her presentation. Ms. Kessler noted at the end of each meeting the minutes, presentation and meeting recording are posted to the city website and the project website which is ([www.keenebuildingbetter.com](http://www.keenebuildingbetter.com)). Written comments will also be accepted in advance of each meeting, and can be shared via email at [communitydevelopment@ci.keene.nh.us](mailto:communitydevelopment@ci.keene.nh.us) or could be dropped off or mailed to city hall. Staff is also happy to meet with the public and address concerns and/or review how the proposed changes might impact them.

**Article 10 – Sign Regulations** - Ms. Kessler began her presentation with a review of the Sign Regulations. She noted that these regulations govern the size and look of signs for businesses and other entities in the City. The changes proposed to these regulations are primarily focused on making these regulations more compliant with Reed v. Gilbert, which is a U.S. Supreme Court case that clarified the level of scrutiny that should be applied to content-based restrictions. An example of some changes proposed is the change of “Menu Board Sign” (a driver will have to

86 read this sign to know it is a menu board sign) to “Drive Through Sign” (oriented more toward a  
87 land use).

88  
89 Councilor Remy indicated he has heard from a business owner, who has a sign with changeable  
90 text but it is not permitted under the City’s sign regulations; their plan was to use it to indicate  
91 open/close, especially during the pandemic. He asked whether such an issue will be addressed  
92 under these new regulations. Ms. Kessler stated that electronically activated changeable copy  
93 signs are currently a prohibited sign type under the sign regulations and noted staff has not  
94 proposed any changes to the list of prohibited signs. Councilor Remy noted with reference to the  
95 menu board sign a business is only allowed one per site and asked whether this can it be changed  
96 to one per lane to accommodate multi lanes. Ms. Kessler stated this is the only significant item  
97 that is being changed to increase menu board signs to two for a business. This is an item that has  
98 seen many variances being filed by drive through businesses.

99  
100 Mayor Hansel noted for a section such as this, the substance isn’t changing but the format is  
101 changing, which makes the sign code easier to understand.

102  
103 **Article 11 – Surface Water Protection Overlay District**

104 Ms. Kessler continued her review with an overview of proposed changes to the Surface Water  
105 Protection Overlay District. She noted that this is an existing overlay zoning district. The purpose  
106 is to create a buffer area adjacent to surface waters (including wetlands, rivers, lakes, vernal  
107 pools, etc.) and depending on the zoning district, that buffer is either 30-ft or 75-ft. There are  
108 certain activities that require approval in the form of a Conditional Use Permit from the Planning  
109 Board in order to occur in this buffer. The only significant change proposed to this section is the  
110 proposal to remove the requirement that surface waters be exempted from the calculation of  
111 minimum lot size for subdivisions. Today you have to subtract the area of surface water present  
112 on a site and whatever area is left needs to meet the minimum zoning requirements for a  
113 subdivision to occur. For instance, if a 10-acre parcel, which has a 1 acre wetland on it, is  
114 proposed to be subdivided into two parcels in a district that requires 5 acre minimum lots, the  
115 subdivision would not be possible as there is only 9 acres available after subtracting the wetland.  
116 She noted there are rules at the state and federal level related to wetlands and shorelands that also  
117 need to be adhered to and the surface water ordinance indicates what activities could occur in the  
118 buffer zone. This draft proposes to remove this restriction. This change was presented to the  
119 Conservation Commission and they are in support of this change.

120  
121 Councilor Remy asked what would prevent someone from creating a lot that is 95% covered by  
122 wetlands. Ms. Kessler stated that when the Planning Board reviews a proposed subdivision, the  
123 Board is ensuring the proposed lots will be developable through their review, and it will be up to  
124 the Board to decide if the subdivision is viable.

125  
126 Mayor Hansel noted that other changes to this ordinance were addressed at the Conservation  
127 Commission years ago, and the last time these changes were addressed before City Council it  
128 was indicated they would be discussed with the proposed Land Development Code. The Mayor  
129 noted that these changes were not incorporated in the final version of the Code that was  
130 submitted to City Council. He has discussed this with the individual who was interested in those  
131 changes. The Mayor stated the changes being proposed is an improvement and he is in support of  
132 them.

133  
134 Councilor Jones stated this item has been an issue for him since it was originally discussed and  
135 he would like to see it addressed sometime in the future. He noted when this item was originally

136 discussed, there were councilors who were under the impression the surface water protection had  
137 something to do with flood control and stated that was incorrect and this created non-conforming  
138 uses.

139  
140 Community Development Director Rhett Lamb stated staff was willing to review it again if  
141 additional changes needed to be made. He agreed the ordinance did create some prohibitive  
142 activities but was limited only to the buffer area.

143  
144 **Article 12 – Hillside Protection Overlay District** – Ms. Kessler moved on to review the  
145 proposed changes to the Hillside Protection Overlay District. She noted that this is similar to the  
146 Surface Water Ordinance where it imposes restrictions related a natural feature, in this case, it  
147 imposes restrictions on what activities can occur on steep slope areas. This is an existing district  
148 and no significant changes are being proposed to these regulations. There is, however, a proposal  
149 to remove requirement that steep slopes be exempted from the calculation of minimum lot size  
150 for subdivisions of a certain size, which is a standard currently under the Planning Board  
151 regulations (similar to what was discussed previously with the surface water ordinance). Staff is  
152 also proposing graphics to clarify some of the standards and measurements.

153  
154 Chair Barrett asked whether the terms prohibitive slopes and precautionary slopes are only  
155 applied when you have an elevation of at least ten feet. Ms. Kessler stated for the calculation of  
156 steep slopes is based on a measurement involving a slope calculated over a specified horizontal  
157 distance. Mr. Lamb added the key factor is the horizontal length, anything less than 40 feet is not  
158 considered a hillside. Councilor Jones noted this would apply only to a very few instances in the  
159 city. Mr. Lamb agreed this is intended for steeper slopes in the city.

160  
161 **Article 13 – Telecommunication Overlay District**  
162 Ms. Kessler stated the changes being proposed to the Telecommunication Overlay District are to  
163 make the regulations consistent with state and federal regulations. Mr. Lamb added this  
164 regulation is for installation for telecommunication facilities on private properties. Mr. Lamb  
165 recalled a recent ordinance that was adopted for small wireless facilities ordinance that address  
166 telecommunication facility installation in the city right of way. This is outlined in a separate  
167 chapter of the city ordinance and is not proposed as part of the Land Development Code.

168  
169 **Article 14 – Sustainable Energy Efficient Development (SEED) Overlay District**  
170 Ms. Kessler explained the SEED Overlay District was established in the downtown to provide  
171 property owners in this district the option of voluntarily constructing a green building in  
172 exchange for zoning incentives (e.g. greater density, height, use options). It was adopted in 2010  
173 and only one property has taken advantage of it – The Mills. With the proposed new Downtown  
174 Zoning Districts which offers greater flexibility with use options and dimensional requirements,  
175 staff inadvertently removed or reduced the incentives offered through SEED for green  
176 development. She noted the review/update of the SEED District has not been prioritized as part  
177 of this current code update but is something that is being proposed to be reviewed in the future.

178  
179 For this code, the proposal is to shrink the existing SEED District to those areas that would not  
180 be impacted by the proposed zoning update. SEED areas A and B generally encompass the area  
181 of the downtown north of Water Street and south of Railroad Street to the east, the area between  
182 Gilbo Avenue and Winchester Street to the west, and also Winchester Court to the south. Much  
183 of this area will become Downtown Growth or Downtown Core. The area not changing would be  
184 the area around Wilson and Blakes Streets and Winchester Court.

185

186 **Article 17 – Anti-Nuisance Standards (referred to as Performance Standards under the**  
187 **current Ordinance)**

188 Ms. Kessler noted that this Article on Anti-Nuisance standards is focused on general standards  
189 that apply to all properties to prevent or reduce the potential for nuisances such as, Erosion /  
190 Drainage Impacts, Glare, Noise & Vibration, Noxious Gases. These standards are related to the  
191 longer term impacts that might occur from a development. Ms. Kessler stated that standards, for  
192 the most part, reflect the current regulations in the Zoning Ordinance. Currently they are called  
193 performance standards. One significant change proposed is related to the noise standard. She  
194 noted that the current noise standard is a maximum of 70 dBa at the property line for properties  
195 in all districts. This standard differs from the City’s Noise Ordinance, which is a section of City  
196 Code regulating when certain activities that produce noise can occur and temporary noise  
197 impacts. The Noise Ordinance is enforced by the Police Department. The noise standards in  
198 Article 17 refers mostly for long term impact, such as a loud HVAC unit. Ms. Kessler indicated  
199 this standard relates to the Planning Board’s standard regarding noise.

200  
201 Ms. Kessler stated in reviewing noise regulations from across the country and the state, staff  
202 have proposed modifications to the sound level limits. The proposal is for residential zoning  
203 districts to have a maximum sound level limit of 60 dba during the day and 50 dBa at night. All  
204 other zoning district would maintain the 70 dBa would still remain the maximum level at the  
205 property line during the day and would be lowered to 55 dBa at night.

206  
207 **Article 18 – Nonconformities Nonconforming Structure**

208 Ms. Kessler noted that this Article is focused on how nonconforming uses and structures are  
209 addressed related to the Zoning Ordinance. She explained what a nonconforming use and  
210 structure are, and noted that if the proposed changes to the City’s regulations are adopted, there  
211 may be some structures and/or uses that are currently compliant with the regulations but would  
212 no longer be conforming to the amended regulations. If there is a use that is currently legal but in  
213 the future would no longer be legal, this use would be considered legally nonconforming (some  
214 use the term “grandfathered”) and would be permitted to continue operation.

215  
216 Ms. Kessler went over the following definitions:

217 Nonconforming Structure - A principal or accessory structure that was lawfully erected but  
218 because of subsequent amendments to the Zoning Regulations has been made nonconforming.

219  
220 Nonconforming Use - Use of a structure or land that at one time was a permitted use within a  
221 zoning district but as a result of subsequent amendments to the Zoning Regulations is no longer  
222 allowed.

223  
224 Ms. Kessler went on to say if a nonconforming structure was to be expanded, it can be done up  
225 to a certain amount but certain standards need to be followed. On the other hand if a  
226 nonconforming use was to be expanded, an applicant will need to go before the Zoning Board of  
227 Adjustment for approval.

228  
229 Ms. Kessler stated under the current code the city allows nonconforming use to change to  
230 another nonconforming use. She referred to that language as follows:

231 *Sec. 102-207. - Changes of nonconforming uses. The zoning board of adjustment may, in*  
232 *appropriate circumstances and with appropriate safeguards, permit a nonconforming use to be*  
233 *changed to another nonconforming use, provided such changed use is more in conformity with*  
234 *the spirit and intent of this chapter than the prior use and is not more injurious, obnoxious or*  
235 *offensive to the neighborhood than the existing use. (Code 1970, § 2339.6)*

236 She noted that staff have proposed that this allowance to go from one non-conforming use to  
237 another be removed.

238  
239 Councilor Remy asked once this new Ordinance is approved whether variances granted by the  
240 Zoning Board of Adjustment based on the old code would automatically apply to the use, if a  
241 building has not been constructed. Ms. Kessler stated those variances approved by the Zoning  
242 Board of Adjustment will be preserved up to two years. If it is not the variance is not acted upon  
243 in this timeframe, regardless of whether the City amends its regulations, this approval will  
244 expire. If the variance approval expires and the new regulations are adopted, the applicant would  
245 be subject to the new regulations.

246  
247 **Article 16 – Solar Energy System Conditional Use Permit**

248 Ms. Kessler provided a review of Article 16 related to Solar Energy System Conditional Use  
249 Permits. She noted that the current regulations do not address solar systems as permitted uses  
250 nor do they provide standards for regulating or reviewing proposed systems. She noted that the  
251 proposed land Development Code includes standards related to accessory and principal solar  
252 uses.

253  
254 Ms. Kessler explained that an example of solar energy systems as an accessory use would be a  
255 roof-mounted solar energy system or a ground-mounted system of a certain size or less that is  
256 located on the same lot as the building/structure it is providing energy to. She noted that  
257 accessory uses of this type would be allowed in all districts, however, staff have proposed some  
258 standards related to these uses. On a sloped roof, the highest point of a roof-mounted system  
259 cannot exceed the highest peak on the roof which it is attached. On flat roofs the highest point of  
260 system cannot exceed 10 feet above the roof surface. The equipment cannot extend the exterior  
261 perimeter of what it is attached to. Accessory ground mounted systems cannot exceed a 2,000 sf  
262 footprint, has to be accessory to principal use on the same lot, cannot exceed 15-ft high at  
263 maximum tilt and has to comply with setback and lot coverage under zoning requirements.

264  
265 She noted that staff is proposing three categories of ground-mounted solar energy systems as  
266 principal permitted uses, which are described below. These would be the main use occurring on  
267 a lot.

268  
269 **Small Scale:** A solar energy system which has a footprint that does not exceed 2,000 square feet.  
270 This system is being proposed to be allowed in Rural, Downtown Edge, Downtown Institutional,  
271 Commerce, Commerce Limited, Business Growth and Reuse, Corporate Park, Industrial,  
272 Industrial Park and Health Care Districts. The standard being called for is that it cannot exceed  
273 15 feet high at maximum tilt and it needs to comply with setback and lot coverage zoning  
274 requirements.

275  
276 **Medium Scale:** A solar energy system that would be between 2,001 square feet and 1-acre in  
277 size, and it cannot exceed 15-feet high at maximum tilt. This system is being proposed to be  
278 allowed in Rural, Downtown Edge, Downtown Institutional, Commerce, Commerce Limited,  
279 Business Growth and Reuse, Corporate Park, Industrial, Industrial Park and Health Care Districts  
280 by conditional use permit to be issued by the Planning Board.

281  
282 **Large Scale:** A solar energy system that would be greater than an acre in size but cannot exceed  
283 20 contiguous acres. It cannot be located on parcels less than 5 acres in size and cannot exceed  
284 15 feet high at maximum tilt.



285 This system is proposed to be allowed in Rural, Business Growth and Reuse, Corporate Park,  
286 Industrial, and Industrial Park Districts by conditional use permit.

287  
288 Ms. Kessler went on to say for this use to occur the operator would need to apply for a  
289 conditional use permit through the Planning Board and there are standards outlined in Article 16  
290 of the Land Development Code which outline what would be required for medium and large  
291 scale systems. The proposed standards are generally as follows:

- 292 • A minimum setback of 50 feet from all exterior property lines and existing public rights-  
293 of-way would be required.
- 294 • The area that are encompassed by the components of these systems shall not exceed 70%  
295 of the lot.
- 296 • Visual impact shall be mitigated through visual buffer; clearing of trees and vegetation  
297 shall be limited as possible.
- 298 • The panels need to be properly spaced for infiltration.
- 299 • All on-site power and communication lines shall be buried.
- 300 • The applicant will be required to submit decommissioning and site restoration plan and  
301 security for when they abandon the system.

### 302 **Congregate Living & Social Service Uses**

303 Ms. Kessler moved on to discuss the topic of Congregate Living and Social Service uses, for  
304 which there are two sections of the proposed code to review (Article 8 and 15). Ms. Kessler  
305 explained the uses currently allowed in the City’s zoning ordinance were last comprehensively  
306 reviewed in the late 1960s, over fifty years ago. Since that time land use has evolved and there  
307 has been demand for uses that were not anticipated at that time. In addition, the nature of certain  
308 uses has changed over time. With respect to Congregate Living and Social Service Uses, the  
309 City’s current zoning with respect to this category of uses is outdated. Recognizing this, the City  
310 Council directed staff to look at opportunities for uses of this type to occur in City and establish a  
311 review process/standards for the permitting of some uses in certain areas. There was also an  
312 interest in ensuring that standards and definitions related to this category of uses align with the  
313 current building, fire and life safety codes.

314  
315  
316 In September of 2019, staff introduced a draft ordinance which was reviewed through multiple  
317 public workshops before the Joint Committee. In March, the Joint Committee voted to integrate  
318 the draft ordinance into the proposed Land Development Code.

319  
320 Congregate Living Uses that are being proposed include: Homeless Shelter, Domestic Violence  
321 Shelter, Residential Care Facility, Residential Drug/Alcohol Treatment Facility. Group Home  
322 and Lodginghouse as well as Fraternity/Sorority are uses that are currently defined and addressed  
323 within the Zoning Regulations; however, this proposed Code proposes modifications to the  
324 definitions and standards for these uses.

325  
326 She noted that the social service uses proposed include: Food Pantry, Drug Treatment Clinic, and  
327 Group Resource Center.

328  
329 In the proposed code Article 8 defines uses, use limitations, and districts where uses are  
330 permitted. Article 15 establishes standards for a Congregate Living and Social Service  
331 Conditional Use Permit. Ms. Kessler explained that the ordinance, O-2020-10 also proposes  
332 amendments to Chapter 46 in the City Code of Ordinances (which is not included in the  
333 proposed Land Development Code) addressing the standards for a Congregate Living / Social

334 Service License that would be reviewed/issued by City Council, and would be required for  
335 certain uses, and would need to be renewed annually.

336  
337 Ms. Kessler went over where these proposed uses would be permitted and what standards will  
338 apply.

339  
340 Domestic Violence Shelter - *A facility that provides temporary shelter, protection, and support*  
341 *for those escaping domestic violence and intimate partner violence, including victims of human*  
342 *trafficking. A domestic violence shelter also accommodates the minor children of such*  
343 *individuals. The facility may also offer a variety services to help natural persons and their*  
344 *children including counseling and legal guidance. The facility shall be managed by a public or*  
345 *non-profit agency with in-house supervision provided on a 24- hour basis.*

346  
347 Ms. Kessler stated there has been concern raised by the public regarding the lack of proposed  
348 standards for domestic violence shelters. This use is not explicitly permitted in the current  
349 Zoning Ordinance. This use is proposed to be located in medium density, high density,  
350 commerce, downtown edge, downtown growth, downtown limited and downtown core districts  
351 and they would be permitted by right as long as they adhere to the following standards:

- 352  
353 a. *Any new domestic violence shelter use shall not be located within 750-ft (measured at the*  
354 *property line) of any preexisting domestic violence shelter use.*  
355 b. *Shall not have more than 12-occupants at any time if located within or directly adjacent to*  
356 *residential zoning districts.*  
357 c. *If located within a residential zoning district, shall maintain the appearance of a residential*  
358 *structure and the design and operation of the facility shall not alter the residential character of*  
359 *the structure.*

360  
361 Food Pantry is another use that will be permitted by right without a conditional use permit or  
362 license. The definition for Food Pantry, which is not currently a use permitted in the Zoning  
363 Ordinance, would be: *A non-profit organization that provides food directly to those in need.*  
364 *Food pantries receive, buy, store, and distribute food. Food pantries may also prepare meals to*  
365 *be served at no cost to those who receive them.* This use is proposed to be permitted in the  
366 commerce, downtown edge, downtown growth, downtown limited and downtown core zoning  
367 districts.

368  
369 Drug Treatment Clinic- *A non-residential facility authorized by the state to provide treatment*  
370 *and licensed drugs to natural persons, including, but not limited to, methadone or suboxone, to*  
371 *manage and treat drug dependencies.*

- 372  
373 Ms. Kessler listed the standards for operation of a drug treatment clinic, which include:  
374 a. *Shall not be constructed or operate without first having obtained a Congregate Living &*  
375 *Social Services Conditional Use Permit.*  
376 b. *Annually, shall obtain a Congregate Living & Social Services License from the City Council*  
377 c. *Security lighting is required and shall be adequate to deter or detect intrusions or other*  
378 *criminal activity during non-daylight hours.*  
379 d. *If this use is located directly adjacent to a residential zoning district there shall be a building*  
380 *setback of 50-ft from the property line, unless an alternative solution is approved by the*  
381 *Planning Board as part of a site plan.*

382

383 Drug Treatment Clinic is proposed to be permitted by conditional use permit in the commerce,  
384 downtown growth and healthcare districts.

385  
386 Fraternity / Sorority is currently considered a lodginghouse and for this proposed code it has  
387 been separated out. The proposed definition is: *A place of residence, with or without meals, for*  
388 *natural persons that are all members of or pledged to a local or national fraternity or sorority.*  
389 For this use to be permitted, a conditional use permit would be required from the Planning Board  
390 and annually, a Congregate Living & Social Services License would be required from the City  
391 Council. This use is proposed to be permitted in the downtown institutional campus zoning  
392 district. As a lodginghouse, this use is permitted today in the high density and central business  
393 limited zoning districts.

394  
395 Group Home is a use that is permitted in most residential zoning districts today. As the current  
396 definition of Group Home does not have a limit on the number of people that can reside in it,  
397 staff proposed reducing the areas where Group Home would be allowed in the City and the  
398 process by which they would be permitted in an effort to address concerns for density and  
399 proximity to services. In the summer, following the release of a preliminary draft of the Land  
400 Development Code, Staff and the Joint Committee heard concerns from residents about the  
401 proposal to permit group homes in their zoning district. With respect to density considerations  
402 and the intent of zoning districts, staff proposed that two categories of Group Home be created –  
403 small and large. Small would permit up to 8 unrelated individuals to reside as a household unit,  
404 and large would permit up to 16 unrelated individuals. Both large and small group homes are  
405 proposed to be permitted by a conditional use permit process. Group Homes with 4 or fewer  
406 persons would be considered a single-family dwelling and would continue to be permitted in any  
407 district where single-family homes are permitted and would be permitted by right (a conditional  
408 use permit or license would not be required). Ms. Kessler noted that staff are recommending that  
409 Small Group Home be permitted in all zoning districts that permit single-family homes, which  
410 would be more closely aligned with what is permitted in the Zoning Ordinance today, and would  
411 address the concerns related to density impacts of permitting a group home of an unlimited  
412 number of residents to be located in a zoning district that is intended for single-family residential  
413 development.

414  
415 Ms. Kessler reviewed the proposed differences between Large and Small Group Home in the  
416 proposed code.

417  
418 Group Home, Large – *A facility providing living accommodations and care for up to 16*  
419 *unrelated natural persons who are in need of personal care services and/or are in need of*  
420 *supervision. Group home may include non-medical drug and alcohol rehabilitation. A group*  
421 *home with 4 or fewer residents is considered a single-family dwelling.*

422  
423 The following are the proposed standards for the operation of a Group Home Large:  
424 *a. Only 1 shall be permitted per lot.*  
425 *b. Shall not be constructed or operate without first having obtained a Congregate Living &*  
426 *Social Services Conditional Use Permit.*  
427 *c. Annually, shall obtain a Congregate Living & Social Services License from the City Council.*  
428 *d. If located within a residential zoning district, shall maintain the appearance of a residential*  
429 *structure and the design and operation of the facility shall not alter the residential character of*  
430 *the structure.*

431

432 Large Group Home is proposed to be permitted in the downtown core, downtown growth,  
433 downtown limited and high density zoning districts.

434  
435 Group Home, Small – *A facility in a residential dwelling, providing living accommodations and*  
436 *care for no more than 8 unrelated natural persons who are in need of personal care services*  
437 *and/or are in need of supervision. Small group home may include nonmedical drug and alcohol*  
438 *rehabilitation. A group home with 4 or fewer residents is considered a single-family dwelling.*  
439

440 The following are the proposed standards for the operation of a Small Group Home:

- 441 *a. Only 1 shall be permitted per lot.*  
442 *b. Shall not be constructed or operate without first having obtained a Congregate Living &*  
443 *Social Services Conditional Use Permit.*  
444 *c. Annually, shall obtain a Congregate Living & Social Services License from the City Council*  
445 *d. If located within a residential zoning district, shall maintain the appearance of a residential*  
446 *structure and the design and operation of the facility shall not alter the residential character of*  
447 *the structure.*  
448

449 Small Group Home is proposed to be permitted in the medium density, office and downtown  
450 transition zoning districts.

451  
452 Group Resource Center – *An establishment designed with the primary purpose of providing*  
453 *access to services related to counseling, personal care, or social well-being in a group setting. It*  
454 *does not include in- patient, overnight services, or treatments normally conducted in a medical*  
455 *office.*  
456

457 The following are the proposed standards for the operation of a Group Resource Center:

- 458  
459 *a. Shall not be constructed or operate without first having obtained a Congregate Living &*  
460 *Social Services Conditional Use Permit.*  
461 *b. Annually, shall obtain a Congregate Living & Social Services License from the City Council*  
462

463 Group Resource Center is proposed to be permitted in the downtown core, downtown edge,  
464 downtown institutional campus, commerce, downtown limited and health care zoning districts.  
465

466 Homeless Shelter – *A facility that provides temporary shelter without a required fee to natural*  
467 *persons who are homeless. The facility shall be managed by a public or non-profit agency with*  
468 *in-house supervision provided during operation.*  
469

470 The standards being proposed for Homeless Shelter are:

- 471 *i. Any new homeless shelter use shall not be located within 750-ft (measured at the property line)*  
472 *of any pre-existing homeless shelter use.*  
473 *ii. Any new homeless shelter shall not be located within 500-ft of any preexisting public or*  
474 *private school, or child day care center.*  
475 *iii. Homeless shelters with more than 16-occupants shall not be located directly adjacent to a*  
476 *residential zoning district.*  
477 *iv. All outdoor activity areas on-site shall be screened from public view and from the view of*  
478 *adjacent properties with a min 6-ft high solid fence.*  
479 *v. The facility shall provide indoor and/ or outdoor waiting areas of a sufficient size to*  
480 *accommodate demand and to prevent queueing on the public right-of-way. Such waiting areas*  
481 *shall be screened from view.*

482 vi. *Shall not be constructed or operate without first having obtained a Congregate Living &*  
483 *Social Services Conditional Use Permit.*  
484 vii. *Annually, shall obtain a Congregate Living & Social Services License from the City Council*  
485

486 Ms. Kessler noted that staff developed these standards based on feedback from some Joint  
487 Committee members that there is an interest in trying to ensure that density impacts of this  
488 proposed use and potential land use impacts on residential neighborhoods/district are addressed.  
489

490 Homeless would be permitted in the downtown growth and commerce zoning districts.  
491

492 Lodginghouse – *Any dwelling for between 5 and 16 unrelated natural persons, which provides*  
493 *separate rooms for sleeping for a fee, without personal care services and without separate*  
494 *cooking facilities for individual occupants. A lodging house may include separate living quarters*  
495 *for an on-site property manager. For purposes of this shall not include a hotel or motel.*  
496

497 The following are the proposed standards for Lodginghouse:

498 a. *Only one shall be permitted per lot, and no other residential uses shall be permitted on the*  
499 *same lot as a lodging house.*

500 b. *Shall not be constructed or operate without first having obtained a Congregate Living &*  
501 *Social Services Conditional Use Permit.*

502 c. *Annually, shall obtain a Congregate Living & Social Services License from the City Council d.*  
503 *If located within a residential zoning district, shall maintain the appearance of a residential*  
504 *structure and the design and operation of the facility shall not alter the residential character of*  
505 *the structure.*  
506

507 Lodginghouse is proposed to be permitted in the downtown core, downtown edge, downtown  
508 growth, downtown limited, business growth and reuse, commerce, high density, high density 1,  
509 health care and neighborhood business zoning districts.  
510

511 Residential Care Facility – *A licensed facility that provides 24-hour medical and/or non-medical*  
512 *care to natural persons in need of personal care services, supervision, or assistance essential for*  
513 *sustaining the activities of daily living, or for the protection of the individual. A residential care*  
514 *facility may include nursing care, assisted living, hospice care, and continuum of care facilities.*  
515 *Residential care facility does not include a residential drug/alcohol treatment facility.*  
516

517 The standards being proposed for Residential Care Facility are:

518 a. *Shall not be constructed or operate without first having obtained a Congregate Living &*  
519 *Social Services Conditional Use Permit.*

520 b. *Annually, shall obtain a Congregate Living & Social Services License from the City Council.*

521 c. *If located within a residential zoning district, shall maintain the appearance of a residential*  
522 *structure and the design and operation of the facility shall not alter the residential character of*  
523 *the structure.*  
524

525 Residential Care Facility is proposed to be permitted in the downtown core, downtown edge,  
526 downtown growth, downtown limited, business growth and reuse, commerce, high density, high  
527 density 1, health care and neighborhood business zoning districts.  
528

529 Residential Drug/Alcohol Treatment Facility – *A licensed facility that provides 24-hour in house*  
530 *supervision for medical and/or non-medical/therapeutic care of natural persons seeking*

531 *rehabilitation from a drug and/or alcohol addiction. Such facilities may include medical*  
532 *detoxification.*

533

534 The standards being proposed for Residential Drug/Alcohol Treatment Facility are:

535 *a. Shall not be constructed or operate without first having obtained a Congregate Living &*  
536 *Social Services Conditional Use Permit.*

537 *b. Annually, shall obtain a Congregate Living & Social Services License from the City Council*

538

539 Residential Drug/Alcohol Treatment Facility is proposed to be permitted in the downtown  
540 growth, downtown limited, commerce and health zoning districts.

541

542 Councilor Jones asked how the overflow issue would be addressed with homeless shelters. Ms.  
543 Kessler stated based on what is proposed a homeless shelter would need to show that they meet  
544 the proposed standards or obtain a variance. She noted that this is an issue that may involve  
545 further discussion and consideration with respect to the proposed standards.

546

547 Councilor Workman asked for occupancy number for domestic violence shelter. Ms. Kessler  
548 stated the proposed code limits occupancy to 12 for domestic violence shelters in or directly  
549 adjacent to a residential zoning district, and stated this limit was based on trying to address the  
550 concern for density of this proposed use in a residential zoning district. The Councilor asked  
551 whether the occupancy number would be 12 families or 12 individuals to also include children.  
552 Ms. Kessler stated the number includes children but these are proposed standards and the  
553 committee may consider proposing amendments to this standard. Mr. Kopczynski felt that  
554 adjusting these numbers might be an important exercise and what needs to be kept in mind is that  
555 this use is less likely to cause issues related to traffic.

556

557 Vice Chair Cusack asked for clarification on the number for Group Home Small versus Group  
558 Home Large. Ms. Kessler explained one allows for up to eight unrelated individuals and the  
559 other allows for up to 16. Ms. Kessler stated staff can work on further clarifying this information,  
560 especially in the permitted use table.

561

562 Councilor Bosley asked where a facility such as an elder care facility where personal care will be  
563 provided but residents will not stay overnight. Ms. Kessler stated this might fit under Group  
564 Resource Center, or Senior Center, depending on the services offered and nature of the use.

565

566 Ms. Kessler then went over the proposed Conditional Use Permit Criteria for Congregate Living  
567 and Social Service Uses.

568

569 She noted if someone was proposing to change the use of a property or establish a new use on a  
570 site, the following uses would require a Conditional Use Permit from the Planning Board: Drug  
571 Treatment Clinic, Group Home Large, Group Home Small, Fraternity/Sorority, Group Resource  
572 Center, Lodginghouse, Residential Care Facility, Residential Drug/Alcohol Treatment Facility  
573 and Homeless Shelter.

574

575 Ms. Kessler went over the proposed conditional use permit review criteria. In the proposed code,  
576 the applicant would need to demonstrate and the Planning Board would need to make the  
577 following findings:

578

579 a. *The nature of the proposed application is consistent with the spirit and intent of the Zoning*  
580 *Regulations, this LDC and the City's Comprehensive Master Plan, and complies with all the*  
581 *applicable standards for the particular use.*

582  
583 b. *The proposed use will be established, maintained, and operated so as not to endanger the*  
584 *public health, safety, or welfare.*

585  
586 c. *The proposed use will be established, maintained, and operated so as to be harmonious with*  
587 *the surrounding area and will not impede the development, use, and enjoyment of adjacent*  
588 *property. Any parking lots, outdoor activity area, or waiting areas associated with the use are*  
589 *adequately screened from adjacent properties and from public rights-of-way.*

590  
591 d. *The proposed use will be of a character that does not produce noise, odors, glare, and/or*  
592 *vibration that adversely affects the surrounding area.*

593  
594 e. *The proposed use will not place an excessive burden on public infrastructure, facilities,*  
595 *services, or utilities.*

596  
597 f. *The proposed use will not result in the destruction, loss, or damage of any feature determined*  
598 *to be of significant natural, scenic, or historic importance.*

599  
600 g. *The proposed use will not create a traffic safety hazard or a substantial increase in the level of*  
601 *traffic congestion in the vicinity of the use.*

602  
603 h. *The proposed use will be located in proximity to pedestrian facilities (e.g. multiuse trails and*  
604 *sidewalks), public transportation, or offer transportation options to its client population.*

605  
606 Ms. Kessler went on to say the Planning Board would have the authority to impose conditions on  
607 a conditional use permit such as larger setbacks than those required by Zoning; Landscaping  
608 and/or screening; Limitation of the number of occupants; Off-street parking spaces in excess of  
609 the minimum Zoning requirements.

610  
611 All congregate living and social services conditional use permits would be conditioned upon the  
612 issuance and annual renewal of a Congregate Living & Social Services License issued by the  
613 City Council.

614  
615 Ms. Kessler went on to say for someone to maintain their conditional use permit and to continue  
616 to operate their use, they need to apply for this operating license through the City Council. She  
617 noted those necessary standards is proposed to be added to Chapter 46 of the City Code of  
618 Ordinances. The license would be called Congregate Living and Social Service License and  
619 would replace the current lodginghouse license standards in Chapter 46. The City Council would  
620 be the Licensing Authority and the Planning Licenses and Development Committee would  
621 review and provide recommendations on all applications and the Council has 30 days to act on  
622 the application. Licenses would need to be renewed annually.

623  
624 Mr. Lamb asked Ms. Kessler to explain the procedural requirement for a conditional use permit  
625 for congregate living and social service uses. Ms. Kessler explained before this permit is issued,  
626 an application will need to be submitted to the Planning Board and a public hearing will be  
627 conducted and all abutters within 200 feet will be notified of the public hearing. The proposed  
628 Code proposed that there be on-site posting of public hearings for all conditional use permits, not

629 just those related to congregate living and social service uses. The Board would decide on the  
630 application. If it is approved the current applicant and all future owners are permitted to operate  
631 the use as long as any conditions are adhered to.

632  
633 Councilor Bosley asked about the timeframes for applications to be submitted and renewed for  
634 Congregate Living and Social Service licenses if the proposed code is adopted. Ms. Kessler  
635 stated this is something that will need to be decided. Councilor Bosley stated the City Council  
636 had modified the lodginghouse license earlier this year and asked whether different uses could be  
637 grouped together so that not all license come before the PLD Committee at the same time and  
638 asked how this is going to be handled administratively. Mr. Lamb stated staff will be happy to  
639 work with the PLD Committee on this to come up with a logical plan.

640  
641 The Chairman opened the meeting for public comment.

642  
643 Councilor Terry Clark referred to medium and large solar arrays that would require conditional  
644 use permits in the Industrial District and questioned whether a smoke stack factory would also  
645 require a conditional use permit. Mr. Lamb stated this would depend on the impacts a solar array  
646 has in industrial districts. He noted that the Joint Committee may reconsider the process by  
647 which solar energy systems are permitted in certain zoning districts, like the Industrial District.

648  
649 Anne Knight of 26 Prospect Street stated she is opposed to permitting any group home in the  
650 medium district zone. The issue is density – eight of the 14 homes on Prospect Street are multi-  
651 unit dwellings; five are two unit apartments, one is a three unit house, there is one grandfathered  
652 property which has been functioning as a ten bed boarding house for years, and the second is a  
653 group home which has been permitted to house 16 residents through a special exception. She felt  
654 this neighborhood is already dense and did not want the zoning ordinance to make it that much  
655 easier to increase the density. Another key issue is that the conditional use permit will stay with  
656 the land. The first use operator may do a good job operating the use, but when the use is sold, the  
657 second owners might not be as good but this group home will be protected because the  
658 conditional use permit stays with the land. She asked if a group home is not handled properly  
659 whether the Planning Board would step up in a timely basis and withdraw the conditional use  
660 permit. Ms. Knight felt each permit should be on a case by case basis, otherwise residential  
661 neighborhoods would not be properly protected.

662  
663 Ms. Knight went on to say that group homes are tax exempt and felt if the City increases non-  
664 profits in residential neighborhoods while simultaneously lowering the value of surrounding  
665 properties, it will impact the tax base. Councilor Bosley in response stated even though a  
666 conditional use permit might stay with the property each individual operation would need to  
667 come before the City Council annually for a license. At that time, if the neighborhood felt there  
668 are issues with a particular use, there will be opportunity to review that will come before the  
669 Council but not before the Planning Board.

670  
671 Mr. Peter Espieffs was the next speaker. Mr. Espieffs, of 29 Middle Street, stated he was  
672 concerned about the uses being proposed to be introduced to the downtown and stated he was  
673 opposed to it. He indicated some of the users of the facilities are individuals who need  
674 specialized care and the downtown might not be the best place for them. He felt the city needs to  
675 look at some of the land it owns and create some type of a compound which can still be close to  
676 the downtown but not impact neighborhoods. Mr. Espieffs felt what is being proposed gives no  
677 consideration to the downtown neighborhoods and will undoubtedly destroy the downtown.

678



679 Mr. Tom Savastano of Winter Street addressed the committee next. Mr. Savastano complimented  
680 staff, as the changes being proposed are getting better with each draft. Mr. Savastano stated he  
681 was glad to see Group Home Small proposed to be extended to Rural, Low Density and Low  
682 Density 1 Zoning Districts. He felt for people who are operating such facilities being further  
683 away from downtown might actually be conducive to their clientele and encouraged the  
684 committee to move forward with expanding this area.  
685

686 Mr. Savastano questioned the definition for Group Home ... *persons who are in need of personal*  
687 *care services and/or are in need of supervision* he asked what the difference was between  
688 personal care services and supervision was. Ms. Kessler stated personal care services are defined  
689 as *non-medical services to assist natural persons with activities of daily living* as opposed to an  
690 on-site supervisor. Mr. Savastano felt some categories of group home use might require more  
691 supervision (alcohol and drug rehab).  
692

693 Mr. Savastano referred to the operating license and noted he did not see input from abutters as  
694 being something that would be taken during the operating license issuance. Ms. Kessler stated  
695 abutters are not proposed to be notified of a license review process, this is something that will be  
696 done through the City Council. Mr. Savastano felt it was important to hear from abutters. Mr.  
697 Lamb stated a member of the public may request to be heard during the review of the  
698 issuance/renewal of a license before City Council.  
699

700 Sara Barrett of 612 Granite Lake Road, Nelson addressed the committee and noted her family  
701 owns property in Keene and she was raised in Keene. Ms. Barrett stated there is one item being  
702 proposed today as being in violation of the Fair Housing Act – 2016 Joint Statement of the  
703 Department of Housing and Urban Development: *...it is illegal under the Act for local land use*  
704 *zoning laws to exclude or limit group homes for individual with specific types of disabilities. For*  
705 *example a government may not limit group homes for persons with mental illness in certain*  
706 *neighborhoods. The fact that the state or local government complies with the Act with regard to*  
707 *group homes for persons with some types of disabilities will not justify discrimination against*  
708 *individuals with another type of disability such as mental illness”*  
709

710 Ms. Barrett referred to Table 4-1, Table of Permitted Uses prohibits Group Homes with people  
711 of specific disabilities. Lodginghouses for instance are allowed in three districts where Large  
712 Group Homes are allowed but Lodging Houses are also allowed in a fourth district where Group  
713 Homes are not allowed. Drug and Alcohol Treatment Facilities are only allowed in two zoning  
714 districts. She asked that the code be reviewed keeping in mind the Fair Housing Act and  
715 adjustments made so it complies with Federal Law. Ms. Barrett stated working with  
716 organizations that try to procure federal funding for programs and being in violation of the Act  
717 could risk the entire region from receiving these funds. She stated the Department of Justice and  
718 HUD have made it very clear that municipalities may not apply zoning laws based on fears,  
719 stereotypes, prejudices and unsubstantiated assumptions of prospective residents.  
720

721 Mr. Lamb in response, stated staff is aware of Fair Housing Regulations and are doing their best  
722 to accommodate the city’s interest while keeping in mind the Act. He noted the Drug and  
723 Alcohol category which was raised may not be protected classes under this Act. Mr. Lamb stated  
724 staff is aware of the issues raised and will refine the document as they move forward.  
725

726 Mr. Paul Bilgen of 391 Court Street was the next speaker. Mr. Bilgen referred to the Surface  
727 Water Protection Ordinance and noted there was one key point that was missed which is to  
728 establish setbacks, the setback from the boundary needs to be mentioned. With respect to non-

729 conforming uses, if a building was to be enlarged it can be enlarged to a certain percentage of its  
730 footprint but that it cannot be made more non-conforming.  
731

732 Ms. Kessler in response stated in the surface water ordinance there is a requirement that surface  
733 waters be delineated by a certified wetlands scientist and that the buffer zone be 30 feet in most  
734 districts and 75 feet in the rural, conservation and agriculture districts. This buffer gets delineated  
735 from the edge of the surface water by a scientist and added this is spelled out in the text of the  
736 regulations.  
737

738 With reference to non-conforming uses, there are standards to address the expansion of these  
739 uses/structures in the proposed code. She only reviewed the significant changes proposed to the  
740 current regulations; most of the existing regulations related to non-conforming uses is not  
741 proposed to change.  
742

743 Ms. Ann Savastano of 75 Winter Street stated she is happy to see there is consideration being  
744 given to expanding the area where small group homes can be located. She indicated it was  
745 mentioned at the last meeting that it was important to look at the needs of a group home and the  
746 needs of a surrounding area – for a domestic shelter a safe place would perhaps be in a rural  
747 setting. Ms. Savastano felt as far as the vibrancy of the downtown was concerned, it was a  
748 mistake to cluster a lot of group homes with substance abuse issues – it will affect the downtown.  
749 She recalled walking into the library and seeing people from 100 Nights using it as a day shelter.  
750

751 Ms. Savastano asked when considering the conditional use permit standards whether there was  
752 any consideration being given to abutting property values. If a conditional use permit is  
753 considered in a rural district, to give some thought to transportation. Ms. Kessler in response  
754 stated property values are not explicitly listed as a consideration but there are other standards that  
755 need to be met to consider the land use impact on abutting properties. She noted when staff looks  
756 at this they look at density impacts and site impacts such as traffic, noise, etc. Staff is not  
757 developing standards based on the people who would occupy these homes or uses. She noted that  
758 there have been multiple comments made by the public this evening about the categories of  
759 people who would occupy these homes, and wanted to clarify that staff is focused on the land use  
760 implications of how these use types are operated. Mr. Lamb added it was important for the  
761 committee to understand this is an analysis of land use– it is a question about density and impact  
762 on a larger scale.  
763

764 Gaby Micieli of 45 Franklin Street addressed the committee next and stated she was confused  
765 why some of these uses such as homeless shelters are being attempted to be hidden from the  
766 public. She felt the out of sight out of mind idea seemed counteractive to her. She referred to the  
767 example of having a six foot fence around the site. She expressed concern about the over flow  
768 area cannot be in close proximity to the original shelter which can become an issue for the  
769 waiting area as well. Ms. Micieli did not feel having 100 Nights split their resources between two  
770 different locations was beneficial. Ms. Micieli addressed the issue of counting children in the  
771 number of occupants and noted to how this would be handled if there are infants. Ms. Kessler  
772 stated the standard related to screening of outdoor areas and waiting areas was proposed largely  
773 out concern for the impacts this use might have on adjacent to residential districts. It was not  
774 about being out of sight out of mind, but more focused on an emergency shelter situation a large  
775 group of people may be waiting to come in or are leaving a facility – the screening is proposed  
776 not only for abutters but also for the clients the site is serving.  
777

778 Ms. Loret Simonds of 79 Woodburn Street stated she has one house between her home and  
779 Prospect Home which currently houses 26 people. Across the street is Forest View Apartments  
780 which has close to 100 low income housing units. Ms. Simonds felt Ward 3 and 4 seem to carry  
781 the lion's share of subsidized housing compared to the other three wards in the city. With  
782 reference to the fair housing act issue raised earlier, she stated zoning in its 100 year history  
783 zoning has been about protecting property values and stated there are many cases in the courts  
784 that have been over turned on that fact alone. She stated she appreciates Group Homes be left out  
785 of medium density zones and would like not to see anymore group homes in her neighborhood.  
786 She stated this is not about the fair housing act but about property rights above all else and that is  
787 what the City Council is charged to do as its number one responsibility and is the number  
788 responsibility of the Planning Board and Zoning Board. Councilor Jones stated what Ms.  
789 Simonds is referring to is subsidized housing which is not the same as group homes.

790

791 Mr. Jim Knight of 26 Prospect Street asked with the conditional use permit application renewal  
792 process, how the neighborhood would be notified. Ms. Kessler stated when a conditional use  
793 permit application is submitted, abutters 200 feet from the site would be notified by mail and an  
794 on-site notice will also be placed. She explained that the conditional use permit would not be  
795 renewed annually, this is the City Council license that would be required for congregate living  
796 and social service uses. She noted that when this license is up for renewal annually, there is no  
797 suggestion at the present time to notify abutters as the license is to make sure the applicant is  
798 adhering to life safety codes and operational codes. The public would be made aware of the city  
799 council meeting where the license renewal would be addressed through a posting of the city  
800 council agenda.

801

802 Chair Bosley stated she is Chair of the PLD Committee which hears these license renewal  
803 applications. What is being proposed is that there will be a pre-designated time of the year when  
804 individual licenses will be heard, and someone could contact the City Clerk's office to inquire  
805 when a specific license is due to be renewed. Mr. Knight addressed the Fair Housing Act issue  
806 raised earlier and referred to Paragraph 3 of HR1150 of 1988 where it is clearly indicated that  
807 following shall not be considered a handicap – alcohol use and substance abuse and felt the  
808 wording is clear that these two conditions are exempt.

809

810 Councilor Clark referred to medium and large solar in industrial zones and asked the committee  
811 to consider that there are already expensive restrictions on developing solar energy and felt no  
812 more restrictions should be added. He noted solar arrays do add to the increase to traffic, produce  
813 noxious fumes and felt they were better neighbors and asked for the committee's reconsideration.  
814 Mr. Lamb stated staff's original concept was to address these types of installations in the rural  
815 and residential settings and might have missed something in industrial and corporate park  
816 settings.

817

818 With no further comment, the Chairman closed the public hearing.

819

820 A motion was made by Council Phil Jones to continue the public workshop on O-2020-10 and  
821 O-2020-11 to the December 14, 2020 Joint Committee meeting. The motion was seconded by  
822 Pamela Russell Slack and was unanimously approved by roll call vote.

823

824 Adjourn

825 The meeting adjourned at 9:30

826

827 Respectfully submitted,

828  
829 Krishni Pahl,  
830 Minute Taker  
831  
832 Reviewed and edited by Tara Kessler, Senior Planner.



**Joint Planning Board /**  
**Planning, Licenses & Development Committee**

**2021 Meeting Schedule**

All meetings are on the 2<sup>nd</sup> Monday of each month at 6:30PM  
in the 2<sup>nd</sup> floor Council Chambers, unless otherwise stated

Monday, January 11

**Tuesday**, January 19

Monday, February 8

Monday, March 8

Monday, April 12

Monday, May 10

Monday, June 14

Monday, July 12

Monday, August 9

Monday, September 13

**Tuesday**, October 12

Monday, November 8

Monday, December 13

# ARTICLE 19. SUBDIVISION REGULATIONS

19.1 GENERAL PROVISIONS ..... 19-2

19.2 STANDARDS FOR REVIEW..... 19-3

19.3 CONSERVATION RESIDENTIAL  
DEVELOPMENT SUBDIVISIONS..... 19-4

## 19.1 GENERAL PROVISIONS

### 19.1.1 Authority

In accordance with the authority vested by the City Council and with the provisions of NH RSA 674:35-42, the Planning Board shall have the authority to regulate the subdivision of land in the City of Keene.

### 19.1.2 Applicability

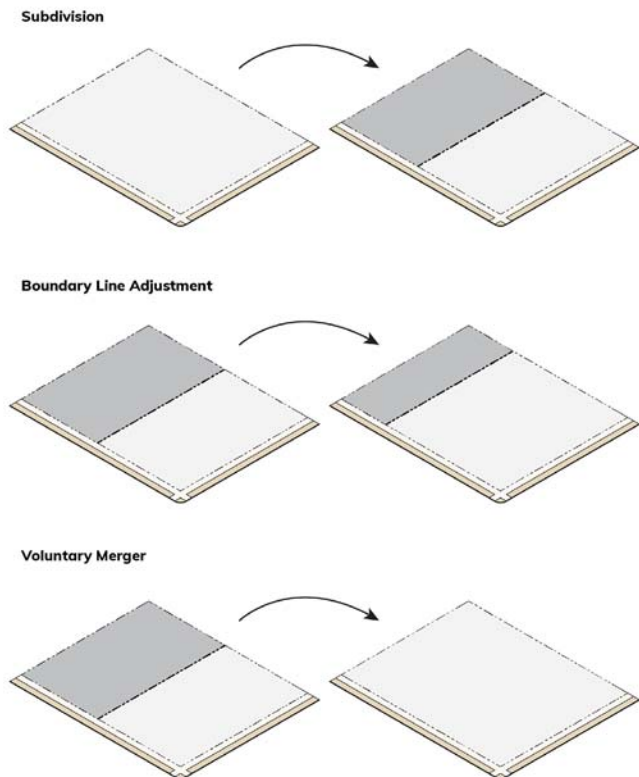
The standards included in this Article shall apply to all subdivisions of land, including the division or consolidation of lots and the alteration or adjustment of lot boundary lines.

### 19.1.3 Subdivision Review

Subdivision review by the Planning Board shall be required for the following types of subdivisions. The application, review and approval processes for subdivision review are included in **Article 25** of this LDC.

- A. Subdivision.** Subdivision means the division of a lot, tract or parcel of land into 2 or more lots, plats, sites, units or other divisions of land for the purpose, whether immediate or future, of sale, rent, lease or building development.
- B. Boundary Line Adjustment.** A boundary line adjustment, also referred to as a lot line adjustment, is the alteration or adjustment of boundary lines between 1 or more contiguous, preexisting approved or subdivided lots.
- C. Voluntary Merger.** A voluntary merger is the consolidation of 2 or more contiguous pre-existing approved or subdivided lots owned by the same property owner.
- D. Conservation Residential Development Subdivision.** A type of subdivision that is intended to encourage the beneficial consolidation of land development and the preservation of open space by applying less restrictive lot dimensional requirements than the underlying zoning district in exchange for placing an undeveloped portion of land into permanent open space. Subdivisions proposing the creation of 3 or more lots and the layout and

construction of a new road, where the parcel to be subdivided is located in either the Rural, Low Density, or Low Density-1 zoning district and meets the minimum lot size requirements for a conservation residential development specified in this Article, shall be reviewed as a conservation residential development.



### 19.1.4 Five-Year Exemption

Approved subdivisions shall be protected from future amendments to regulations for a 5-year period, provided that active and substantial development has occurred on the site, in accordance with NH RSA 674:39.

## 19.2 STANDARDS FOR REVIEW

The Planning Board shall apply the following standards in its review of subdivision applications.

### 19.2.1 Lots

- A. Lot size and configurations shall meet all requirements of the Zoning Regulations.
- B. All lots shall have frontage on a state highway (excluding limited access highways), a Class V road, or a street within an approved subdivision plan.
  - 1. Road frontage shall not be less than 50-ft, unless expressly allowed in this LDC.
- C. Subdivisions shall not be approved on roads shown on city records and plans as discontinued, discontinued subject to gates and bars, or Class VI roads.

### 19.2.2 Character of Land for Subdivision

All land proposed for subdivision shall be of such a character that it can be used safely used for building development purposes and would not pose a danger to health or peril from fire, flood, poor drainage, excessive slope, or other hazardous conditions.

### 19.2.3 Scattered or Premature Development

Subdivisions shall not promote scattered or premature development of land as would involve danger or injury to health, safety, or necessitate the excessive expenditure of public funds for the supply of associated services. In making such a determination, the Planning Board will take into account the capacity of the school system, adequacy of access streets, adequacy of water supply for fire-fighting purposes, distance from emergency services, and availability of other public services.

### 19.2.4 Preservation of Existing Features

Wherever feasible, suitable steps shall be taken to preserve and protect significant existing features such as surface waters, steep slopes, rare and/or unique scenic points, stone walls, rock outcroppings, and historic landmarks.

### 19.2.5 Monumentation

The owner or developer shall provide permanent reference monuments in accordance with **Article 22** of this LDC.

### 19.2.6 Special Flood Hazard Areas

All subdivision proposals having lands identified as Special Flood Hazard Areas on current Flood Insurance Rate Maps (FIRM) shall be located and configured to be consistent with the need to minimize potential impacts from flooding. In addition, any public utilities and facilities associated with such proposals shall be located and constructed to minimize or eliminate flood damage.

### 19.2.7 Fire Protection & Water Supply

All subdivisions shall be provided with an adequate supply of water for fire protection purposes at the owner's expense. This requirement may be met by any of the following options, subject to the approval of the Fire Chief.

- A. Fire hydrants connected to a public water main with adequate fire flows and pressures appropriate to the type and scale of the proposed use that meets the requirements of the National Fire Protection Association (NFPA) and the Keene Fire Department.
- B. Private fire protection water supply systems when it is infeasible or economically unreasonable to connect a fire hydrant to a public water main as determined by the Planning Board. Private fire protection water supply systems may include the following.
  - 1. For non-residential, institutional, and multi-family dwellings, storage and distribution systems appropriate to the type and scale of the proposed use that comply with the standards of the National Fire Protection Association (NFPA) and the Keene Fire Department.
  - 2. For single-family dwellings, underground cisterns and associated dry hydrants that meet the standards of NFPA 1142. The location, design, and provisions for ownership, maintenance, and all season



access to the cistern and supporting facilities shall conform to the Keene Fire Department hydrant specifications.

3. Individual residential sprinkler systems meeting the standards of NFPA 13D or NFPA 13R may be installed; however, in no case may the installation of such a system be made a requirement of approval.
4. Any other public or private fire protection water supply system approved by the Fire Chief and determined by the Planning Board to provide a similar or greater level of fire protection than the options provided in (1) and (2) above.

#### 19.2.8 Utilities

- A. When required by City Code, all subdivisions will be serviced by City water and sewer. All necessary water and sewer lines shall be installed to the required specifications of the Public Works Department and shall include service lines running from the water and sewer mains to the property line to service each lot. In addition, utility rights-of-way shall be provided in accordance with **Article 22** of this LDC.
- B. All lots smaller than 1-acre in size shall be connected to City sewer service, unless otherwise expressly allowed in this LDC.

## 19.3 CONSERVATION RESIDENTIAL DEVELOPMENT SUBDIVISIONS

### 19.3.1 Purpose

The purpose of a conservation residential development subdivision is to promote the conservation of natural resources while providing greater flexibility and creativity in the design of residential development than would be possible using conventional zoning and subdivision practices.

This purpose is accomplished by allowing for clustering of dwelling units at a higher density than would be allowed by the underlying zoning district, provided a portion of the existing tract of land to be subdivided is permanently designated as open space.

### 19.3.2 Dimensional Standards

- A. **Minimum Dimensional Requirements.** All conservation residential development subdivisions shall meet the minimum dimensional requirements specified in **Table 19-1**. If not specified in **Table 19-1** or elsewhere in this Article, the dimensional requirements of the underlying zoning district shall apply.
- B. **Perimeter Building Setback.** A building setback shall be required around the perimeter of the existing tract proposed for subdivision (excluding access points) as specified in **Table 19-1**. The land area included in the perimeter setback may be counted toward the calculation of open space.
- C. **Density.** The maximum number of dwelling units allowed within a conservation residential development subdivision shall be determined by dividing the total area of the existing tract by the density factor per dwelling unit specified in **Table 19-2**.

**Table 19-1: Dimensional Requirements for Conservation Residential Development Subdivisions**

		Rural District	Low Density-1 District (without city water)	Low Density-1 District (with city water)	Low Density District	
<b>TRACT</b>	Min tract size	10 acres	5 acres	5 acres	5 acres	
	Min tract frontage	100 ft	100 ft	100 ft	50 ft	
	Perimeter Building Setback	From external roads	100 ft	30 ft	30 ft	30 ft
		From other tract boundaries	50 ft	20 ft	20 ft	20 ft
<b>LOT</b>	Min Lot Area	1 acre	16,000 sf	8,000 sf	6,000 sf	
	Min Road Frontage	40 ft	40 ft	40 ft	40 ft	
	Min Lot Width at Building Line	75 ft	75 ft	60 ft	60 ft	
	Min Front Setback	15 ft	15 ft	15 ft	15 ft	
	Min Rear Setback	20 ft	20 ft	15 ft	15 ft	
	Min Side Setback	10 ft	10 ft	10 ft	10 ft	
	Max Building Coverage	30%	35%	40%	45%	
	Max Impervious Coverage	35%	40%	45%	60%	

**D. Open Space Reserve**

1. All conservation residential development subdivisions shall permanently reserve at least 50% of the area of the existing tract as open space.
2. Conservation residential development subdivisions in the Rural zoning district that permanently reserve 60% of the existing tract area or greater as open space shall be eligible for a density bonus, as noted in **Table 19-2**.
3. Any land designated for roads within the open space may not be used in the calculation of the open space area.

**Table 19-2: Density & Open Space Requirements**

Zoning District	Density Factor per Dwelling Unit	Min Open Space
Rural	4 acres	50%
	3 acres	60%
Low Density-1 (without city water)	1 acre	50%
Low Density-1 (with city water)	20,000 sf	50%
Low Density	10,000 sf	50%

### 19.3.3 Permitted Uses

**A. Residential Uses.** Table 19-3 identifies the uses allowed on building lots in a conservation residential development subdivision.

**Table 19-3: Conservation Residential Development Permitted Uses**

Permitted Use	Rural District	Low Density-1 District	Low Density District
Single-Family Dwelling	P	P	P
Two-Family Dwelling	P	P	P
Multifamily Dwelling	-	-	P (max of 6 dwelling units per structure)

"P" = Permitted Use " - " = Use Not Permitted

**B. Open Space Uses.** Uses allowed on land designated as open space in a conservation residential development subdivision shall be limited to the following uses. Use of the designated open space area may be further restricted by the owners of the open space.

1. Conservation
2. Agriculture
3. Forestry
4. Passive Recreation

### 19.3.4 Primary & Secondary Conservation Areas

Plans for a conservation residential development subdivision shall identify and delineate primary and secondary conservation areas on the existing tract, as defined below. Delineation of lands to be used to meet the open space requirements of the conservation residential development subdivision shall be based on an analysis and prioritization of primary and secondary conservation values identified on the tract.

**A. Primary Conservation Areas.** Primary conservation areas shall consist of all slopes over 25% gradient; surface waters, including streams, wetlands, vernal pools, ponds, and any

buffers associated with them; and, springs and floodways.

**B. Secondary Conservation Areas.** Secondary conservation areas shall consist of the following list of attributes.

1. Significant natural areas of species defined by the New Hampshire Natural Heritage Inventory as endangered, threatened, or of special concern.
2. Slopes in excess of 15% where disturbance and resulting erosion and sedimentation could be detrimental to water quality
3. Woodlands, particularly those performing important ecological functions, such as soil stabilization and protection of streams, wetlands and wildlife habitats.
4. Areas with topographic and soil conditions affording high rates of infiltration and percolation.
5. Groups of trees and large individual trees of botanic significance.
6. Prime agricultural soils as defined by the USDA Natural Resource Conservation Service.
7. Historic features that are designated on the NH State Register of Historic Places, or the National Register of Historic Places or Historic Landmarks.
8. Cultural features, such as stone walls, barn foundations, and cellar holes.
9. Existing or planned recreational trails on or throughout the tract that connect to other locations in the City.
10. Visually prominent topographic features such as knolls, hilltops, ridges, outlooks, and scenic viewsheds.
11. Highest condition habitat areas as defined by the NH Wildlife Action Plan, as amended.
12. Drinking water supply areas.

### 19.3.5 Design Criteria

**A. General Criteria.** In addition to the standards for review listed in **Section 19.2** of this Article, the following review criteria shall apply to applications for conservation residential development subdivisions.

1. All proposed development shall be located outside of primary conservation areas, and shall be designed to minimize impact to any identified secondary conservation areas.
2. Streets shall be constructed in accordance with the standards in **Article 22** of this LDC, and shall connect to an existing street network.
3. All structures shall be accessed from interior streets, rather than from roads bordering the perimeter of the tract.
  - a. In the event that a waiver of this standard is granted, shared driveways shall be incorporated where feasible.

**B. Open Space Standards.** The location and layout of all open space within a conservation residential development subdivision shall require Planning Board approval and comply with the following standards.

1. The areas of land designated to meet the open space requirement of any conservation residential development subdivision shall not be used for siting of individual lots, construction of buildings, facilities for accessory uses, roads and other areas for vehicular traffic.
2. In delineating the required open space area(s), an interconnectedness of the conservation values shall be maintained and fragmentation of the open space into small, disconnected parcels shall be avoided.
  - a. The lot area of any parcel designated as open space shall not be less than 1-acre.

- b. All areas of open space do not need to be contiguous, but consideration shall be given to connections between non-contiguous areas.

- c. Where possible, any designated open space will be located so that it is adjacent to other open space or protected lands that abut the existing tract.

3. Each proposed lot in the conservation residential development subdivision shall have reasonable access to the open space, but need not front directly on such land.

### C. Open Space Ownership & Maintenance

1. Land designated for open space in a conservation residential development subdivision shall not be further subdivided and shall remain as open space in perpetuity.

2. All designated open space and any associated facilities in a conservation residential development subdivision shall be permanently protected by covenants or easements as approved by the Planning Board or its designee.

- a. All designated open space and any other common lands, roads and/or facilities shall be deeded to and maintained by a Homeowner's Association, a non-profit organization, or some other entity as approved by the Planning Board or its designee.

- i. The designated open space and any other common features shall be held, managed and maintained by the developer until such time as they are transferred to the designated entity under an agreement approved by the Planning Board or its designee.

# ARTICLE 20. SITE DEVELOPMENT STANDARDS

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## 20.1 GENERAL

### 20.1.1 Authority

Pursuant to the authority vested in the City of Keene Planning Board by the City Council, and in accordance with NH RSA 674, the Planning Board shall have the authority to adopt and amend the following site development standards and associated site plan review application procedures in **Article 25** of this LDC.

### 20.1.2 Purpose

The purpose of these site development standards is to:

1. Promote the safe and orderly development of the City;
2. Promote sustainable design and development that supports long-term economic vitality and ecologic integrity;
3. Encourage site design techniques that protect water quality and prevent increases in the quantity of stormwater runoff;
4. Achieve a high-quality site and building design that enhances the attractiveness of the City;
5. Protect abutters against hazards, unsightliness, and nuisances detrimental to property values;
6. Ensure that development of land is appropriate for the public and private services and facilities available;
7. Ensure that pedestrian, bicycle, and vehicular circulation can be accommodated in a safe manner;
8. Preserve and enhance the historic and cultural character of the community; and,
9. Ensure that development serves to maintain and enhance quality of life, while not imposing unreasonable costs upon the City.

### 20.1.3 Applicability

- A. Unless otherwise indicated in this LDC, all development, redevelopment, or change of use of lots in the City, for uses other than single-family and two-family dwellings, shall conform with the site development standards in this Article.
- B. Other than for site investigation, site work associated with a proposed development shall not commence until the proposal has been approved by the Planning Board or its designee in accordance with this LDC.
- C. The site development standards in this Article, in addition to the site plan review application procedures in **Article 25**, shall govern the review and approval of all applications for site plan review.
- D. For the purposes of this Article, "development" shall mean any form of land improvement or construction involving land, structures, or infrastructure including, but not limited to, the following.
  1. The introduction of new principal or accessory uses, where no such use previously existed.
  2. The expansion or modification of existing principal or accessory uses.
  3. The introduction, expansion, modification, or relocation of structures, impervious surfaces, utilities, exterior lighting, and other site improvements or amenities.
  4. Site work associated with proposed development (e.g. grading, filling and excavation, stockpiling of materials, surcharging of soils).

## 20.2 DRAINAGE & STORMWATER MANAGEMENT

### 20.2.1 Runoff Volume and Velocity

- A. The development of a site shall not result in increased volume or velocity of runoff onto adjacent properties or surface water bodies.
- B. The applicant shall provide sufficient data in the form of drainage report prepared by a NH licensed engineer to demonstrate compliance with this requirement.

### 20.2.2 Low Impact Design

- A. Site design and drainage systems constructed to comply with **Section 20.2.1** shall incorporate Low Impact Development (LID). Examples include, but are not limited to, the following.
  - 1. Bio-retention.
  - 2. Porous pavement.
  - 3. Vegetated swales.
  - 4. Infiltration trenches.
  - 5. Rooftop drain disconnection.
  - 6. Cisterns.
  - 7. Green roofs.
  - 8. Vegetated filter strips.
  - 9. Reduced impervious surfaces.
  - 10. Stormwater disconnection.
  - 11. Preservation and enhancement of native vegetation.
- B. Where site conditions exist that make on-site infiltration impracticable, the Applicant shall demonstrate to the satisfaction of the Planning Board that the use of LID measures is not possible before proposing to use traditional, structural stormwater management measures including, but not limited to, stormwater retention and detention ponds and underground storage systems.

### 20.2.3 Quality of Stormwater Discharge

- A. Treatment systems (e.g. wet detention basins, constructed wetlands, or LID measures) combined with contamination prevention practices (e.g. frequent sweeping of parking lots, the use of oil/gas traps in catch basins) shall be utilized to assure that upon discharge to surface waters, floodplain compensatory storage basins, or wellfield protection areas drainage water meets Federal Clean Water Act standards.
- B. Drainage systems that divert runoff into surface waters, wellfield protection areas, or floodplain compensatory storage areas shall utilize LID measures or wet or dry sediment basins or similar devices in combination with erosion prevention and sediment control practices to avoid sediment loading of the receiving area(s).

### 20.2.4 Bike Friendly

New street or trail drainage grates shall be of a design that allows bicyclists to ride over it safely.

## 20.3 SEDIMENT & EROSION CONTROL

### 20.3.1 Pre-Construction

- A.** Each project shall be designed to prevent erosion and sedimentation during and subsequent to construction in the following ways.
  - 1.** Minimize disturbance of natural soil cover and vegetation.
  - 2.** Minimize, in area and duration, exposed soil and unstable soil conditions.
  - 3.** Protect receiving water bodies, wetlands and storm sewer inlets.
  - 4.** Minimize off-site sediment transport on vehicles and equipment.
  - 5.** Minimize work in and adjacent to water bodies and wetlands.
  - 6.** Maintain stable slopes.
  - 7.** Minimize disturbance to and protect surrounding soils, root systems and trunks of trees adjacent to site activity that are intended to be left standing.
  - 8.** Minimize the compaction of all site soils.
  - 9.** Pre-treat stormwater runoff to remove solids before discharging to infiltration areas.
  - 10.** Install LID measures as appropriate.
- B.** Design and placement of all erosion and sediment control measures shall comply with the standards and practices contained in the most recent version of the NH Department of Environmental Services NH Stormwater Manual, unless specifically approved by the City Engineer.

### 20.3.2 Post-Construction

- A.** To assure that erosion and sediment control measures work properly, and to assure that revegetation and slope stabilization takes place in a timely manner and is properly maintained, the City may require a security deposit for up to 12-months after the completion of construction.
- B.** For critical or large areas of disturbance on steep slopes or adjacent to surface waters, the City may require inspections by a qualified firm or individual.



## 20.4 SNOW STORAGE & REMOVAL

- A.** Snow shall be stored on and/or removed from a site so as to:
  - 1.** Allow the continued safe passage of vehicles into, out of, and through all travel lanes and parking areas;
  - 2.** Prevent accumulation on adjacent properties (unless specific approval for such storage has been obtained); and
  - 3.** Prevent flooding of adjacent properties, including City streets.
- B.** Snow shall not be pushed, piled or otherwise moved directly into surface waters.
- C.** Snowmelt discharge and associated runoff shall be stored and its drainage routed so that it does not cause erosion.
- D.** Snow storage shall not be permitted within parking spaces on a site, which are required to fulfill the minimum parking requirements of the Zoning Regulations.

## 20.5 LANDSCAPING

### 20.5.1 Plant Selection

- A.** No plant material shall be installed on a site that is listed by the NH Department of Agriculture, Markets & Food as an invasive species per NH RSA 430:54 and NH Administrative Rules AGR 3800.
- B.** Plant materials shall be hardy to regional climate conditions per the U.S. Department of Agriculture's Plant Hardiness Zone Map.
- C.** Landscape alternatives to turfgrass lawn (e.g. native trees, shrubs, and perennial groundcovers) shall be utilized whenever feasible.

### 20.5.2 Installation

- A.** Trees shall be planted utilizing the best available practices to develop essential root structure, to grow to their full stature, and to perform environmental services at the highest possible levels.
- B.** Plant materials shall be installed in soil of sufficient volume, composition, and nutrient balance to sustain healthy growth.
- C.** For trees plantings in areas of non-native or compacted soil, the existing soil shall be excavated to enable the placement of 300 cubic feet of native, permeable soil in an area no less than 6-ft wide and 3-ft deep.
- D.** Protective devices, such as temporary fencing, shall be installed prior to the start of site work to protect the root masses of existing vegetation and areas intended for infiltration to the satisfaction of the Community Development Director or their designee, or the City Engineer.
  - 1.** Such fencing shall be located to the outside dripline of shade and ornamental trees and/or to a diameter distance that matches the height of all shrubs and/or perennial plants.

### 20.5.3 Location

- A. All landscaping shall be located on site without impeding the visibility or safety of pedestrians, bicyclists, or motorists.
- B. Trees shall be located to avoid above-ground and below-ground utilities.

### 20.5.4 Maintenance

- A. Any plant material that is significantly damaged, missing, disease-ridden, or dead shall be abated by the property owner within 1-year or before the end of the following planting season, whichever occurs first.
- B. All plant materials shall be maintained on site in a healthy, growing condition.
- C. All landscaping approved as part of a site plan shall be considered as elements of the site in the same manner as parking, building materials and other site details.

### 20.5.5 Modifications to Approved Landscape Plans

Minor revisions to approved landscape plans approved by the Planning Board may be approved by the Community Development Director or their designee if the applicant demonstrates all of the following.

1. There will be no reduction in the approved quantity or size (at maturity and planting) of plant materials.
2. There will be no change to the approved location of plant materials.
3. The proposed plants are of the same general category (e.g. shade, ornamental, evergreen) as the approved plants.

## 20.6 SCREENING

### 20.6.1 General Standards

- A. Screening in the form of landscaping or other treatment (e.g. berms, walls, fences) shall be used to:
  1. Screen loading areas, waste storage and transfer areas, heating and cooling equipment, electrical equipment and other areas likely to generate noise, dust or other disruptive conditions;
  2. Form a buffer between non-residential and residential uses;
  3. Form a buffer between single-family and multifamily dwellings, which are different in height, form or material than the adjacent single-family dwellings; and
  4. Screen parking lots from adjacent properties.
- B. Screening shall be of a texture, material, color, and size compatible with the existing or proposed buildings or structures on the site.
- C. Chain link fencing with slats is prohibited for screening.
- D. No screening shall be so constructed or installed as to constitute a hazard to traffic or safety.

### 20.6.2 Specific Standards

#### A. Service Areas

1. Waste collection, waste compaction, recycling collection and other similar service areas shall be located to the side or rear of buildings and shall be screened from view from adjacent property or public rights-of-way (not including alleys).
2. Waste storage containers (e.g. dumpsters or bulk storage containers) shall be fully screened by a solid enclosure of wood, masonry, vinyl or other material deemed acceptable by the Planning Board and shall comply with the minimum standards for property in Chapter 18 of the City Code of

Ordinances.

3. Screening around waste storage containers shall be at least 6-ft in height or of a height equal to the height of the container if the height is greater than 6-ft.
4. Screening required for service areas, including waste storage containers, shall be compatible with the principal building in terms of texture, material and color.

#### **B. Drive-Through Businesses**

1. Drive-through windows and lanes shall be placed to the side and rear of the building.
2. Where allowed, drive-through lanes shall be screened from any adjacent public rights-of-way (not including alleys), existing residential property, or residential zoning districts.
3. At a minimum, such screening shall consist of a compact, evergreen hedge not less than 3-ft in height at planting and 4-ft at maturity.
  - a. As an alternative, such screening may consist of a solid fence of wood or masonry at least 6-ft in height.

#### **C. Mechanical Equipment**

Heating and cooling equipment, venting, electrical or other mechanical equipment, and associated conduit shall not be visible from adjacent buildings and public rights-of-way, whenever possible. If any portion of this equipment will be visible from adjacent buildings or public rights-of-way, the following standards shall apply.

##### **1. Roof-Mounted Equipment**

- a. Roof-mounted equipment shall be set back from the edge of the roof at least 10-ft, and screened from ground level view from adjacent properties or adjacent public rights-of-way (not including alleys).
- b. New buildings shall provide a parapet wall or other architectural element that screens roof-mounted equipment from view.

- c. For existing buildings with no or low parapet walls, roof-mounted equipment shall be screened on all sides by an opaque screen compatible with the principle building in terms of texture, material, and color.

##### **2. Wall-Mounted Equipment**

- a. Wall-mounted equipment that is located on any surface visible from a public right-of-way (not including an alley) shall be fully screened by landscaping or an opaque screen or covering, which is compatible with the principle building in terms of texture, material, and color.
- b. New mechanical supply lines, pipes and ductwork shall be placed in inconspicuous locations or concealed with architectural elements (e.g. downspouts), or painted to blend in with the wall surface to which they are mounted.

##### **3. Ground-Mounted Equipment.**

- a. Ground-mounted equipment visible from a public right-of-way or adjacent property shall be fully screened.
- b. Screening shall consist of landscaping or an opaque screen compatible with the principle building in terms of texture, material, and color, and shall be as high as the highest point of the equipment being screened.

#### **D. Parking Lots**

Parking lots shall be designed and screened in accordance with **Article 9** of this LDC.

## 20.7 LIGHTING

### 20.7.1 Applicability

- A. This standard shall only apply to outdoor lighting fixtures.
- B. When 50% or more of the light fixtures or poles of an existing outdoor lighting installation are being modified, extended, expanded, or added to, the entire outdoor lighting installation shall be subject to the requirements of this Development Standard.
- C. This standard does not apply to sign illumination, which is addressed in **Article 10**.

### 20.7.2 Prohibited

- A. Floodlighting is prohibited, unless:
  1. The Community Development Director, or their designee, determines that there will be no negative impact upon motorists and neighboring properties; and
  2. The lights are directed toward the rear of a lot away from the road and neighboring properties, and are placed on heat or motion sensors.

- B. Uplighting is prohibited.

### 20.7.3 General Standards

#### A. Shielding

All outdoor lights, including freestanding and wall mounted, shall be fully-shielded and/or dark skies compliant (International Dark Sky Association Seal of Approval or equivalent) fixtures with no portion of the bulb visible.

#### B. Glare

Lighting shall be installed and directed in such a manner as to prevent glare at any location, on or off the property.

#### C. Light Trespass

The maximum light level of any light fixture cannot exceed 0.1-footcandles measured at the property line and cannot exceed 1-footcandle measured at the right-of-way line of a street.

#### D. Illumination

All illumination shall be of a white light and shall have a color rendering index (CRI) greater than 70. The color-temperature or correlated color temperature (CCT) of lighting shall not exceed 3,500 Kelvins.

#### E. Height

The mounting height of fixtures, as measured from the finished grade to the top of the fixture or pole (inclusive of fixture) shall not exceed the maximum height listed in **Table 20-1**.

**Table 20-1: Maximum Light Pole Height**

Zoning District	Max Height
All residential zoning districts Agriculture District Conservation District	15 ft
Downtown Core Downtown Growth Downtown Institutional Campus Downtown Limited Downtown Transition Neighborhood Business Office	20 ft
Business Growth & Reuse Commerce Commerce Limited Corporate Park Downtown Edge Health Care Industrial Industrial Park	30 ft

#### F. Hours of Operation

1. Outdoor lighting shall not be illuminated between the hours of 10:00 pm and 6:00 am with the following exceptions:
  - a. Security lighting, provided the average illumination on the ground or on any vertical surface does not exceed 1-footcandle.
  - b. If the use is being operated, normal

illumination shall be allowed during the activity and for not more than 1-hour before or after the activity occurs.

- c. For 24-hour businesses, lighting levels shall be reduced by a minimum of 50% between the hours of 10:00 pm and 6:00 am.
2. The Planning Board may stipulate a specific time when lighting other than that used for security purposes should be turned off and this determination shall be noted on the final lighting plan submitted for signature.

### G. Wiring

Wiring for outdoor lighting shall be placed underground.

#### 20.7.4 Use Specific Standards

In addition to the General Standards in **Section 20.7.3**, the following standards shall apply to the categories of uses listed below.

#### A. Parking Lots

Outdoor lighting of parking lots and related circulation areas and the unenclosed areas of parking structures, shall comply with the following standards.

1. Average illumination levels of parking lot lighting shall not exceed 3.5-footcandles.
2. The ratio of the average to the minimum illumination level (also known as the uniformity ratio) shall not exceed 5:1 in footcandles.

#### B. Canopies and Vehicle Fueling Station Islands

Canopy lighting, including lighting on vehicle fueling station and/or convenience store aprons, shall comply with the following standards.

1. Areas around pump islands and under canopies shall be illuminated so that the average illuminance at grade level does not exceed 12.5-footcandles.

2. For canopies located in or directly adjacent to residential zoning districts and/or where they are associated with a pre-existing non-conforming use, the average illumination at grade level shall not exceed 5.5-footcandles.
3. Light fixtures mounted under a canopy shall be recessed so that the lens cover is recessed into, or flush with, the underside of the canopy.
4. No light fixtures shall be attached to the sides or top of the canopy, nor shall the sides or top of the canopy be illuminated.
5. Areas away from fueling pump islands, as defined by the extent of the canopy, shall be subject to parking lot lighting standards in **Section 20.7.4**.

#### C. Walkways

Lighting of outdoor walkways, alleys, and pedestrian paths shall comply with the following standards.

1. The average illumination level on a walkway or pathway surface shall not be less than 0.5-footcandles.
  - a. The area over which the average illumination level is computed shall only include the walkway surface plus an area on each side not more than 5-ft in width.
2. Maximum lighting levels shall not exceed 5-footcandles.
3. Lighting fixtures other than full cut-off fixtures may be used but shall be designed to minimize glare, direct illumination downward, and shall have an initial output of no more than 1,200 initial lumens.

## 20.8 SEWER & WATER

- A. All sewer and water utilities shall comply with the City's Utility Standards in Chapter 98 of the City Code of Ordinances.
- B. The City may require technical studies, at the applicant's expense to assure that existing sewer and water services will not be adversely affected by the proposed development and that there in fact is adequate sewer and water capacity for the proposed development.
- C. All new development shall comply with the City's industrial pre-treatment program

## 20.9 TRAFFIC & ACCESS MANAGEMENT

### 20.9.1 Traffic

- A. Any commercial, office or industrial project involving 100 or more vehicle trips per day, or residential projects involving 10 or more units, as determined by the most recent published version of the ITE Trip Generation Manual, shall demonstrate that the project will not diminish the capacity or safety of existing city streets, bridges or intersections, prior to the issuance of a building permit.
- B. If improvements to roadways, bridges, signals, or intersections are required for a proposed development to avoid diminishing the existing capacity or safety of these public systems, those improvements shall be made as part of the development, at the developer's expense.
- C. The Planning Board may require that any development along West St from School St to the Bypass, and along Winchester St from Island St to the Bypass be reviewed by the NH Department of Transportation for traffic impact.

### 20.9.2 Driveways & Curb Cuts

- A. Entrances and exits onto public streets shall be designed to provide safe and convenient vehicular passage into and out of the site.
- B. Wherever possible, the number of curbcuts or driveways on public streets shall be limited to one per lot.
- C. The use of common driveways and service roads is encouraged, and in some instances may be required.
- D. All driveways shall comply with the standards in **Section 9.3** of this LDC.
- E. A State driveway permit is required for any new driveway on a State Road outside of the Urban Compact.

### 20.9.3 Access Management

- A. Interior circulation and parking shall be designed to assure safe passage of all vehicles and pedestrians into, out of, and throughout the site.
- B. On-site queuing areas shall be provided to prevent congestion on City streets.
- C. New development shall provide safe and efficient access from roads and streets to all users, regardless of their mode of transportation.
- D. Where appropriate, connections shall be made for the continuation of sidewalks, walkways and bicycle lanes within the property, between adjoining properties, and site amenities shall be installed such as bicycle racks, benches, shade trees, and bus stop shelters. These connections shall apply:
  - 1. Grade changes, textures, colors or other methods of distinguishing sidewalks, walkways and crosswalks from vehicular travel; and,
  - 2. Appropriate lighting, signage, crosswalks, and other safety devices.
- E. For development other than single-family and two-family dwellings, bicycle parking shall be provided in racks or other similar facility.
- F. Bicycle parking shall not be located within parking areas for motorized vehicles.
- G. Building facades that abut parking areas and contain a public entrance shall include pedestrian walkways.

### 20.9.4 Accessibility

- A. Pedestrian facilities shall be designed to accommodate persons with disabilities in accordance with the access standards required by the State Building Code.
- B. Sidewalks, shared use paths, street crossings and other infrastructure shall be constructed so that all pedestrians, including persons with disabilities, can travel independently.

### 20.10 FILLING & EXCAVATION

- A. All development involving the commercial taking of earth shall comply with the Earth Excavation Regulations in **Article 24.**
- B. Any project, which involves the placement of fill within the floodplain, shall comply with the Floodplain Regulations in **Article 23.**
- C. If the placement of fill or excavation impacts wetlands, the applicant shall comply with federal and state wetlands regulations and procedures.
- D. Any project, which will result in 50 or more trucks of earth or gravel entering or leaving a site, shall submit a plan to the Community Development Department as to the proposed truck route(s). The Community Development Department shall consult with the Police Department and City Engineer, and as appropriate, the State Highway Department in reviewing the proposed haul routes.

## 20.11 SURFACE WATERS & WETLANDS

All development shall comply with all federal and state wetland and surface water regulations, **Article 11** of this LDC, as well as any other applicable City regulations.

## 20.12 HAZARDOUS OR TOXIC MATERIALS

- A. Any proposed work that involves the receiving, handling, storing or processing of any hazardous or toxic substances (as defined by NH RSA 339-A:2), or involves property that has been contaminated by hazardous or toxic substances, shall disclose such information as part of a site plan review application.
- B. Copies of all appropriate state or federal permits and plans as required by the NH Department of Environmental Services (DES) for a proposed use or development shall be submitted to the City's Building and Health Official and the Fire Department for review.
- C. If, as a result of the content and review of the application, the Planning Board, or their designee, finds that a potential health risk or an environmental threat exists from a previous or existing use of the site, then it may require that an initial site characterization (see NH Code of Administrative Rules Env-Ws 412) be completed and submitted to DES. When a site characterization is required, the results shall be submitted to and reviewed by the Building and Health Official prior to the issuance of a building permit.



**20.13 NOISE**

- A.** Proposed uses or development shall comply with the City’s Noise Ordinance in the City Code of Ordinances and the Noise Limits in **Article 17**, and shall be sited or designed to minimize sound or noise impacts with consideration for surrounding land uses.
  - 1.** If there is a question as to whether a proposed use or development will comply with these standards, the Planning Board may request sufficient evidence be provided by the applicant to demonstrate that the proposed use or work will not exceed the applicable sound level limits in **Table 17-1** of this LDC. Compliance with the sound level limits is to be maintained at the boundary of the property.
- B.** Once a proposed use or development begins routine operation, the Planning Board, or their designee, may require a demonstration that the use or development meets the applicable sound level limits.
  - 1.** Such demonstration shall require a sound testing report by a qualified professional be provided to the Community Development Department that includes a description of measurement procedures, identification of sound level instrumentation and calibration, descriptions of measurement locations, sound level measurements and field observations, measurements and analysis of short duration repetitive sounds, and weather conditions.
  - 2.** Sound level measurements taken as part of this demonstration shall include representative daytime and nighttime periods for a duration adequate to quantify the loudest modes of routine operation.

**20.14 ARCHITECTURE & VISUAL APPEARANCE**

The following standards shall govern the visual and architectural character of development in the City to ensure that new and redeveloped buildings and structures blend aesthetically with the City’s historic character, are consistent with the prevailing scale, orientation, and design of the City, and do not detract from viewsheds and view corridors.

**20.14.1 Massing/Scale**

- A.** The height or placement of any proposed new structure, modifications to an existing structure, or site improvement shall not overwhelm the prevailing architectural scale of the City, detract from valued architectural resources, or impede upon any view corridor or viewshed identified in the Viewshed Overlay District set forth in the Telecommunications Overlay District (**Article 13**).
- B.** For buildings of 150-ft in length or more, facades shall be divided into multiple “modules,” expressed through significant architectural changes such as a change in materials, a change in pattern elements (e.g. fenestration, columns, pilasters, etc.), or a change in building setback through recesses or projections. Such modules shall be no wider than 50-ft.
- C.** Commercial storefronts shall include traditional pedestrian-oriented elements (e.g. display windows, bulkheads, transoms, pilasters, cornices, etc.).
- D.** Additions to existing structures shall be compatible in size and scale with the principal building.

### 20.14.2 Visual Interest

- A. Front facades and exterior walls shall be articulated to express an architectural identity to avoid a uniform appearance, and architectural details shall give the impression of being integral to and compatible with the overall design.
- B. Structures shall have architectural features (e.g. dominant gable ends, cornices, granite sills, arched openings, large windows framed with architecturally consistent trim, etc.) and patterns that provide visual interest at the pedestrian scale, reduce massive aesthetic effects, and harmonize with the City's distinctive architectural identity, unique character, and prevailing scale.
- C. Architectural features shall not serve primarily as an advertisement, commercial display, or identifying characteristics corresponding to corporate identity.
- D. Architectural features shall conform to accepted architectural principles of design and construction.
- E. Facades shall express a traditional visual distinction between the ground floor and upper stories through architectural features or detailing, change in materials, or a change in pattern elements such as fenestration.



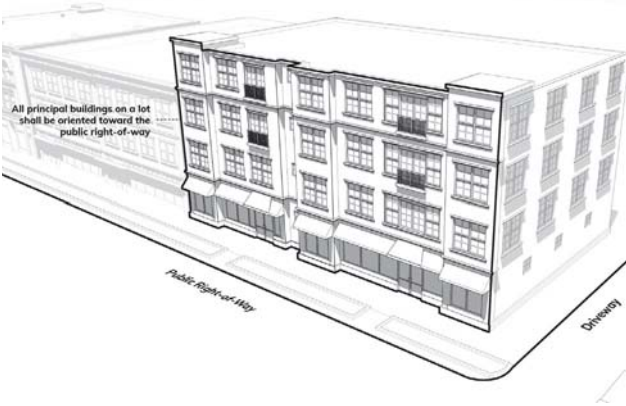
- F. Buildings shall be designed with consistent building materials and treatments that wrap around all facades visible from a public right-of-way. Where material or color treatments change, there shall be a significant change in surface plane of a minimum of 6-in in difference. Differing materials are encouraged to terminate at inside corners.



- G. Exterior materials, textures, and colors shall minimize visual aggressiveness and shall harmonize with the City's distinctive architectural identity and unique character. Surfaces with glossy finishes, reflective glass or dark tinted exteriors, or untreated aluminum, stainless steel, or metal exterior finishes shall be discouraged.
- H. Modifications and additions to existing structures shall be harmonious with the character of the existing structure.
- I. Where parapet walls are used, they shall feature three-dimensional cornice treatments or other shadow creating details along their tops.

**20.14.3 Site Design and Relationship to Surrounding Community**

A. All principal buildings located on lot shall be oriented toward a public right-of-way. If, due to site constraints, it is determined that the primary facade of new buildings cannot face the street, then the secondary elevation facing the street shall be designed with form, composition, and details consistent with and appropriate to the primary facade.



- B. Orientation of structures on a site shall conform to a parallel or orthogonal pattern in relation to the City street pattern.
- C. Off-street parking and traffic flow shall not interfere with the flow of pedestrian travel or otherwise detract from the aesthetic character of a development or redevelopment.
- D. All required off-street parking shall be to the side or rear of buildings on the proposed site, and such parking shall be screened or aligned in accordance with **Section 9.4**.
- E. A cohesive visual character shall be maintained within a development through the use of coordinated hardscape (e.g. paving materials, lighting, outdoor furniture, etc.) and landscape treatments.
- F. The presence of any existing development in the surrounding area that does not conform to these standards for aesthetic character shall not exempt the applicant from complying with this Standard.

# ARTICLE 21. DOWNTOWN HISTORIC DISTRICT REGULATIONS

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## 21.1 GENERAL

### 21.1.1 District Map

The Downtown Historic District includes all structures and land located within the boundaries described in the map “Downtown Historic Overlay District Amendment” dated September 1, 2009. This map, shown in **Figure 21-1** is incorporated as part of this LDC, as may be amended.

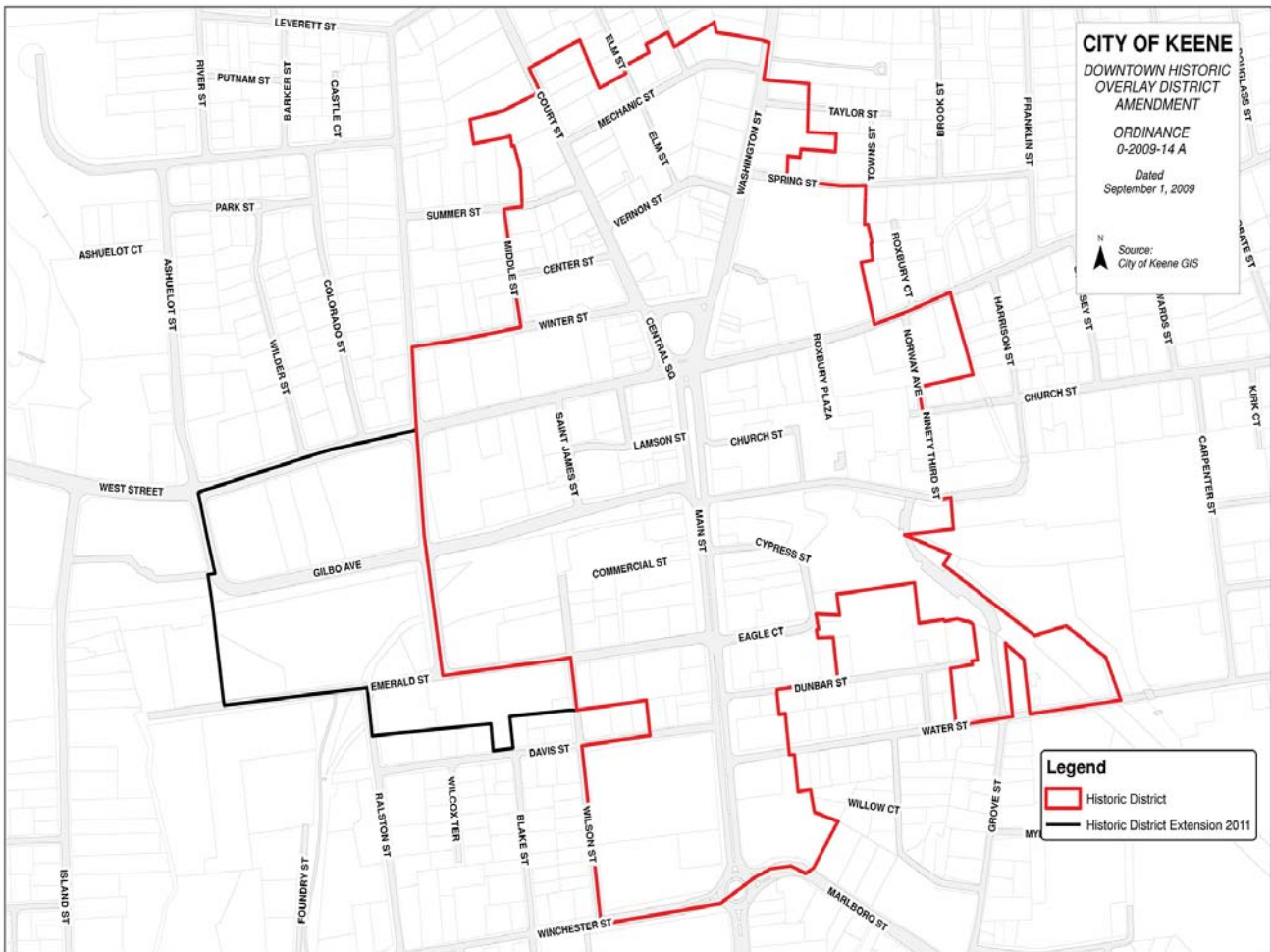
### 21.1.2 Purpose

The purpose of these Historic District Regulations is to recognize, preserve, enhance and perpetuate buildings, structures, and sites within the City of Keene's Downtown Historic District having historic, architectural, cultural or design significance.

### 21.1.3 Period of Significance

These regulations shall apply to all buildings or structures located within the Downtown Historic District that were constructed during the “Period of Significance.” The Period of Significance is the span of time during which the district attained its significance. This period starts in 1785, the year of the oldest extant building, and ends 50 years from present time.

Figure 21-1 Downtown Keene Historic District Map



## 21.2 ACTIVITIES REQUIRING A CERTIFICATE OF APPROPRIATENESS

The activities listed below shall require a certificate of appropriateness issued by the Historic District Commission (HDC) or its designee, in accordance with this Article and with the application and review procedures for certificates of appropriateness in **Article 25** of this LDC.

- A. Alteration, relocation, or demolition of a building or structure.
- B. Construction, alteration, or relocation of any architectural feature of an existing building or structure that is visible from a public right-of-way or other public place.
- C. Installation of new paving (excluding maintenance of existing paved areas).
- D. Removal of 1 or more trees in excess of 15-in in diameter at a trunk height of 4-ft above grade, except where removal of such tree(s) is necessary for safety reasons as determined by a professional arborist or other qualified professional.
- E. Removal of stone wall(s), granite post(s), iron fence(s) or any portion thereof.
- F. Addition or alteration of existing exterior siding (e.g. vinyl, aluminum, stucco, wood, glass, etc.) of a building or structure.
- G. Painting in part or whole of a brick or stone masonry building or structure.
- H. Chemical or physical treatment to the exterior of a building (including paint removal), such as sandblasting or abrasive cleaning.
- I. Installation and/or screening of a bulk container, a waste storage container, a container pad, if visible from a public way.
- J. Installation of a satellite dish and/or telecommunications facilities on an existing building, structure, or site if visible from a public way.

- K. Installation of renewable energy systems on an existing building, structure or site if visible from a public way.

## 21.3 EXEMPTIONS

The activities listed below shall not require a certificate of appropriateness from the Historic District Commission or its designee.

- A. Buildings or structures built outside of the Period of Significance (i.e. less than 50 years old), including new free-standing buildings and structures.
- B. Any work or alteration to an existing building, structure, or site that is not visible from a public right-of-way, or other public place. If the area to be impacted is only screened from the public right-of-way by landscaping, it shall be considered visible. Work may include, but is not limited to, demolitions of freestanding buildings and additions to structures.
- C. Ordinary maintenance and repair of a building, structure, or site. Ordinary maintenance and repair is defined as any work, the sole purpose and effect of which is to prevent or correct deterioration, decay or damage, including repair of damage caused by fire or other disaster, and which does not result in a change to the historic appearance and materials, or alter the character defining features of the building, structure or property.
  - 1. In terms of masonry repair, ordinary maintenance and repair may include in-kind, spot replacement of masonry units that are damaged or broken.
- D. Painting or repainting of:
  - 1. Already painted masonry building or structure, except for the repainting or covering an historic painted advertisement, sign or artwork, or painting over a mural that was previously approved by the Historic District Commission.
  - 2. Unpainted concrete surfaces.

**3. Metal roofs**

- E.** Installation or replacement of storm doors and storm windows.
- F.** Repairs to windows, entrances, doors, porches, siding, trim, roof surfaces, and other architectural elements that do not involve a change in their location, design, dimensions, or materials.
- G.** Installation of outdoor features (e.g. benches, sculptures, patios, trellises, etc.) that do not disturb any historic site features.
- H.** Replacement, repair, or resurfacing of a driveway or walkway as long as such work does not result in a change in material or expansion of the existing driveway or walkway.
- I.** Utility meters that are not located on a front or street-facing building facade.
- J.** Roof antennas or satellite dishes that are less than 24-in in diameter.
- K.** New wall vent openings, including new caps that are less than 16 square inches.

## **21.4 PROJECT CLASSIFICATION**

An applicant proposing any activity in **Section 21.2** shall meet with the Community Development Director or their designee prior to commencing work and/or submitting an application for a certificate of appropriateness.

### **21.4.1 Minor Project**

- A.** A Minor Project is defined as any work, including alteration or modification, to one or more of the items listed in **Table 21-2**.
- B.** Minor Projects shall require a certificate of appropriateness issued by the Community Development Director or their designee.
- C.** The Community Development Director, or their designee, shall keep the Historic District Commission informed of approved Minor Project applications annually.

### **21.4.2 Major Project**

- A.** A Major Project is defined as any work, including alteration or modification, to one or more of the items listed in **Table 21-3**.
- B.** Major Projects shall require a certificate of appropriateness issued by the Historic District Commission.
- C.** Projects that meet the Major Project threshold criteria may be considered to be minor projects if proposed on properties designated as Non-Contributing or Incompatible Resources, and the Community Development Director, or their designee, determines that the project does not warrant review and approval by the Historic District Commission.

**Table 21-2: Minor Project Threshold Criteria**

Primary / Contributing Resources Criteria:	Non-Contributing / Incompatible Resources Criteria:
<ul style="list-style-type: none"> <li>• Extensions to the expiration date of certificates of appropriateness where there is no change in project scope or specifications.</li> <li>• Replacement of less than 25% of existing exterior siding and/or trim when there is no change in general appearance.</li> <li>• Repair or repointing of masonry when there is no change in materials or general appearance.</li> <li>• Replacement of 2 or fewer windows or doors during the course of 1 calendar year (beginning with the date of approval).</li> <li>• Installation of HVAC and other mechanical equipment.</li> <li>• Removal of non-historic elements determined to conceal character-defining features.</li> <li>• Installation of fencing.</li> <li>• Installation of or changes to light fixtures that do not alter character defining features.</li> </ul>	<ul style="list-style-type: none"> <li>• Any activities classified as Minor Projects for Primary/ Contributing Resources shall also be considered Minor Projects for Non-Contributing/Incompatible Resources.</li> <li>• Removal, relocation or demolition of an existing building or structure.</li> <li>• Installation of prefabricated accessory buildings or structures with a gross floor area that does not exceed 125-sf.</li> <li>• Replacement of existing windows and doors or the installation of new windows or doors in former or existing openings.</li> <li>• Replacement of exterior masonry walls.</li> <li>• Changes to exterior materials other than those classified as Minor Projects.</li> <li>• Chemical or physical treatment to the exterior of a building or structure.</li> <li>• Installation of satellite dishes or telecommunications facilities.</li> <li>• Installation of dumpster, dumpster enclosure or pad.</li> <li>• Changes to grading.</li> <li>• Installation of renewable energy systems.</li> </ul>

**Table 21-3: Major Project Threshold Criteria**

Primary / Contributing Resources Criteria:	Non-Contributing / Incompatible Resources Criteria:
<ul style="list-style-type: none"> <li>• Any activities classified as Major Projects for Non-Contributing/ Incompatible Resources shall also be considered Major Projects for Primary/Contributing Resources.</li> <li>• Removal, relocation or demolition of an existing building or structure.</li> <li>• Replacement of exterior masonry walls.</li> <li>• Changes to exterior materials other than those classified as Minor Projects in Table 22-2.</li> <li>• Chemical or physical treatment to the exterior of a building or structure.</li> <li>• Installation of prefabricated accessory buildings or structures.</li> <li>• Changes to grading.</li> <li>• Installation of dumpster, dumpster enclosure, or dumpster pad.</li> <li>• Installation of renewable energy systems.</li> <li>• Replacement of more than 2 windows or doors during the course of one calendar year.</li> <li>• Installation of telecommunications facilities or satellite dishes.</li> </ul>	<ul style="list-style-type: none"> <li>• Renovation, rehabilitation, or restoration of a building or structure.</li> <li>• Additions to a building or structure.</li> <li>• Alterations to storefronts.</li> <li>• Creation of new openings for windows or doors.</li> <li>• Painting of a previously unpainted brick or stone masonry building or structure.</li> <li>• Installation of decks, patios, or pools.</li> <li>• Installation of art attached to a building or structure.</li> <li>• Removal of trees in excess of 15-in in diameter at a trunk height of 4-ft above grade.</li> <li>• Installation of prefabricated accessory buildings or structures with a gross floor area that exceeds 125-sf.</li> </ul>



## 21.5 STREETScape & SITE DESIGN STANDARDS

### 21.5.1 Trees

- A. Trees that exceed 15-in in diameter at a height of 4-ft above grade shall be retained, unless removal of such tree(s) is necessary for safety reasons as determined by a professional arborist or other qualified professional or is approved as part of a major project application for a certificate of appropriateness.
- B. Grading or changes to the site's existing topography shall not be allowed if existing mature trees might be negatively impacted by altered drainage and soil conditions.
- C. During construction, paving, and any site work, existing mature trees shall be protected.
- D. If a mature tree is damaged during construction, or removed without approval, it shall be replaced with a new tree of the same or similar species that is at least 3-in in diameter, as measured 24-in from the ground after planting.

### 21.5.2 Fences, Walls, Posts & Site Features

- A. Historic fences, walls, posts and granite site features (e.g. mounting blocks) shall not be removed from the site on which they are located and every effort shall be made to leave them undisturbed.
- B. New fences or walls shall be simple in design and shall complement the materials and design of the building(s) on the site and the character of the site itself.
- C. Fences and walls along the street frontage shall be no higher than 4-ft, unless it can be documented that a higher fence existed historically.
- D. Chain link fencing and chain link fencing with slats shall be prohibited.

### 21.5.3 Walkways, Driveways, Alleys, and Parking Areas

- A. Every effort shall be made to retain the location and configuration of historic driveways, walkways and alleys, as well as their historic materials, if granite, marble or brick.
- B. New driveways on sites with residences or converted residences shall lead directly to the parking area, and new walkways shall lead directly to the front steps of the house, unless it can be documented that a different pattern existed historically.
- C. Curb cuts for driveways on sites with residences or converted residences shall be the width of a single travel lane.
- D. New onsite parking, if required, shall be unobtrusive, with appropriate screening and landscaping, and shall preserve any character-defining features of the site. Grading shall not dramatically alter the topography of the site or increase water runoff onto adjoining properties.
- E. Where appropriate, parking and access drives shall be shared in order to reduce the amount of paved surface.

### 21.5.4 Utility, Service, and Mechanical Equipment

- A. Mechanical equipment (e.g. HVAC units, transformers, etc.), telecommunications equipment, and antennas shall be set back on the roof of the building so as to be minimally visible from the street, or ground-mounted toward the rear of the building, set as low to the ground as possible and with appropriate screening or landscaping to minimize visibility.
- B. New mechanical supply lines, pipes, and ductwork shall be placed in inconspicuous locations and/or concealed with architectural elements, such as downspouts.
- C. Bulk waste containers and waste storage containers shall be located, and appropriately screened, to be as inconspicuous as possible

from the public right-of-way and adjacent buildings in residential use. In addition:

1. Bulk waste and waste storage containers shall be located in rear or side yards and shall be to the rear of the front line of any building.
  2. Screening shall be required if any portion of the bulk waste or waste storage container is visible from the public right-of-way.
  3. Screening shall consist of a solid wall or fence and a gate. Screening shall be a minimum of 6-ft in height or a height equal to the height of the waste container if the container height is greater than 6-ft;
  4. Screening shall be of a material, color, size, and pattern compatible with the building(s) or structure(s) on the site.
  5. Chain link fence or chain link fence with interwoven slats shall not be acceptable screening.
- D. Walls on front or street-facing facades shall not be penetrated for new vent openings larger than 70-square inches. New vent caps shall not be larger than 200-square inches.

### 21.5.5 Renewable Energy Systems

- A. Renewable energy systems shall be installed in a location and manner on the building or lot that is least visible and obtrusive, and in such a way that causes the least impact to the historic integrity and character of the historic building, structure, site, or district while maintaining efficient operation of the system.
- B. The order of preference for the location of renewable energy systems is listed below in order of most to least preferential location. An applicant is required to prove the most preferential priority locations are not feasible in order for the Historic District Commission, or its designee, to approve system installations on more significant parts of the site.
1. The rear or side of the property not facing a public right-of-way.
  2. On accessory buildings or structures (e.g. sheds, garages, barns, etc.) in a location that is least visible from the public right-of-way.
  3. On newer additions to the principal structure in a location that is least visible from the public right-of-way.
  4. On the flat roof of the principal structure, set back so as to be in the least visible location.
  5. On secondary façades or roofs (i.e. not facing the public right-of-way) of the principal structure.
  6. On facades or roofs facing the public right-of-way.
- C. Renewable energy systems shall be installed in such a manner that they can be removed and not damage the historic building, structure, or site with which they are associated.
- D. In order to minimize visual impacts, colors of equipment and assemblies associated with renewable energy systems shall either be muted or shall match nearby materials and colors, and solar panels shall have anti-reflective coating.
- E. Roof-mounted solar photovoltaic systems on pitched roofs shall be on the same plane as the roof and positioned so as to be in the least visible location.
- F. Solar array grids should be regular in shape and jointed. Multi-roof solutions should be avoided.
- G. All supplementary equipment and supply lines associated with renewable energy systems shall be placed in inconspicuous locations and/or concealed from view with architectural elements (e.g. downspouts) or other screening.

## 21.6 BUILDING REHABILITATION STANDARDS

### 21.6.1 General for All Buildings

#### A. Masonry

1. Character-defining architectural masonry trim shall be retained and repaired when technically and economically feasible. If the trim is sufficiently deteriorated so that replacement is warranted, the new trim shall match the original in size, scale, placement, and detailing. Where possible, replacement trim should match the original material. If substitute material is used, it shall convey the same visual appearance as the historic trim.
2. Masonry shall be cleaned only when necessary to halt deterioration or remove heavy soiling.
3. Masonry shall not be sandblasted or abrasively cleaned, but cleaned with the gentlest method possible, such as low-pressure cleaning not to exceed 400 PSI, using water or detergents.
4. Limestone and marble shall not be cleaned with an acidic cleaner, as it may dissolve the surface.
5. If currently unpainted, masonry, other than concrete masonry, shall not be painted, unless there is physical, pictorial or documentary evidence that the building was historically intended to be painted or unless a painted mural is proposed that meets the standards for Art in **Section 21.6.1.B.**
6. Repointing shall only be undertaken to address deteriorated masonry or in areas where moisture infiltration is a problem.
  - a. The amount of wall area to be repointed shall be limited to the affected area.
  - b. The new mortar joints shall match the original as closely as possible in terms of profile, width, and mortar composition.

- c. The new mortar shall match the color of the mortar used when the building was built, or it shall match aged or weathered mortar color, whichever is more appropriate.
  - d. The color of all mortar shall come from the aggregate and not the binder.
  - e. Upon completion of the repointing, all remaining mortar and residual film shall be cleaned from the façade of the building.
7. Brick walls that require repair with replacement brick shall be repaired with bricks that match the original as closely as possible in terms of size, color and texture.

#### B. Art

1. Artwork shall not conceal or result in the removal of character-defining details or architectural features.
2. Wall-mounted art, such as murals, mosaics or metal installations, shall be located to avoid areas that are important to the overall design or architectural rhythm of the building.
3. The art installation shall be installed in such a manner that it can be removed and not damage the associated historic building, structure, or site.
4. Accessories to the artwork, such as mounting hardware or lighting, should be unobtrusive and screened from view as much as possible. If visible, colors of equipment and accessories shall either be muted or shall match nearby materials and colors.
5. Murals proposed for unpainted brick or stone masonry surfaces on a building or structure shall meet all of the following criteria.
  - a. The mural will enhance or complement the historic or architectural features of the structure or site.

- b. The mural will enhance or complement the historic character or context of the surrounding area.
- c. The mural will showcase images of local places, people, and/or products that have historic significance to Keene and/or the surrounding region.
- d. The mural will be designed by a professional mural artist or sign painter.
- e. The mural is not located on the primary elevation of a Primary or Contributing Resource.
- f. The mural will not cover more than 40% of the surface area of a building or structure façade.
- g. Surface treatments that are appropriate for historic brick or stone masonry materials shall be used.
  - i. Waterproof coatings are prohibited.

### 21.6.2 Specific Standards for Non-Contributing and Incompatible Resources

- A. Materials used for siding shall be those that are common in the district. Acceptable materials include brick, stone, terra cotta, wood, metal and cement clapboard.
  - 1. Materials commonly referred to as “vinyl siding” are prohibited except when repairing existing vinyl siding.
- B. Replacement of missing features shall be substantiated by documentary, physical or pictorial evidence.
- C. Restoration, rehabilitation, and/or alterations shall be based on physical, pictorial or documentary evidence and any surviving character-defining features shall be preserved.
- D. Alterations shall not further disrupt or detract from the established historic architectural character of the surrounding area, nor to the relationship of any existing historical resources, including site features, on the site.

### 21.6.3 Specific Standards for Primary and Contributing Resources

#### A. General

- 1. Each building or structure shall be recognized as a physical and cultural record of its time, place and use. As such, the historic character of a building or structure shall be retained and preserved.
- 2. Deteriorated historic features significant to the building or structure shall be repaired, rather than replaced. If replacement is necessary due to extreme deterioration, the new feature shall match the historic in size, design, texture, color and, where possible, materials. The new feature shall maintain the same visual appearance as the historic feature.
- 3. All architectural changes shall be appropriate either to the original style or appearance of the building or structure (if it has not been significantly altered) or to its altered style or appearance (if it has been altered within the Period of Significance and those alterations have attained significance).

#### B. Siding and Architectural Trim

- 1. Character-defining architectural trim shall be retained and repaired when technically and economically feasible. If the trim is sufficiently deteriorated that replacement is warranted, the new trim shall match the original in size, scale, placement, detailing, and ideally material. If substitute material is used, it shall convey the same visual appearance as the historic trim.
- 2. If replacing missing architectural trim, the appearance and material of the new trim shall be based on physical, documentary, or pictorial evidence.
- 3. Wood surfaces shall not be sandblasted or high-pressure washed.
- 4. Vinyl and aluminum siding are prohibited.
- 5. Historic siding shall be retained when possible. In considering an application for

manmade or synthetic siding other than vinyl or aluminum, the Historic District Commission, or its designee, shall take into consideration all of the following.

- a. The condition and type of the existing siding.
- b. Whether the new siding will alter or remove any original trim or character-defining features, or affect their arrangement or proportions.
- c. Whether the proportion of the new siding faithfully duplicates the historic material.

**C. Roofs and Roof Structures (e.g. chimneys, dormers, cupolas, iron cresting, flashing, gutters, downspouts)**

- 1. The original or historic roofline shall not be altered. Raising or lowering the existing roofline shall only be allowed for the purpose of restoring the roof to its original profile.
- 2. Slate shall be retained, whenever economically feasible. Before slate on a visible roof slope is removed, the applicant shall obtain a written estimate from a roofing contractor highly experienced in slate work with the following information.
  - a. The condition of the existing slate.
  - b. The percentage of slate that is beyond repair.
  - c. If some of the slates are salvageable, the cost of using new slate where replacement is warranted and reusing existing slate, including relocating some from non-visible roof slopes, if necessary.
  - d. The cost of re-roofing with substitute materials.
- 3. If slate on the visible portion of the roof warrants replacement, the new material may be either replacement slate, slate salvaged from a non-visible portion of the

roof, synthetic slate, or asphalt shingles that are similar in color to slate.

- 4. Character-defining chimneys shall not be removed, unless determined to be a safety hazard by the Building and Health Official or their designee, and repair constitutes an economic hardship. Details of these chimneys (e.g. corbelling, stepped bases, terra cotta chimney pots, paneled sides) shall not be altered.
- 5. Skylights shall be installed low to the roof, have a flat surface, and dark non-reflective frames. They shall not be installed on a highly visible roof slope. They are not allowed on mansard roofs or on any polychromatic slate roofs.
- 6. Historic dormers and cupolas on roofs shall be retained. Expansion of existing dormers or adding new dormers may be approved on a case-by-case basis, provided designs are based on physical, documentary, or pictorial evidence.
- 7. Iron cresting shall be retained.
- 8. Unpainted, mill-finished aluminum shall not be used for replacement flashing, gutters, or downspouts.

**D. Windows**

- 1. Removing character-defining historic window sash shall be discouraged, unless repair is not economically feasible.
- 2. Any windows which are approved for replacement shall convey the same visual appearance in terms of overall dimensions and shape, size of glazed areas, muntin arrangement, and other design details as the historic windows. In addition, they shall have:
  - a. Clear-paned, non-tinted glass (except to replace historic stained or other types of translucent or opaque glass); and,
  - b. True divided lights or a permanently affixed muntin grid on the exterior of the window. In either instance, the

muntin shall have a raised trapezoidal profile. Snap-in or between-glass muntin grids are not allowed.

3. If the historic window to be replaced is wood, the replacement window shall also be wood, or wood-clad with aluminum or a material of equal quality and approved by the Historic District Commission, or its designee.
4. If the size or location of the original window opening has been altered, owners shall be encouraged to restore those openings if replacing windows.
5. Introducing new window openings into the primary elevations shall be prohibited.
6. Enlarging or reducing the window rough opening to fit new stock windows shall be prohibited.
7. Exterior blinds/shutters shall be installed only if documentary evidence shows that they are historically appropriate to that building.
8. If replacement blinds/shutters are installed, they shall be wood and match the height and one-half (½) the width of the window opening to replicate a traditional blind/shutter. Their design shall be appropriate to the style and period of the building.

#### **E. Entrances, Doors and Porches**

1. Historic doors, entrances and porches, including their associated features, shall be retained or replaced in-kind. If repair is necessary, only the deteriorated element shall be repaired, through patching, splicing, consolidating or otherwise reinforcing the deteriorated section. If replacement is necessary, the new feature shall match the original in size, design, texture, color and where possible, materials. The new feature shall maintain the same visual appearance as the historic feature.
2. Introducing new door openings onto the primary elevations, or enlarging or reducing door openings to fit new stock

doors, is prohibited.

3. Enclosing a front porch with wood-framed screens is allowed. Screens shall be placed behind posts or balustrades, and shall be removable in the future without damaging historic elements of the porch.

#### **F. Commercial Storefronts**

1. Historic features of the storefront (e.g. iron or masonry columns or piers, window trim, glass, lintels and cornices, sills, steps, railings and doors, etc.) shall be retained and repaired when technically and economically feasible.
2. If most of the historic storefront survives and the overall condition of its materials is good, any necessary replacement parts shall match the original or be of a material that conveys the same visual appearance as the historic parts.
3. If most or all of the historic storefront does not survive, the storefront shall either be restored to an earlier historic appearance based on physical, documentary, or pictorial evidence; or be redesigned to conform to the size, scale, and proportions of a traditional storefront appropriate to the building.

## 21.7 DEMOLITION

### 21.7.1 Primary and Contributing Resources

- A.** Demolition, or partial demolition, of a building and/or structure categorized as a Primary or a Contributing Resource, including secondary buildings and structures located on the same property as a Primary or a Contributing Resource, shall be prohibited unless:
1. The applicant can demonstrate that retaining the resource would constitute economic hardship due to unavoidable quantifiable and verifiable expenditures or a fiscal loss that would ensue should the building not be demolished; or
  2. The building or structure has been determined structurally unsound, based upon a written technical report prepared by an architect or professional engineer licensed in the State of New Hampshire that clearly demonstrates that the building or structure presents a risk to public health, safety and welfare; or
  3. Demolition is limited to a secondary building or a free-standing structure on the same property that has not been cited on the survey form as a significant resource or character-defining feature; or
  4. The Historic District Commission, by a two-thirds vote, determines that demolition is warranted due to extraordinary circumstances.
- B. Later Additions.** Demolition, or partial demolition, of later additions that are part of a Primary or a Contributing Resource may be allowed. Their removal will be evaluated and determined by the Historic District Commission on a case-by-case basis.
- C.** For the purposes of this Article, applications for relocation of a building or structure shall be subject to the same standards as demolition.

### 21.7.2 Non-Contributing and Incompatible Resources

- A.** Demolition, or partial demolition, of a building or structure categorized as a Non-Contributing or an Incompatible Resource shall be allowed, unless the Community Development Director determines that the proposal warrants review by the Historic District Commission.

### 21.7.3 On-Site Posting of Notice of Public Hearing

Applicants shall post a sign identifying the structure as proposed for demolition in a visible location on the premises at least 10 calendar days prior to the public hearing. The sign shall be available from the Community Development Department and shall be returned by the applicant prior to an issuance of a Demolition Permit.

## 21.8 CONSTRUCTION OF NEW ADDITIONS

### 21.8.1 Primary and Contributing Resources

The following standards shall apply to the construction of new additions on Primary and Contributing Resources, and shall not apply to additions to a building constructed outside the Period of Significance or new principal buildings.

- A.** Additions shall not radically change, obscure, damage, or destroy character-defining features.
- B.** Additions shall be designed to be compatible with, rather than imitative of the design of the historic building, so that they are clearly identified as new construction.
- C.** Additions shall be compatible in size and scale with the main building.
- D.** Additions that alter the front of the building, or that substantially increase the building's height above adjacent or nearby rooflines, shall not be allowed, unless it can be documented that the addition is historically appropriate for the building. If it is necessary to design additions that are taller than the main building, the addition should be set back from the primary or character-defining facades.
- E.** Whenever possible, additions shall be located at the rear or on an inconspicuous side of the building.
- F.** Additions shall take into account the historic relationships of existing buildings and site features on the site.
- G.** Materials used for siding on additions shall be compatible with existing materials on the building and shall be those that are common in the Historic District. Acceptable materials include brick, stone, terra cotta, wood, metal and cement clapboard.
- H.** Materials commonly referred to as "vinyl siding" are prohibited for use on additions except when the addition is to a building where the predominant existing siding type is vinyl. If the

proposed addition is larger than the existing building, only materials that are appropriate to the Historic District shall be used.

### 21.8.2 Non-Contributing and Incompatible Resources

The following standards shall apply to the construction of new additions on Non-Contributing and Incompatible Resources, and shall not apply to additions to a building constructed outside the Period of Significance or new free-standing structures.

- A.** Additions shall reflect the context of surrounding historic buildings or structures and not detract from the overall character of the Historic District.
- B.** Materials used for siding on additions shall be compatible with existing materials on the building and shall be those that are common in the Historic District. Acceptable materials include brick, stone, terra cotta, wood, metal and cement clapboard.
- C.** Materials commonly referred to as "vinyl siding" are prohibited for use on additions except when the addition is to a building where the predominant existing siding type is vinyl.



# ARTICLE 22. PUBLIC INFRASTRUCTURE STANDARDS

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## 22.1 GENERAL

### 22.1.1 Purpose

The purpose of this Article is to describe the minimum standards required in the City for the development of new infrastructure to support proposed land development if such improvements are deemed necessary by the City's Public Works Director.

### 22.1.2 Authority

**A.** The City's Public Works Director is hereby authorized to develop, within the requirements of this Article, more detailed standards that they deem necessary to advance the purpose of this Article.

- 1.** Any such standards so developed shall be known as the "City of Keene Standard Plans and Specifications." Such detailed standards shall become effective 30 calendar days following their notice of publication.

**B.** All design methods, computations, materials, products, and details of construction for public infrastructure are to be approved by the Public Works Director prior to the start of construction.

**C.** The Public Works Director is hereby authorized to collect security to ensure the timely completion of proposed public infrastructure prior to the start of construction. Upon completion of the work, the Public Works Director shall also collect security to ensure corrections or repairs necessary during the warranty period.

- 1.** Security shall be in a form and amount deemed appropriated by the Public Works Director and from a financial institution deemed acceptable by the City's Finance Director.

**D.** The Public Works Director is hereby authorized to perform inspections at any reasonable time for the purpose of verifying that proper construction materials and techniques were utilized during the construction and that the work complies with City standards.

Improvements subject to inspection include, but are not limited to the following.

- 1.** Subdivisions.
- 2.** Roadways.
- 3.** Drainage facilities, structures, and ditches.
- 4.** Water systems utilizing the public water system at its source.
- 5.** Wastewater systems discharging to the public wastewater collection and treatment facilities.
- 6.** Other utilities (e.g. gas, electric, telecommunications, etc.) located within the City right-of-way or on city-owned property.
- 7.** Any other infrastructure to become the property of the City or located within the City right-of-way or on City property.
- 8.** Service connections, whether public or private.

**E.** The Public Works Director is hereby authorized to levy and collect fees for the inspections of public infrastructure or service connections. The rate to be paid by the legally liable person for inspections performed by City personnel shall be as set forth in the schedule of fees in Appendix B of the City Code of Ordinances.

**F.** The Public Works Director shall have the power to review and approve, and to suspend, revoke or modify permits required in accordance with this Article.

### 22.1.3 Inspections Fees

**A.** Prior to the beginning of construction, an estimate of the total hours of work will be made by the City Engineer based on the approved plans. This estimate will include all anticipated inspections and testing for miscellaneous work items.

**B.** Administrative work required in the office or consultation for the resolution of problems that may be requested by the contractor are not subject to inspection fees.

- C. Where an excavation permit fee has already been paid, the initial inspection will be at no charge.
- D. The fees will be billed to the landowner, or utility company when their work is within the City right-of-way, or their authorized agent (i.e. contractor), through a written agreement on a monthly basis by the Public Works Department.

#### 22.1.4 Public versus Private Ownership

- A. Street access shall be private from the street edge of pavement, or the edge of the traveled portion of the right-of-way (in the case of unpaved roads), to the boundary line of the property to which street access is provided. Any drainage swales, pipes, structures, headwalls etc. required for the construction and maintenance of street access shall also be private.
- B. Private mains shall be allowed when their need is demonstrated to the satisfaction of the Public Works Director.
  1. Private mains shall be designed, constructed, and maintained by the property owner from the public main to their terminus, in accordance with standards adopted by, and available at, the Public Works Department, as may be amended from time to time.
  2. Private water mains shall be equipped with a shut-off valve located within the public right-of-way. In addition, the developer shall provide a suitable shut-off valve for each domestic service taken off of the private main and shall grant to the City an easement to access and operate said valves.
  3. Private sewer mains shall discharge into the Public collection system at an approved location.
  4. The City shall have no responsibility to operate, maintain or repair private mains or appurtenant values, fittings, or equipment.

- C. Fire lines shall be privately-owned and maintained by the owner from the main to the building in accordance with standards adopted by, and available at, the Public Works Department, as may be amended from time to time. Fire lines shall be equipped with a shut-off valve located within the public right-of-way.
- D. Water services shall be public from the main to the curb stop or shut-off valve, inclusive. If the curb stop or shut-off valve is located underneath a sidewalk or on the City-owned side of the sidewalk, the water service shall be public from the corporation stop to the property line. If the curb stop or shut-off valve is located more than 15-ft inside the property line, the water service shall be public from the main to the property line. In the absence of a curb stop or shut-off valve, the water services shall be public from the main to the property line.
  1. Water services from the points defined above, to an individual building or structure shall be privately-owned.
  2. The owner shall be responsible for the initial installation of the public portions of the water service in accordance with standards adopted by the Public Works Director and available at the Public Works Department, as may be amended from time to time.
  3. The owner shall be responsible for constructing and maintaining the privately-owned portion of water services in accordance with standards adopted by the Public Works Director and available at the Public Works Department, as may be amended from time to time.
- E. Sewer services shall be privately-owned from the building to the main, including any fitting used to connect the service to the main. The owner shall be responsible for maintaining sewer services in accordance with standards adopted by the Public Works Director, and available at, the Public Works Department, as may be amended from time to time.
- F. The City has the right, but not the obligation, to repair, rehabilitate or replace any portion of a

private service or fire line in conjunction with its infrastructure construction work.

- G.** Any infrastructure that serves 2 or more residential parcels shall be public. Services shall be the only lines serving individual residential parcels. For the purpose of this Section only, a condominium parcel shall include sub-parcels and dwelling units that are not held in common.
- H.** All public infrastructure shall be located in city streets or public rights-of-way or easements. The City shall be responsible for maintaining all public infrastructure.

#### 22.1.5 Other Permits Required

The developer of any public improvement shall obtain all required federal, state and local permits prior to the start of construction and shall fully comply with the conditions thereof. Copies of all such permits shall be provided to the Public Works Director.

## 22.2 PROCESS FOR APPROVAL & ACCEPTANCE OF PUBLIC INFRASTRUCTURE

All public infrastructure shall be formally laid out and accepted by the City Council following the processes described below. When City-owned utilities are in the proposed street, they shall be accepted in conjunction with the acceptance of the street.

### 22.2.1 Submission Requirements

- A.** Any petitioner who is requesting a public street layout from the City shall furnish the following documents, in a form and format acceptable to the Public Works Director, for consideration by the City Council.
  - 1.** Petition for layout.
  - 2.** Deed of warranty (fee title).
  - 3.** Return of layout.
  - 4.** Property plan acceptable for recording at the County Registry of Deeds.
  - 5.** Construction plan showing all existing and proposed infrastructure.
  - 6.** List of landowners whose property the road will cross.
  - 7.** Payment of any and all fees, as determined by the Public Works Director.
- B.** Any petitioner who is requesting City acceptance of public infrastructure that is not in a public street shall furnish the following documents, in a form and format acceptable to the Public Works Director, to the City Council.
  - 1.** Letter requesting City acceptance of and describing the need for such public infrastructure.
  - 2.** Easement Deed.
  - 3.** Property plan acceptable for recording at the County Registry of Deeds.
  - 4.** Construction plan showing existing and proposed infrastructure within the project area.
  - 5.** List of landowners whose property the easement will cross.

- C. Any petitioner who proposes to replace or improve an existing public infrastructure shall furnish the following documents to the City Council.

1. Construction plan showing all existing conditions and proposed improvements
2. Evidence documenting the need to replace or improve existing facilities in order to support a proposed development.

### 22.2.2 Conditions of Approval

- A. All public infrastructure shall be located in public rights-of-way or easements granting the City the right to access and maintain such improvements in perpetuity.
- B. If the City Council, after due consideration, votes to accept the deed and to lay out the street as a public way and/or accept the utilities and/or improvements, any such approval vote shall, as a condition of such approval, require the completion of all infrastructure construction and acceptance by the Public Works Director within a 36-month period from such approval vote by the City Council. If construction has not been completed and accepted within this 36-month period, the City, as finally determined by the City Council, shall take one of the following courses of action.
  1. Pursue discontinuance in accordance with state law;
  2. Call the posted security and complete construction; or,
  3. Extend the time period for completion to a new date certain. Such extension request can be made only once and shall be made in writing stating the exceptional circumstances necessitating the requested extension and must be made between 90- and 120-days prior to the expiration of the 36-month period. City Council consideration of such extension is not subject to the appeal process described in **Section 22.6.**
- C. No existing private street, utility and/or improvement shall be considered for layout and/or acceptance by the City as public infrastructure

until such infrastructure has been demonstrated to the satisfaction of the Public Works Director to meet all standards in this Article.

### 22.2.3 Conditions for Final Acceptance

- A. Prior to final acceptance by the City Council of any new public infrastructure, the Public Works Director shall certify in writing that all work has been completed in accordance with the standards in this Article.
- B. No public infrastructure shall be finally accepted by the City for public maintenance or responsibility until all necessary easements and deeds have been provided to and meet the requirements of the City and such deeds and/or easements have been properly recorded with the County Registry of Deeds.
- C. No public infrastructure shall be finally accepted by the City for public maintenance or responsibility until a complete set of record plans is provided to the Director in a form and format they deem acceptable.

### 22.2.4 Security & Warranty

- A. Prior to the start of construction of any approved public infrastructure, the City shall be furnished with security in a form and from a financial institution satisfactory to the City.
- B. Security shall be for an amount equal to the full construction cost of the approved public improvements, as determined by the City Engineer.
- C. The security shall either be un-expiring, in which case the unreleased balance shall escalate by the Consumer Price Index, or by some other inflation escalator satisfactory to the City, or shall expire at the end of 3-years.
- D. Any such expiring security shall be written in a manner that places all administrative responsibility on the financial institution writing it, and requires the face amount to automatically be paid to the City upon expiration, unless the City accepts new security satisfactory to it in its place.

- E. Upon final acceptance of public infrastructure, the City will concurrently release the original security and be furnished with warranty period security in an amount determined by the City Engineer, normally 10% of the original security.
  - F. Developers shall, in all cases, provide the City with a 1-year unconditional warranty on all public infrastructure. This 1-year warranty period shall start after the final City acceptance of the improvements and the release of project's original security.
  - G. During the warranty period, the City shall be responsible for the routine operation of the public infrastructure (e.g. snow plowing, water main flushing, etc.). The developer shall be responsible for repairs or corrections, if required.
  - H. At the conclusion of the warranty period, the City Engineer shall inspect the improvements and direct corrections as they deem necessary.
  - I. After any corrections or repairs required have been completed, the City shall release the warranty period security.
- C. The owner of any structure to which a street number has been assigned shall display said street number as required by the City Engineer.

### 22.2.5 Street Names

- A. Extension of existing streets shall bear the same name as the original street.
- B. Names of new streets shall not resemble names of existing streets in the City in their sound or spelling.
- C. Street names may be suggested by the developer for consideration by the City Council upon layout and acceptance of deeds for the street.
- D. The City Council shall have final authority to name new streets.

### 22.2.6 Street Numbering System

- A. The street numbering for individual structures shall be assigned by the City Engineer upon request of the property owner.
- B. Street numbers may be requested only after physical improvements to the parcel have been made (e.g. foundation installed).

## 22.3 DESIGN & CONSTRUCTION STANDARDS

### 22.3.1 Scope

- A. All infrastructure, except as otherwise provided in this Article, whether public or private, shall be designed and constructed in accordance with the design and construction standards in this Article and the then-current version of the City of Keene Standard Plans and Specifications, as published by the Public Works Director.
- B. All public infrastructure shall be designed and constructed in accordance with the applicable provisions of the Americans with Disabilities Act.
- C. Portions of private driveways laying outside of the public right-of-way do not have to be constructed in accordance with the standards in this Article, but shall comply with all other applicable zoning, site plan or requirements of this LDC.

### 22.3.2 Lot Monuments

- A. Lot monuments shall be set at all corners immediately upon receipt of final approval of the subdivision by the Planning Board.
- B. Final subdivision plans shall not be signed and recorded until after the monuments have been installed by the developer and verified by the Public Works Director, or security in an amount deemed satisfactory to the Public Works Director is posted ensuring the monuments will be set.
- C. Monuments will be of a size, type and frequency determined by the Public Works Director.
- D. Accuracy of all pins and monuments shall be in accordance with the standards of the NH Land Surveyors Association and shall be certified by a NH licensed land surveyor.

### 22.3.3 Street and Utility Rights-of-Way

- A. Street rights-of-way shall be sufficiently wide, as determined by the Public Works Director, so as to accommodate all modes of transportation, all required utilities, landscaping, lighting, parking and other amenities.
- B. Utility rights-of-way shall be sufficiently wide, as determined by the Public Works Director, so as to allow full access for service or replacement.
- C. The minimum and maximum widths in **Table 22-1** shall apply.
- D. No building or structure, except those housing utility systems, shall be allowed to be located within any right-of-way or easement, and no building or structure shall be placed on top of any utility line.

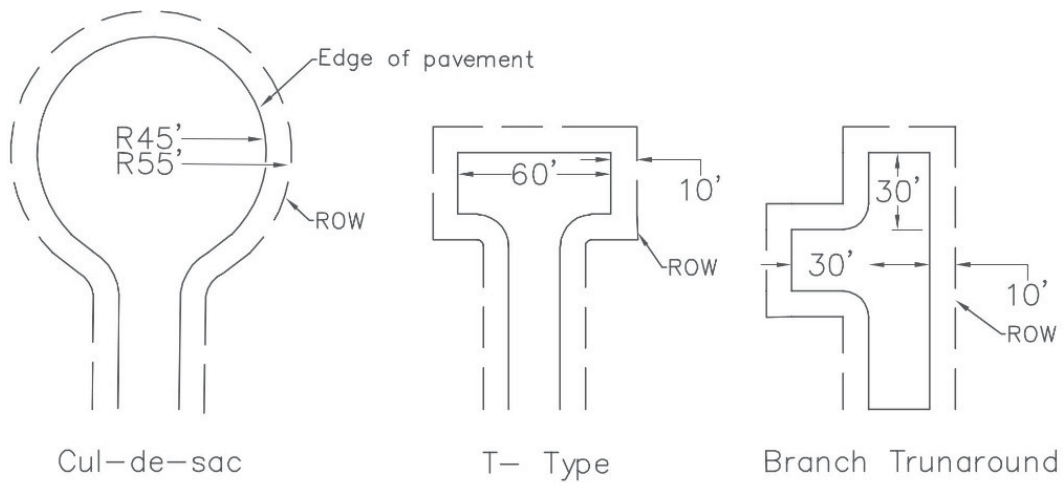
### 22.3.4 Streets

- A. Street geometry, construction methods and materials shall be approved by the Public Works Director.
- B. Proposed streets shall be designed and constructed in accordance with the appropriate typology described in the City of Keene Complete Streets Planning and Design Guidelines, as may be amended.
- C. Dead-end streets are discouraged. In the absence of a waiver granted by the City Council, no dead-end street shall exceed 750-ft in length. All dead-end streets shall terminate in one of the turn-around types shown in **Figure 22-1**.
- D. Proposed street intersections shall either coincide with or be removed a minimum distance of 200-ft on center from other existing and future entrances on the same street.
- E. All Streets shall be constructed with drainage features designed in accordance with this Article.

**Table 22-1: Minimum & Maximum Street Right-of-Widths**

Purpose of Right-of-Way	Min Width	Max Width
Downtown Roadway	50 ft	120 ft
Arterial Roadway	50 ft	100 ft
Collector Roadway	50 ft	80 ft
Local Roadway	50 ft	60 ft
Utility easement < 6' deep	10 ft	25 ft
Utility easement 6' – 10' deep	20 ft	30 ft
Utility easement >10' deep	30 ft	3 x depth

**Figure 22-1: Dead End Street Turn Around Types**





### 22.3.5 Grading

- A. The maximum allowable street grade shall be 7% maximum for local and collector streets, and 6% maximum for all other streets.
  - 1. Local streets in rural areas may have a maximum grade of 9%, if there is alternate access to any lot served by the road at a maximum of 7% grade. No road shall exceed 7% grade within 300-ft of an intersection.
- B. In curbed areas, the minimum street grade shall be 0.5%.
- C. Access to any new development shall be from an existing City street or state highway, the grade of which existing City street cannot exceed 10% for a distance of more than 50-ft at any point. The term “development” under this Subsection shall include any new multifamily dwelling, commercial or industrial construction, or any construction of new public or private streets. Subdivision or re-subdivision of a lot that exists at the time of adoption of the ordinance from which this Section derives into 4 or fewer lots for construction of single-family dwellings shall not be considered development in this Subsection. If the 10% standard cannot be met, the developer may request a waiver from the Public Works Director of this requirement. Such waiver request shall not be granted unless the following criteria are met.
  - 1. City police, fire, street maintenance crews and school buses shall be able to safely serve such development without having to purchase new or different equipment or absorb abnormal maintenance costs.
  - 2. The drainage system shall work without abnormal (more than would occur on a properly designed street of a grade of less than 10%) deterioration to the roadway or shoulders from runoff.
  - 3. Safe pedestrian and bicycle passage can be provided.

- 4. The proposed new access off the City street shall meet the grading standards in this section.

- D. For new streets in or crossing precautionary slopes as defined in **Article 12**, the following shall apply.

- 1. New streets shall be sited to follow the natural contours of the slope to minimize grading.
- 2. Cutting and filling of slopes shall be minimized.

### 22.3.6 Curbs

- A. Curbs shall be required in the following locations.

- 1. Along both sides of new public roads, in all zoning districts except Agricultural, Rural, Low-Density-1, and Low-Density.
- 2. Where necessary to control erosion (road grade over 5%).
- 3. Where necessary to channel traffic movements for safety reasons.
- 4. Where the street edge of pavement is less than 5-ft from the adjacent sidewalk.

- B. Curbs, except as provided in this subsection, shall be sawn granite curbing.

- 1. Asphalt curbing may be used to control erosion when protected from damage by a suitable guard rail.
- 2. Asphalt berms (i.e. “Cape Cod Berm”) may be used, when approved by the Public Works Director, in order to direct runoff into an approved storm drain system.

- C. Where curbs are not required, a minimum 3-ft wide gravel shoulder shall be provided. This shoulder may be loamed over.

### 22.3.7 Sidewalks

- A. Sidewalks shall be required on at least one side of any proposed street in any residential zoning district, except for the Rural District, and on both sides of any proposed street in any other zoning district, with the exception of the Conservation and Agriculture zoning districts..

- B. The City Council may, upon recommendation of the Planning Board, accept an alternative system, not parallel to the proposed street, so long as it meets these standards in all other respects.
- C. Sidewalks shall be constructed of materials and methods approved by the Public Works Director and shall:
  1. Have a width consistent with the City of Keene Complete Streets Planning and Design Guidelines and appropriate to the context of the location.
  2. Have a minimum width of 6-ft in all cases.
  3. Be located at least 5-ft from the edge of street pavement, right-of-way permitting.

### 22.3.8 Street Lighting

- A. All new street lighting shall be solar-powered unless a grid-powered system is approved by the Public Works Director.
- B. Streetlights shall be required at intersections in all zoning districts and along the length of proposed public streets in all residential zoning districts.
- C. In the Downtown-Transition District, the Office District, and all residential zoning districts, lighting fixtures shall be a maximum of 400-ft apart.
  1. In the Residential Preservation, Low Density, Medium Density, High Density, Downtown-Transition, and Office zoning districts, all such lighting shall be fed via underground conduit.
  2. Street lighting in other residential zoning districts may be fed above-ground to wooden poles as provided by the local electric utility (mounting height of 28-ft).
- D. When underground street lighting feed is required, telephone, electric and cable TV shall be located underground also.
- E. Lighting fixtures shall be full cut-off light emitting diode (LED) type with a correlated color temperature between 3,000K and 4,000K.

- F. Right-of-way lighting for any proposed streets shall be designed using the methodology determined by the Public Works Director.

### 22.3.9 Traffic Control Devices

#### A. General

1. Traffic Control devices within the City shall be applied, designed, and installed in accordance with the most recent edition of the Manual of Uniform Traffic Control Devices.
2. Traffic control devices on new streets shall be reviewed and approved in conjunction with the City Council's approval of the new street.

#### B. Signs

1. Regulatory signs (e.g. "STOP", "ONE WAY") shall not be installed unless approved by the City Council.
2. Signs shall meet material and performance standards determined by the Public Works Director

#### C. Signals

1. The design and installation of traffic signal systems shall be approved by the City.
2. When traffic signals are installed and/or upgraded at any intersection in the City, emergency preemption systems shall be standard at all affected intersections.
3. When new development projects require off-site improvements that affect existing City-owned traffic signals, the developer shall pay the cost of such improvements.
4. Traffic signal systems shall incorporate a controller complying with the most recent version of the Advanced Transportation Controller (ATC) Standards as published by the Institute of Transportation Engineers (ITE).

### 22.3.10 Stormwater Management

The following standards shall apply to enclosed storm drain systems as well as open drainage channels.

- A. A drainage design report shall be submitted to the Public Works Director for any new stormwater management systems, or for the modification of existing stormwater systems.
- B. Storm drainage systems shall be designed to convey the peak flow from a 25-year, 24-hour duration storm event, using the most recent data published by the Northeast Regional Climate Center.
  - 1. Stormwater drainage systems in or crossing precautionary slopes, as defined in **Article 12**, shall additionally be designed to adequately accommodate the stormwater volume associated with a 50-year, 24-hour storm event.
  - 2. Accommodation of stormwater volumes may be through any combination of detention, retention or conveyance.
- C. Discharge of stormwater into a wellhead protection area is of special concern and will require review and approval of the Public Works Director.

### 22.3.11 Water Distribution

- A. Water mains shall be looped unless the Public Works Director, in their sole discretion, determines that a looped main is not necessary.
- B. Gate valves and hydrants shall be provided on public mains as required by the Public Works Director.
- C. Water services shall be tapped into the water main and constructed from the main to the property line for each lot in a proposed subdivision. In any zoning district, except Rural Low Density-1 and Low-Density, a separate fire line shall be extended from the main to the property line of each lot in a proposed subdivision.

- D. Every owner of a water service (except as provided for flat-rate service, unmetered fire lines, or fire apparatus) shall provide thereon a standard meter location, which must be maintained in such a manner as to be readily accessible without the removal of merchandise, rubbish, ill-fitting covers or other obstructions of any nature.
- E. The owner of water service into a commercial, industrial or institutional building or use shall install, maintain and inspect, at their own expense, a backflow prevention device approved by the Public Works Director.
- F. Water mains and fire services shall be disinfected, flushed and tested to the satisfaction of the Public Works Director before being placed in service.

### 22.3.12 Wastewater Collection

- A. All sanitary sewers and appurtenances shall be designed in accordance with all applicable federal and state regulations.
- B. Individual private services shall be tapped into the main and constructed to the property line for each lot.
- C. Sanitary sewers shall not be buried more than 10-ft below the surface, without special written city approval. Where such approval is obtained, such sewer shall be ductile iron.
- D. Any person proposing to construct or modify a wastewater collection system that is required to submit a Sewer Connection Permit to the NH Department of Environmental Services shall demonstrate, to the satisfaction of the Public Works Director, that the receiving public sewer mains and wastewater treatment plant are, or will be, capable of adequately processing the added hydraulic flow and organic load at the time of connection.
- E. All persons discharging or having the potential to discharge industrial process wastes into public or private sewers connected to the City's Wastewater Treatment Plant shall comply with applicable requirements of federal and state

industrial pretreatment regulations, as amended, in addition to the requirements of this Article.

1. Such discharges are prohibited without a valid industrial discharge agreement (IDA) executed by the owner and Public Works Department.
2. Design, construction and operation of required industrial pretreatment systems shall be in accordance with Chapter 98 of the City of Keene Code of Ordinances.
3. Grease and oil interceptors shall be provided on any sewer service when, in the opinion of the Public Works Director, they are necessary for the proper handling of liquid wastes containing floatable grease or flammable wastes, sand, or other harmful ingredients; except that, such interceptors shall not be required for private living quarters or dwelling units.

#### 22.3.13 Telecommunications Infrastructure

- A. Any person who proposes to develop a new public street or to replace 500-ft or more of existing City-owned utilities shall also install telecommunications infrastructure, which shall become the property of the City.
- B. Such telecommunications infrastructure shall include, at a minimum, the following.
  1. Two parallel 2-in conduits.
  2. Vaults spaced at no greater than 500-ft intervals.
  3. Service conduits from a vault to the property line of each property passed. Each service conduit shall serve no more than 1 parcel.
- C. Materials and construction details for telecommunications infrastructure shall be approved by the Public Works Director.

#### 22.3.14 Stabilized Unpaved Areas

All unpaved areas within a public right-of-way shall be stabilized according to stabilization and erosion control plans approved by the Public Works Director. These shall provide for stabilization and erosion control during construction and after.

#### 22.3.15 Flood-Proofing

All structures and above-ground infrastructure located within a designated special flood hazard area shall be constructed in accordance with the requirements of **Article 23**.

#### 22.3.16 Trees

- A. There shall be at least one deciduous tree of a minimum 2-in caliper at planting and of a species approved by the Public Works Director for every 50-ft interval of each side of any new street or extension of any existing street.
- B. Such trees shall either be within the City right-of-way or within 20-ft of the City right-of-way. In the latter event, the developer shall grant an easement to the City in a form satisfactory to it for access to and maintenance of such trees.
- C. No tree species shall be used that is listed by the NH Department of Agriculture, Markets & Food as an invasive species per NH RSA 430:54 and NH Administrative Rules AGR 3800.

## 22.4 SERVICE CONNECTION PERMITS

- A. A service connection permit shall be obtained from the City prior to connecting, disconnecting or modifying an existing connection to any City-owned utility, including water distribution, wastewater collection, stormwater management or telecommunications systems.
- B. An application for a service connection permit shall be submitted to the Public Works Director on forms provided by the City and shall include payment of an application fee, as set forth in the schedule of fees in Appendix B of the City Code of Ordinances.

## 22.5 STREET ACCESS PERMIT

### 22.5.1 Applicability

- A. A street access permit shall be obtained from the City prior to the construction of or alteration that changes grade, length or width of any driveway, entrance, exit or approach within the right-of-way of any City street, including temporary driveways, except when the driveway or its alteration is approved as part of a subdivision or site plan by the Planning Board.
- B. An application for a street access permit to construct or alter street access shall be submitted in accordance with the application and review procedures for a street access permit in **Article 25**.

### 22.5.2 Purpose

- A. It is the intent of these standards to:
  - 1. Promote the safe passage of bicycles, pedestrians and vehicles;
  - 2. Locate street access so as to ensure adequate sight distances;
  - 3. Avoid disruption of existing drainage systems;
  - 4. Ensure that drainage from new street access is properly channeled;
  - 5. Avoid the creation of hazardous traffic conditions;
  - 6. Ensure that city sidewalks are preserved; and,
  - 7. Ensure that roadways and intersections are not overly burdened by improperly located or excessive numbers of street access.

### 22.5.3 Issuing Authority

#### A. Administrative Review

- 1. The City Engineer, or their designee, shall have the authority to review, and approve or disapprove street access permit applications for the following.
  - a. Single-family or two-family dwellings.
  - b. Single-family dwelling shared access

- c. Single-family or two-family dwelling second street access
  - d. Agricultural street access
  - e. Temporary street access
2. The City Engineer may refer a street access permit application to the Planning Board for review if, in their sole discretion, the City Engineer determines that the facts and circumstances warrant such referral.

**B. Planning Board Review**

1. The Planning Board shall have the authority to review, and approve or disapprove street access permit applications for all uses other than those listed in **Section 22.5.3.A.**
  2. The Planning Board shall consult with the City Engineer prior to rendering a decision on any street access permit application or prior to acting upon any street access proposals that are included on a subdivision plan or site plan.
- C.** The respective issuing authority shall only issue a street access permit when an applicant has demonstrated compliance with all standards listed in **Section 22.5.4.**

**22.5.4 Standards for Review**

- A.** The following standards shall apply to all street access installed or modified after April 28, 1989, as determined by the City Engineer based on a review of aerial photographs of the City of Keene taken on that date.
1. If the installation of a street access requires disrupting an existing sidewalk, the sidewalk must be restored or replaced in compliance with this Article.
  2. Street access shall be placed so as to ensure that vehicles entering and exiting the street access have an all season safe sight distance in all directions, not only of the road, but also of bicycle and pedestrian traffic on the sidewalk. For purposes of this Section, an all season safe sight distance shall be at least 200-ft in all directions within which there are no visual

obstructions.

3. For commercial and industrial activities, the use of service roads and/or common access is encouraged.
4. There shall be no more than 1 street access point for each residential lot.
5. No more than 2 single-family dwellings can share a common street access.
6. Street access shall not block the flow of drainage in gutters, drainage ditches or pipes.
7. Street access shall be constructed so that surface runoff runs neither from private property onto the City street nor from the City street onto private property.
8. Street access for single-family dwellings and two-family dwellings, including shared drives, shall not be more than 20-ft wide at the property line and 30-ft wide at the curbline.
9. Street access for uses other than single-family dwellings and two-family dwellings or temporary street access shall not be more than 25-ft wide at the property line and 50-ft wide at the curbline, unless additional width or lanes are required as the result of a traffic study and/or geometric analysis prepared by an NH licensed engineer.
10. New street access shall be placed so as not to conflict with existing street access.
11. Street access on opposite sides of the street shall be aligned or offset sufficiently, so as to avoid turning conflicts.
12. All street access shall be constructed to standards approved by the City Engineer.
13. Temporary street access used for earth-disturbing or forestry activities or events shall be constructed with a temporary construction exit complying with the requirements of the NH Stormwater Manual, Volume 3, as may be amended.
14. Temporary street access shall be restored to original condition at the conclusion of the activity or event for which they are

installed.

15. When the installation of a street access requires the cutting of trees or the disturbance of stone walls which are within the public right-of-way, separate permission for such cutting or disturbance must be obtained, in accordance with Sections 82-158 and 82-187 of the City Code of Ordinances, NH RSA 472:6, or other applicable laws.

### 22.5.5 Access on Class VI Highways

- A. Parcels that have frontage and access only from a Class VI highway shall not be eligible for a street access permit.
- B. Parcels created subsequent to May 1, 2000, which have frontage on both a Class IV or V and a Class VI highway shall be required to access said lot from the Class IV or Class V frontage.
- C. Parcels created on or before May 1, 2000, having the requisite frontage on a Class IV or V highway, and abutting a Class VI highway, may use the Class VI highway abutting that parcel for access provided that:
  1. Said access does not exceed 750-ft in length measured from the intersection of the Class IV or V highway; and,
  2. The Class VI highway and the access meets the City of Keene Street Access Standards in this Article; and,
  3. The owner of such parcel obtains a street access permit in accordance with this Article.
- D. The Issuing Authority may issue a street access permit for access based upon a demonstration that the section of the Class VI highway to be used as a driveway is suitable for emergency vehicles on the date of issuance of the street access permit and further provided that the property owner executes and delivers to the City a document suitable for recording at the County Registry of Deeds which contains the following items:
  1. Property owner name(s), address,

description of the property, and where the owner's deed is recorded at the County Registry of Deeds.

2. Name of the highway, fact that the highway is Class VI, with the details of how it attained that status.
3. Description of the proposed structure to be constructed, including the number of units.
4. An acknowledgement by the owner of the property that the City has no legal duty to maintain the highway, or any intent of doing so, nor any liability for damages resulting from the use of the highway. Further, that the City will provide no winter maintenance, grading or other road repairs, and that, at times, the City may not be able to provide police, fire or other emergency services. That school bus, mail, or other services may be restricted or nonexistent and it is the property owner's responsibility to obtain such services.
5. An acknowledgement by the owner of the property that: the City does not maintain Class VI highways and does not have any intent of doing so; that any maintenance, or expense associated with the repair and maintenance of the Class VI highway in a condition to be used as a driveway is the responsibility of the property owner or their successors or assigns; that the portion of the Class VI highway used for a driveway shall be in conformance with the Driveway Standards in **Article 9**.
6. An acknowledgement by the owner of the property that any work performed by the property owner on the Class VI road must have prior approval from the Public Works Director or their designee.
7. An acknowledgement by the owner of the property that the Class VI highway shall remain a full public highway and that the property owner shall not prohibit or restrict use by the public.
8. An acknowledgement by the owner of the property that the City retains full authority, if it chooses, to regulate the public use of the

highway, pursuant to NH RSA 41:11 and NH RSA 231:21.

### 22.5.6 Exceptions to Street Access Standards

Requests for exceptions to the street access standards in **Section 22.5** shall be made in writing to the appropriate permit issuing authority, as defined in **Section 22.5.3**, which shall have authority to approve or disapprove a requested exception in accordance with the application and review procedures for street access permits in **Article 25** and upon evaluation the following criteria.

- A. Issuance of the exception will not adversely affect the safety of pedestrians, bicyclists, and vehicles using adjacent streets and intersections.
- B. Issuance of the exception does not adversely affect the efficiency and capacity of the street or intersection.
- C. There are unique characteristics of the land or property which present a physical hardship to the requestor.
- D. In no case shall financial hardship be used to justify the granting of the exception.

## 22.6 WAIVERS

- A. Except as provided for in **Section 22.5.6** with respect to exceptions to the Street Access Standards, requests for waivers from the requirements of this Article shall be addressed in writing to the City Engineer, who shall make a written recommendation to the City Council.
- B. For waivers to the dead-end street standard, at least one of the following special circumstances shall be met.
  - 1. The request for the waiver must demonstrate that the exemption is de-minimis in nature.
  - 2. The request for the waiver must demonstrate that adequate private and/or public secondary access is provided and will be maintained year-round.
  - 3. The request for the waiver must demonstrate that all 3 of the following criteria are met:
    - a. There are unique physical characteristics of the land, which present a hardship to the requestor.
    - b. The requested waiver is consistent with the intent of this Article and this LDC.
    - c. A recommendation from the Planning Board that the waiver request meets the intent of the Planning Board Site Development and Subdivision Regulations.
- C. In no case shall financial hardship be used to justify the granting of a waiver.
- D. The City Council shall retain final jurisdiction in all such waiver decisions.