



PLANNING, LICENSES AND DEVELOPMENT COMMITTEE
Council Chambers A, Keene City Hall
February 12, 2025
6:00 PM

A. AGENDA ITEMS

1. Councilor Williams - Request for Letter of Support - HB250 Enabling Local Governing Bodies to Regulate the Muzzling of Dogs
2. Sign Code Modifications - Animated Signs in the Industrial Zone - Requested by Mayor Kahn
PowerPoint Presentation - Potential Amendment to Land Development Code - Animated Signs in the Industrial Zone
3. Amendment to Land Development Code - Minimum Lot Sizes (Public Hearing Date - 01/16/2025)
Ordinance O-2024-17-A
4. Amendment to Land Development Code - Residential Parking Requirements (Public Hearing Date - 01/16/2025)
Ordinance O-2024-20-A
5. Relating to Interior Side and Rear Setback Requirements in the Downtown Edge Zone (Public Hearing Date - 02/06/2025)
Ordinance O-2024-24-A
6. Relating to Floodplain Appeals and Variance Process
Ordinance O-2025-05
7. Rules of Order - Section 15. - Voting and Conflict of Interest

B. MORE TIME ITEMS

1. Councilor Robert Williams - Policy on the Discharge of Fireworks
2. Relating to Licenses and Permits
Ordinance O-2024-18
3. Michael Remy/Keene Young Professionals - Request to Use City Property - Taste of Keene Food Festival - June 7, 2025

NON PUBLIC SESSION

ADJOURNMENT

January 13, 2025

City of Keene Clerk's Office
3 Washington Street
Keene, New Hampshire 03431

To the Honorable Mayor and City Council,

Last year, the Council's Planning, Licenses, and Development Committee considered a potential ordinance to require that dogs with a record of attacking other dogs be muzzled while out in public. At the time, the Committee was unable to move forward with this measure, due to a quirk in state law that only permits cities and towns to require the muzzling of dogs in the event of a rabies outbreak.

Recently, HB 250 – unofficially known as “Suzette’s Bill” – has been introduced in the New Hampshire House of Representatives. This legislation would enable local governments to consider muzzle requirements as an option to manage the risk to the public posed by vicious dogs.

The bill has been introduced by State Representative Jodi Newell of Keene and is co-sponsored by several other State Representatives from Keene: Phil Jones, Nicholas Germana, Samantha Jacobs, and Terri O’Rorke.

I am requesting that City Council direct the Mayor to write a letter to the appropriate House and Senate Committees in support of HB 250, and also empower our City Attorney to testify in support of this bill.

Sincerely,

A handwritten signature in blue ink, appearing to read "Bobby Williams". The signature is fluid and cursive, with a large loop at the end.

Bobby Williams

City Councilor, Ward 2

HB 250 - AS INTRODUCED

2025 SESSION

25-0255
08/09

HOUSE BILL **250**

AN ACT enabling local governing bodies to regulate the muzzling of dogs.

SPONSORS: Rep. Newell, Ches. 4; Rep. N. Germana, Ches. 15; Rep. Jacobs, Ches. 15; Rep. O'Rorke,
Ches. 7; Rep. Jones, Ches. 3

COMMITTEE: Environment and Agriculture

ANALYSIS

This bill enables local governing bodies to regulate the muzzling of dogs.

Explanation: Matter added to current law appears in **bold italics**.
Matter removed from current law appears [~~in brackets and struck through~~].
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.
25-0255
08/09

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Five

AN ACT enabling local governing bodies to regulate the muzzling of dogs.

Be it Enacted by the Senate and House of Representatives in General Court convened:

- 1 City or Town Bylaws; Restraint of Dogs. Amend RSA 466:39 to read as follows:
466:39 City or Town Bylaws. The local governing body may make such additional bylaws and regulations concerning the licensing, **muzzling**, and restraining of dogs as it deems reasonable, and may affix penalties not exceeding \$50 for a breach thereof. Such bylaws and regulations shall relate only to dogs owned or kept in such city or town, and the annual fee required for a license shall in no case be more than \$1 in addition to the sum hereby required.
- 2 Effective Date. This act shall take effect 60 days after its passage.



September 30, 2024

Dear Councilors,

I am writing to request an amendment to the City's prohibition on animated signs that would permit "Blade Signs" in Industrial Zones. Most important to the current prohibition defined in Keene's Land Development Code Article 10.3 is that the sign "does not interfere with travel or maintenance of the public right of way." While the current prohibition makes sense in a commerce and residential zones, I believe this prohibition is overly restrictive when applied to an industrial zoned property. I ask that the Council add an exception for blade signs at industrial zoned properties and help the City's manufacturers recruit the personnel necessary to grow and sustain their businesses.

Sincerely,

A handwritten signature in black ink that reads 'Jay Kahn'.

Jay Kahn
Mayor

Cc: City Manager Dragon
City Attorney Mullins
City Clerk Little

10.3 PROHIBITED SIGNS

The signs in Table 10-2 shall be prohibited in every zoning district, unless noted otherwise in this Article.

Table 10-2: Prohibited Signs

Prohibited Sign Types	Exceptions
Abandoned / Nonapplicable	Monument Signs are allowed
Sign with a sign face area > 200 sf	-
Sign erected or attached to Central Square common or Railroad Square	The temporary use of handheld signs is allowed.
Animated Sign	Revolving Barber Poles 4-ft high by 1-ft wide or less (may be internally illuminated & mounted on the business frontage) 1 flag / tenant frontage that is 15-sf or less, removed at closing, attached to a wall, and does not interfere with travel or maintenance of the public right of way.
Channel Letter Signs & Reverse Channel Letter Sign	Allowed in BGR, DT-C, DT-G, DT-L, DT-E, CL, COM, CP, HC, I, IP, NB
Internally illuminated Sign	Allowed in BGR, DT-C, DT-G, DT-L, DT-E, CL, COM, CP, HC, I, IP, NB
Electrically Activated Changeable Copy Signs	-
Fluorescent Sign	-
Obscene Sign (per NH RSA 571-B:1)	-
Balloon Sign	Allowed as a Temporary Sign
Off-premises Sign	Allowed if permitted by state law
Reflectorized Sign	-
Roof Sign	May be mounted on architectural projections (e.g. canopies), eaves, or mansard facades
Snipe Sign	-

10.4 STANDARDS FOR ALL SIGNS

10.4.1 Placement and Location

- A. Each sign shall be located on the same site as the subject of the sign.
- B. No sign, other than signs placed by agencies of government with appropriate jurisdiction, shall encroach upon or over a public right-of-way without approval from City Council.
- C. No sign shall cover any portion of any building wall opening or project beyond the ends or top of the building wall to which it is affixed.

10.4.2 Construction and Maintenance

- A. No sign shall be erected, constructed, relocated, or otherwise maintained such that it does any of the following.
 1. Obstructs the free and clear vision of motorists or pedestrians in their travels.
 2. Causes distraction to motorists on adjacent public rights-of-way.
 3. Obstructs, interferes with, or may be confused with any government sign, restrictive sign, directional sign or other authorized traffic sign, signal, or device.
 4. Uses a revolving beacon.
 5. Obstructs any ingress/egress, inhibits light and ventilation, or constitutes a fire hazard.
- B. All signs and sign structures, including supports, braces, guys, and anchors, shall be kept in good repair and appearance in accordance with the provisions of this Article, and shall comply with all applicable construction standards, codes and regulations.

10.4.3 Sign Area

- A. **Max Sign Face Area.** The maximum allowance for sign face area is included in Table 10-3 for wall-mounted signs, and Table 10-4 for freestanding signs, unless otherwise noted in this Article.



CITY OF KEENE

In the Year of Our Lord Two Thousand and Twenty Four

AN ORDINANCE Relative to Minimum Lot Sizes in the Medium Density, High-Density, and Downtown Transition Districts

Be it ordained by the City Council of the City of Keene, as follows:

That Chapter 100 of the Code of Ordinances of the City of Keene, New Hampshire, as amended, is hereby further amended by deleting the stricken text, as follows:

1. That Section 3.5.2 “Dimensions & Siting” of Article 3 be amended to remove the minimum lot area required per dwelling unit, as follows:

Min Lot Area	8,000 sf
Min lot area for single dwelling unit	8,000 sf
Min lot area for each additional dwelling unit	5,400 sf
Min Lot Width at Building Line	60 ft
Min Road Frontage	50 ft
Min Front Setback	15 ft
Min Rear Setback	15 ft
Min Side Setback	10 ft

2. That Section 3.6.2 “Dimensions & Siting” of Article 3 be amended to remove the minimum lot area required per dwelling unit, as follows:

Min Lot Area	6,000 sf
Min lot area for single dwelling unit	6,000 sf
Min lot area for each additional dwelling unit	5,000 sf
Min Lot Width at Building Line	50 ft
Min Road Frontage	50 ft
Min Front Setback	15 ft
Min Rear Setback	15 ft
Min Side Setback	10 ft

3. That Section 4.6.1 “Dimensions & Siting” of Article 4 be amended to remove the minimum lot are required per dwelling unit, as follows:

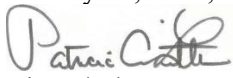
Min Road Frontage	50 ft
Min Lot Area	8,000 sf
Min lot area for single dwelling unit	8,000 sf
Min lot area for each additional dwelling unit	5,400 sf
Min Lot Width	60 ft
Min Front Setback	15 ft
Min Corner Side Setback	10 ft
Min Interior Side Setback	10 ft
Min Rear Setback	15 ft

4. That Section 4.6.2 “Buildout” of Article 4 be amended, as follows:

Buildout	
Max Building Coverage	50%
Max Impervious Surface Coverage	70%
Min Green/Open Space	30%
Only one principal building or principal structure shall be permitted on a single lot.	

Jay V. Kahn, Mayor

In City Council December 5, 2024.
 Public hearing scheduled for
 January 16, 2025, at 7:00 PM.


 Patricia Calkins
 City Clerk



CITY OF KEENE

In the Year of Our Lord Two Thousand and Twenty Four

AN ORDINANCE Relating to Residential Parking Requirements

Be it ordained by the City Council of the City of Keene, as follows:

That Chapter 100 of the Code of Ordinances of the City of Keene, the Land Development Code, as amended, is further amended as follows:

1. That Table 9-1 “Minimum On-Site Parking Requirements” of Article 9 “Residential Uses” be amended as follows:
 - a. Dwelling, Above Ground Floor ~~2 spaces / unit~~ (1 space / unit in DT-G, DT-L)
 - b. Dwelling, Manufactured Housing ~~2 spaces / unit~~ (1 space / unit in DT-G, DT-L)
 - c. Dwelling, Multifamily ~~2 spaces / unit~~ (1 space / unit in DT-G, DT-L)
 - d. Dwelling, Single-Family ~~2 spaces / unit~~ (1 space / unit in DT-G, DT-L)
 - e. Dwelling, Two-Family/Duplex ~~2 spaces / unit~~ (1 space / unit in DT-G, DT-L)

f. Residential Uses

Dwelling, Above Ground Floor	<u>1 space per unit (0.9 spaces per studio in DT-G, DT-L)</u>
Dwelling, Manufactured Housing	
Dwelling, Multifamily	
Dwelling, Two-Family/Duplex	
<u>Housing for Older Persons</u> <u>(as defined by RSA 354-A:15)</u>	<u>0.9 spaces/unit (0.75 spaces/unit in DT-G, DT-L)</u>
<u>Workforce Housing</u> <u>(as defined by RSA 674:58, IV)</u>	<u>0.9 spaces per studio (0.75 spaces per studio in DT-G, DT-L)</u> <u>1 space per one-bedroom or more (0.9 spaces per one-bedroom or more in DT-G, DT-L)</u>

2. That section 9.2.5 “Zoning District Specific Requirements” of Article 9, subsection A.1 be deleted as follows:
 - a. ~~One parking space per dwelling unit shall be the minimum on-site parking required for residential uses in the Downtown Growth and Downtown Limited Districts.~~

Jay Kahn, Mayor



CITY OF KEENE

In the Year of Our Lord Two Thousand and Twenty Four

AN ORDINANCE Relating to Amendments to the Zoning Ordinance – Interior Side and Rear Setback Requirements in the Downtown Edge Zone

Be it ordained by the City Council of the City of Keene, as follows:

That Chapter 100 of the Code of Ordinances of the City of Keene, New Hampshire, as amended, is hereby further amended by deleting the stricken text and adding the bolded and underlined text, as follows.

1. That Section 4.4.1 "Dimensions & Siting" of Article 4 be amended to remove the minimum interior side setback when the boundary line abuts the Downtown Transition District, as follows:

Dimensions and Siting

A	Min Lot Area	10,000 sf
B	Min Lot Width	50 ft
C	Front Setback ¹	0-20 Build-to Zone
D	Corner Side Setback ¹	0-20 Build-to Zone
E	Min Interior Side Setback	0 ft, unless abutting residential district or DT-T District , then 20 ft
F	Min Rear Setback	0 ft, unless abutting residential district or DT-T District , then 25 ft

¹ When the front or corner side lot line intersects or overlaps with the right-of way line, the required build-to zone is measured from a line representing the average location of front lot lines along the same block. In no case shall a building be placed forward of this line.

Jay V. Kahn, Mayor

CITY OF KEENE
NEW HAMPSHIRE

**Ordinance O-2025-05: Amendments to the Land Development Code – Article 24
Floodplain Regulations, Article 26 Application Procedures, and Article 27 Appeals**

This proposed ordinance change introduces an appeals and variance process for floodplain regulations, in compliance with State law under RSA 676:5, RSA 676:5-a, and RSA 674:33, I(b). The aim of this change is to establish a formal procedure for applicants who believe the floodplain regulations have been misinterpreted or who seek relief from the established regulatory standards.

In this context, a **variance** refers to the granting of relief from the floodplain management regulations, which typically permits development that contradicts established floodplain management practices, or the higher standards outlined in Article 24. Because such developments may increase the risk to life and property, the issuance of floodplain variances should be rare and carefully considered. The changes to Article 26 Application Procedures and Article 27 Appeals process are intended to help ensure that variances are granted only under appropriate and well-considered circumstances.

The attached materials include the full text of Ordinance O-2025-05, as well as the relevant sections of the City of Keene Land Development Code that will be amended. Proposed changes are indicated as follows: **bold and yellow-highlighted text** for additions and **struck-through text** for deletions.

24.1 GENERAL

24.1.1 Authority

This Article is adopted pursuant to the authority of NH RSA 674:16, NH RSA 674:17, and NH 674:56.

24.1.2 Purpose

- A. The floodplains and floodways of the City represent a substantial public interest. Collectively, they are an essential component of the City's natural resource infrastructure, and their capacity and function must be protected and, when possible, enhanced.
- B. The regulations in this Article have been established to ensure that no construction takes place in high hazard floodway areas and that any development within the floodplain is done so as to preserve the full function and capacity of this essential resource system.
- C. It is the specific purpose of this Article to:
 - 1. Reduce flood hazard threats to the health, safety and general welfare of City residents.
 - 2. Protect occupants of floodplain or floodway areas from a flood.
 - 3. Protect the public from the burden of extraordinary financial expenditures for flood control or flood damage repair.
 - 4. Protect and when possible enhance the capacity of the floodway and floodplain areas to absorb, transmit and store floodwaters.
 - 5. Minimize prolonged disruption of commerce and public services.
 - 6. Minimize damage to public facilities; utilities such as water and gas mains, electric, telephone and sewer lines; streets; and bridges located in special flood hazard areas.
 - 7. Avoid increases in flood intensity, height, extent, or duration.

- 8. Ensure that those who occupy or develop in flood hazard areas recognize the risk to themselves, adjacent property owners and the general public.

24.1.3 Applicability

- A. Certain areas of the City are subject to periodic flooding, causing serious damage to properties within these areas. Relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968. Therefore, the City has chosen to be a participating community in the National Flood Insurance Program (NFIP), and agrees to comply with the requirements of the National Flood Insurance Act of 1968, as amended, as detailed in this Article.
- B. These Floodplain Regulations shall apply to all lands designated as special flood hazard areas by the Federal Emergency Management Agency (FEMA) in its "Flood Insurance Study for the County of Cheshire, New Hampshire", dated May 23, 2006 or as amended, together with the associated Flood Insurance Rate Maps (FIRM) dated May 23, 2006, or as amended, which are declared to be part of this Article and are hereby incorporated by reference.
- C. This Article establishes a permit system and review procedure for development in a special flood hazard area of the City.
- D. For the purposes of this Article, the term "new construction" means structures for which the "start of construction" commenced on or after the effective date the Floodplain Regulations were initially adopted by the City and includes any subsequent improvements to such structures.
- E. **For the purposes of this Article, the term "development" means "any man-made change to improved or unimproved real estate." This includes, but is not limited to construction of new structures, modifications or improvements to existing structures this includes replacement of equipment, excavation, filling, paving, drilling, driving of piles, mining, dredging, land clearing, grading, and permanent storage of materials and/or equipment.**

24.6.2 Documentation of Substantial Improvement

Following completion of new construction of a structure or an existing structure that was substantially improved or replaced, or that incurred substantial damage, or the placement or substantial improvement of a manufactured home, the applicant shall submit the following to the Floodplain Administrator.

- A. A completed and certified copy of an Elevation Certificate that includes the as-built elevation (in relation to mean sea level) of the lowest floor of the structure and whether or not the structure has a basement.
- B. If a non-residential structure includes dry floodproofing, a completed and certified copy of the Floodproofing Certificate for Non-Residential Structures that includes the as-built elevation (in relation to mean sea level) to which the structure was dry floodproofed and certification of floodproofing.

24.7 APPEALS & VARIANCES

- A. **Any order, decision, or determination of the Floodplain Administrator made under this section may be appealed to the Zoning Board of Adjustment as set forth in RSA 676:5, 674:56 I, and Articles 26 and 27 of this Land Development Code.**
- B. **Variations shall not be issued within any regulatory floodway.**

26.20 FLOODPLAIN VARIANCE

26.20.1 Description

Variances are intended to address unnecessary hardships or practical difficulties resulting from the strict interpretation of the Floodplain Regulations. The purpose of the variance process is to provide a narrowly limited means by which relief may be granted from the unforeseen applications of the Floodplain Regulations.

26.20.2 Initiation

The applicant for a variance shall either own the fee simple interest in the property(s) that is the subject of the review or have written permission of the fee simple owner.

26.20.3 Authority

The Zoning Board of Adjustment has the authority to authorize variances from the provisions of the Floodplain Regulations of this LDC, subject to the requirements of this Article, and NH RSA 674:33. Provided that a variance shall not be granted within any regulatory floodway

26.20.4 Submittal Requirements

An applicant for a Floodplain variance shall submit a completed variance application to the Community Development Department, which shall include the following.

- A.** A written narrative that describes:
 - 1.** The property location, owner of the subject property, and explains the purpose and effect of, and justification for, the proposed variance, including a response to each of the variance criteria.
 - 2.** That the variance will not result in increased flood heights, additional threats to public safety or extraordinary public expense.
 - 3.** That the variance is the minimum necessary, considering the flood hazard, to afford relief.
- B.** A scaled plot plan clearly displaying the location and dimensions of all structures and open spaces on the lot in question and on the adjacent lots, as well as any proposed changes

to the site, such as, but not limited to, additions to existing structures or the construction of new structures, land alterations and any supporting evidence.

- C.** Any technical reports prepared by a NH licensed engineer or qualified professional, which may be required or reasonably requested by the respective decision-making authority, based on the nature and scope of the proposal. Such reports and plans may include, but are not limited to, wetland analyses, hydrologic analyses, floodproofing, soils testing, hazardous or toxic substances testing, and elevation certificates.
- D.** A list of abutters and others requiring notification. This list shall include the name, mailing address, street address, and tax map parcel number for: all owners of property that directly abuts and/or is directly across the street or stream from the subject parcel; all owners of property located within 200-ft of the subject parcel; and, any holders of conservation, preservation or agricultural preservation restrictions. The list shall also include the name and mailing address of the applicant.
- E.** 2 sets of mailing labels for each abutter and others requiring notice, including the owner of the subject property and their authorized agent.
- F.** Application fee as set forth in the LDC Schedule of Fees in Appendix B of the City Code of Ordinances, including the costs for published and mailed notice.

26.20.5 Procedure

In addition to the common application and review procedures of this Article, the following review and approval procedures shall apply to applications for a floodplain variance.

- A.** Once an application is determined to be complete, the Zoning Administrator, or their designee, shall forward it to the Zoning Board of Adjustment for a public hearing.

- B.** The Zoning Administrator, or their designee, shall provide published and mailed notice of this public hearing pursuant to NH RSA 676:7.
- C.** Prior to deciding on the application, the Zoning Board of Adjustment shall render, as appropriate, findings of fact by majority vote.
- D.** The Zoning Board of Adjustment shall give reasons for all decisions on variance applications and shall make reference to the appropriate sections of the Floodplain Regulations, where applicable.
- E.** The Zoning Board of Adjustment shall notify the applicant, in writing, that the issuance of a variance to construct below the base flood level will result in increased premium rates for flood insurance up to amounts as high as twenty-five dollars (\$25.) for one hundred dollars (\$100.) of insurance coverage and such construction below the base flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions.
- F.** The City shall maintain a record of all variance actions, including its justification for their issuance, and report such variances issued in its annual or biennial report submitted to FEMA's Federal Insurance Administrator.
- E.** Literal enforcement of the provisions of the Floodplain Regulations would result in unnecessary hardship.
- F.** That the variance will not result in increased flood heights, additional threats to public safety or extraordinary public expense, technical data may be required as outlined in section 26.20.4 E.
- G.** That the variance is the minimum necessary, considering the flood hazard, to afford relief.

26.20.6 Expiration

- A.** Any variance granted by the Zoning Board of Adjustment shall be void if the use or structure authorized by the variance has not been begun within 2-years from the date of final approval.
- B.** Any application for an extension shall be heard as a new application; any other time limitation shall be specifically prescribed by the Zoning Board of Adjustment.

26.20.6 Approval Standards

The Zoning Board of Adjustment may authorize a variance from specific requirements of the Floodplain Regulations only when the Board finds that all of the following conditions apply.

- A.** The variance will not be contrary to the public interest.
- B.** The proposed variance is not contrary to the spirit of the Floodplain Regulations.
- C.** By granting the variance substantial justice would be done.
- D.** The values of surrounding properties would not be diminished.

City Council, the applicant may appeal to the Superior Court within 30 calendar days after the date upon which the City Council voted to deny the motion for rehearing.

- F. Any further appeal of a final decision or order of the City Council shall be in accordance with NH RSA 677:4.

27.8 APPEAL OF DECISIONS ON STREET ACCESS PERMITS

- A. An applicant or abutter may appeal any decision of the City Engineer relative to decisions on street access permit applications to the Planning Board, provided the notice of appeal is filed with the Community Development Department within 30-calendar days from the date of the City Engineer's decision, and all applicable fees are paid.
- B. The notice of appeal shall specify all grounds on which the appeal is based.
- C. Any aggrieved party appealing such a decision of the City Engineer is entitled to a de novo review before the Planning Board.
- D. The Planning Board shall have final jurisdiction over all such appeals.

27.9 APPEAL OF DECISIONS ON EARTH EXCAVATION PERMITS

- A. Following the approval or disapproval of an earth excavation permit, or the approval or disapproval of an amended or renewed earth excavation permit, or the suspension or revocation of an earth excavation permit, or the approval or disapproval of a waiver or exception to earth excavation permit requirements, any interested party affected by such decision may appeal to the Planning Board for a rehearing of such decision, or any matter determined thereby, in accordance with the provisions of NH RSA 155-E:9.

- B. The motion for a rehearing shall fully specify every ground upon which it is alleged that the decision or order complained of is unlawful or unreasonable and shall be filed within 10-days of the date of the decision appealed from.
- C. The Planning Board shall either grant or deny the request for rehearing within 10-days, and if the request is granted, a rehearing shall be scheduled within 30-days. Any person affected by the Planning Board's decision on a motion for rehearing may appeal in conformity with the procedures specified in NH RSA 677:4-15.

27.10 APPEAL OF FLOODPLAIN ADMINISTRATOR DECISION

- A. **In accordance with NH RSA 674:56 and 676:5, appeals to written decisions of the Floodplain Administrator shall be made to the Zoning Board of Adjustment, provided the notice of appeal is filed with the Community Development Department within 30 calendar days after the date of the Floodplain Administrator's decision.**
 - 1. **The notice of appeal shall specify all grounds on which the appeal is based, and why the request of appeal should be granted.**
- B. **Any person aggrieved by the decision of the Zoning Board of Adjustment shall petition for a rehearing, in accordance with NH RSA 677:1-14, before appealing the decision to the Superior Court.**



CITY OF KEENE

In the Year of Our Lord Two Thousand and Twenty Five

AN ORDINANCE Relating to Floodplain Ordinance Appeals Process Articles, 24 Floodplain Regulations, 26 Application Procedures, 27 Appeals,

Be it ordained by the City Council of the City of Keene, as follows:

Chapter 100 of the Code of Ordinances, the Land Development Code of the City of Keene, New Hampshire, as amended, is hereby further amended by adding the bolded and underlined text, as follows section 24.1.3 E., Section 24.7, Section 26.20 through 26.20.7, and Section 27.10.

1. Article 24. Floodplain Regulations:

Article 24.1.3 E.

E. For the purposes of this Article, the term “development” means “any man-made change to improved or unimproved real estate.” This includes, but is not limited to construction of new structures, modifications or improvements to existing structures this includes replacement of equipment, excavation, filling, paving, drilling, driving of piles, mining, dredging, land clearing, grading, and permanent storage of materials and/or equipment.

24.7 Appeals & Variances.

A. Any order, decision, or determination of the Floodplain Administrator made under this section may be appealed to the Zoning Board of Adjustment as set forth in RSA 676:5, 674:56 I, and Articles 26 and 27 of this Land Development Code.

B. Variances shall not be issued within any regulatory floodway.

2. Article 26. Application Procedures:

26.20 Floodplain Variance

26.20.1 Description

Variances are intended to address unnecessary hardships or practical difficulties resulting from the strict interpretation of the Floodplain Regulations. The purpose of the variance process is to provide a narrowly limited means by which relief may be granted from the unforeseen applications of the Floodplain Regulations.

26.20.2 Initiation

The applicant for a variance shall either own the fee simple interest in the property(s) that is the subject of the review or have written permission of the fee simple owner.

26.20.3 Authority

The Zoning Board of Adjustment has the authority to authorize variances from the provisions of the Floodplain Regulations of this LDC, subject to the requirements of this Article, and NH RSA 674:33. Provided that a variance shall not be granted within any regulatory floodway

26.20.4 Submittal Requirements

An applicant for a Floodplain variance shall submit a completed variance application to the Community Development Department, which shall include the following.

A. A written narrative that describes:

1. The property location, owner of the subject property, and explains the purpose and effect of, and justification for, the proposed variance, including a response to each of the variance criteria.
2. That the variance will not result in increased flood heights, additional threats to public safety or extraordinary public expense.
3. That the variance is the minimum necessary, considering the flood hazard, to afford relief.

B. A scaled plot plan clearly displaying the location and dimensions of all structures and open spaces on the lot in question and on the adjacent lots, as well as any proposed changes to the site, such as, but not limited to, additions to existing structures or the construction of new structures, land alterations and any supporting evidence.

E. Any technical reports prepared by a NH licensed engineer or qualified professional, which may be required or reasonably requested by the respective decision-making authority, based on the nature and scope of the proposal. Such reports and plans may include, but are not limited to, wetland analyses, hydrologic analyses, floodproofing, soils testing, hazardous or toxic substances testing, and elevation certificates.

F. A list of abutters and others requiring notification. This list shall include the name, mailing address, street address, and tax map parcel number for: all owners of property that directly abuts and/or is directly across the street or stream from the subject parcel; all owners of property located within 200-ft of the subject parcel; and, any holders of conservation, preservation or agricultural preservation restrictions. The list shall also include the name and mailing address of the applicant.

G. 2 sets of mailing labels for each abutter and others requiring notice, including the owner of the subject property and their authorized agent.

H. Application fee as set forth in the LDC Schedule of Fees in Appendix B of the City Code of Ordinances, including the costs for published and mailed notice.

26.20.5 Procedure

In addition to the common application and review procedures of this Article, the following review and approval procedures shall apply to applications for a floodplain variance.

A. Once an application is determined to be complete, the Zoning Administrator, or their designee, shall forward it to the Zoning Board of Adjustment for a public hearing.

B. The Zoning Administrator, or their designee, shall provide published and mailed notice of this public hearing pursuant to NH RSA 676:7.

C. Prior to deciding on the application, the Zoning Board of Adjustment shall render, as appropriate, findings of fact by majority vote.

D. The Zoning Board of Adjustment shall give reasons for all decisions on variance applications and shall make reference to the appropriate sections of the Floodplain Regulations, where applicable.

E. The Zoning Board of Adjustment shall notify the applicant, in writing, that the issuance of a variance to construct below the base flood level will result in increased premium rates for flood insurance up to amounts as high as twenty-five dollars (\$25.) for one hundred dollars (\$100.) of insurance coverage and such construction below the base flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions.

F. The City shall maintain a record of all variance actions, including its justification for their issuance, and report such variances issued in its annual or biennial report submitted to FEMA's Federal Insurance Administrator.

26.20.6 Approval Standards

The Zoning Board of Adjustment may authorize a variance from specific requirements of the Floodplain Regulations only when the Board finds that all of the following conditions apply.

A. The variance will not be contrary to the public interest.

B. The proposed variance is not contrary to the spirit of the Floodplain Regulations.

C. By granting the variance substantial justice would be done.

D. The values of surrounding properties would not be diminished.

E. Literal enforcement of the provisions of the Floodplain Regulations would result in unnecessary hardship.

F. That the variance will not result in increased flood heights, additional threats to public safety or extraordinary public expense, technical data may be required as outlined in section 26.20.4 E

G. That the variance is the minimum necessary, considering the flood hazard, to afford relief.

26.20.7 Expiration

A. Any variance granted by the Zoning Board of Adjustment shall be void if the use or structure authorized by the variance has not been begun within 2-years from the date of final approval.

B. Any application for an extension shall be heard as a new application; any other time limitation shall be specifically prescribed by the Zoning Board of Adjustment.

3. Article 27. Appeals:

27.10 APPEAL OF FLOODPLAIN ADMINISTRATOR ADMINISTRATIVE DECISION

A. In accordance with NH RSA 674:56 and 676:5, appeals to written decisions of the Floodplain Administrator shall be made to the Zoning Board of Adjustment, provided the notice of appeal is filed with the Community Development Department within 30 calendar days after the date of the Floodplain Administrator's decision.

1. The notice of appeal shall specify all grounds on which the appeal is based, and why the request of appeal should be granted.

B. Any person aggrieved by the decision of the Zoning Board of Adjustment shall petition for a rehearing, in accordance with NH RSA 677:1-14, before appealing the decision to the Superior Court.

Jay V. Kahn, Mayor

SECTION 15. VOTING AND CONFLICT OF INTEREST.

Every Councilor present when a vote is required shall state their vote except when the Councilor has a conflict of interest in the matter under consideration. A conflict of interest shall be defined to exist when a proposed action, decision, or discussion ("Item") presented to the City Council for consideration, would affect the Councilor's Special Interest. A "Special Interest" shall be defined as follows:

Any financial or non-financial personal interest in the outcome of an Item that is the subject of official activity, distinct from and greater than the interests of the public at large:

- (i) A financial interest exists where a City Councilor or Household Member, or a person or organization, whether nonprofit or for profit, by which the City Councilor is employed, or from which the City Councilor receives compensation, to act as the person's or organization's agent or advocate, could stand to gain or lose anything of material value as a result of the official activity.
- (ii) A non-financial personal interest exists where a City Councilor or Household Member has a Substantial Interest in the welfare of an organization, whether nonprofit or for profit, by virtue of holding a position with a fiduciary responsibility, such as a board member, trustee, or director.
- (iii) A City Councilor or Household Member's ownership of securities of a publicly traded corporation shall not be construed to constitute a Special Interest in matters that may affect the corporation unless the City Councilor or Household Member serves as an officer, board member, trustee or director of the corporation or owns more than one percent of the outstanding securities of the corporation.

"Substantial Interest" in an organization shall include any of the following factors:

- i. The person founded the organization;
- ii. The person is a substantial contributor to the organization;
- iii. The person's compensation is primarily based on revenues derived from activities of the organization, or of a particular department or function of the organization, that the person controls;
- iv. The person has or shares authority to control or determine a substantial portion of the organization's capital expenditures, operating budget, or compensation for employees;
- v. The person manages a discrete segment or activity of the organization that represents a substantial portion of the activities, assets, income, or expenses of the organization, as compared to the organization as a whole; or
- vi. The person owns a controlling interest (measured by either vote or value) in a corporation, partnership, or trust or other entity.

A Special Interest shall be deemed to exist when any person living in the same domicile as the Councilor (excluding persons with a leasehold interest) and who shares a common economic interest in the expenses of daily living with the Councilor, including but not limited to a spouse, parent, or child 18 years of age or older ("Household Member") has a Special Interest in a proposed Item. A Councilor with a Special Interest on a Council agenda shall file with the City Clerk the written particulars of the Special Interest for inclusion on the Council agenda. If the Special Interest becomes known to a Councilor during a meeting, the Councilor should immediately disclose the particulars of the Special Interest. The question of whether or not a Special Interest exists will then be decided by a majority vote of the Councilors present. The Councilor who may have a Special Interest shall not vote on the question of the existence of the Special Interest. When a Special Interest is determined by the City Council to exist, the member having the Special Interest shall be prohibited from participating in the discussion and the vote on the Item. Except at a duly noticed public hearing, or a public meeting, in which the public is allowed to speak, no Councilor having a Special Interest may discuss the Item in which he or she has a Special Interest with any other Councilor in any other place or any other time. If a Councilor with a Special Interest wishes to speak at a public hearing, or in a public meeting, the Councilor shall do so from the audience section of the meeting.

Any Councilor having reasonable grounds to believe that another Councilor has a Special Interest may raise the question on his or her own motion. The Mayor shall also be subject to the Rule on Voting and Conflict of Interest

notwithstanding whether or not the Mayor is entitled to vote on an Item. The question of whether or not a Special Interest exists is subject to debate. The question will then be decided by the Council as set forth above.

The Mayor and Councilors shall file with the City Clerk in January of each year a Statement of Special Interests on a form prepared for that purpose by the City Clerk. The Statement of Special Interests shall identify for the Mayor and for each Councilor and for each Household Member the person's employer, and any board, commission, organization, association, or other entity in which the Mayor and Councilor or Household Member has a Substantial Interest. The Statement of Special Interests shall be available in the Office of the City Clerk for public inspection.

(Amended 6-5-1975, 4-15-1976, 4-20-1978, 4-17-1980, 6-18-1981, 8-2-1984, 4-18-1991, 2-17-2005, 6-5-2008, 1-18-2018, 6-18-2020, 4-7-2022)

SECTION 15. VOTING AND CONFLICT OF INTEREST.

Every Councilor present when a vote is required shall state their vote except when the Councilor has a conflict of interest in the matter under consideration. A conflict of interest shall be defined to exist when a proposed action, decision, or discussion ("~~Issue/Item~~") presented to the City Council for consideration, would affect the Councilor's **Special Interest**. ~~pecuniary or personal interests. A pecuniary interest is any private financial interest, whether in the form of money, property or other commercial or financial consideration, the primary significance of which is an economic gain to the Councilor which is not otherwise available to the public generally ("Pecuniary Interest"). A personal interest is any interest of a Councilor in the outcome of an Issue which would provide a financial benefit to any individual, group, or organization in which the Councilor has an interest, and which would (or could be reasonably perceived to) inhibit the impartial judgment of, or decision on, the Issue by the Councilor ("Personal Interest").~~ Membership in an organization generally, and not in a leadership capacity, shall not be considered a Personal Interest. A conflict of interest "**Special Interest**" shall be deemed **defined as follows:** to exist when a Councilor's spouse, parent, child, or other member of the Councilor's immediate family living in the same household ("~~Immediate Family~~") has a Pecuniary Interest in a proposed Issue. A Councilor with a conflict of interest on a Council agenda shall file with the City Clerk the written particulars of the conflict of interest for inclusion on the Council agenda. If the conflict becomes known to a Councilor during a meeting, the Councilor should immediately disclose the particulars of the conflict of interest. The question of whether or not a conflict exists will then be decided by a majority vote of the Councilors present. The Councilor who may have a conflict of interest shall not vote on the question of the existence of the conflict of interest. When a conflict of interest is determined by the City Council to exist, the member having the conflict shall be prohibited from participating in the discussion and the vote on the Issue. Except at a duly noticed public hearing, or a public meeting, in which the public is allowed to speak, no Councilor having a conflict of interest may discuss the Issue in which he or she has a conflict with any other Councilor in any other place or any other time. If a Councilor with a conflict of interest wishes to speak at a public hearing, or in a public meeting, the Councilor shall do so from the audience section of the meeting.

Any financial or non-financial personal interest in the outcome of an Item that is the subject of official activity, distinct from and greater than the interests of the public at large:

- i. **A financial interest exists where a City Councilor or Household Member, or a person or organization, whether nonprofit or for profit, by which the City Councilor is employed, or from which the City Councilor receives compensation, to act as the person's or organization's agent or advocate, could stand to gain or lose anything of material value as a result of the official activity.**
- ii. **A non-financial personal interest exists where a City Councilor or Household Member has a Substantial Interest in the welfare of an organization, whether nonprofit or for profit, by virtue of holding a position with a fiduciary responsibility, such as a board member, trustee, or director.**
- iii. **A City Councilor or Household Member's ownership of securities of a publicly traded corporation shall not be construed to constitute a Special Interest in matters that may affect the corporation unless the City Councilor or Household Member serves as an officer, board member, trustee or director of the corporation or owns more than one percent of the outstanding securities of the corporation.**

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- i. **The person founded the organization;**
- ii. **The person is a substantial contributor to the organization;**
- iii. **The person's compensation is primarily based on revenues derived from activities of the organization, or of a particular department or function of the organization, that the person controls;**
- iv. **The person has or shares authority to control or determine a substantial portion of the organization's capital expenditures, operating budget, or compensation for employees;**
- v. **The person manages a discrete segment or activity of the organization that represents a substantial portion of the activities, assets, income, or expenses of the organization, as compared to the organization as a whole; or**

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- vi. The person owns a controlling interest (measured by either vote or value) in a corporation, partnership, or trust or other entity.

A Special Interest shall be deemed to exist when any person living in the same domicile as the Councilor (excluding persons with a leasehold interest) and who shares a common economic interest in the expenses of daily living with the Councilor, including but not limited to a spouse, parent, or child 18 years of age or older ("Household Member") has a Special Interest in a proposed Item. A Councilor with a Special Interest on a Council agenda shall file with the City Clerk the written particulars of the Special Interest for inclusion on the Council agenda. If the Special Interest becomes known to a Councilor during a meeting, the Councilor should immediately disclose the particulars of the Special Interest. The question of whether or not a Special Interest exists will then be decided by a majority vote of the Councilors present. The Councilor who may have a Special Interest shall not vote on the question of the existence of the Special Interest. When a Special Interest is determined by the City Council to exist, the member having the Special Interest shall be prohibited from participating in the discussion and the vote on the Item. Except at a duly noticed public hearing, or a public meeting, in which the public is allowed to speak, no Councilor having a Special Interest may discuss the Item in which he or she has a Special Interest with any other Councilor in any other place or any other time. If a Councilor with a Special Interest wishes to speak at a public hearing, or in a public meeting, the Councilor shall do so from the audience section of the meeting.

Any Councilor having reasonable grounds to believe that another Councilor has a ~~conflict of interest~~ **Special Interest** may raise the ~~issue~~ **question** on his or her own motion. The Mayor shall also be subject to the Rule on ~~Conflict of Interest~~ **Voting and Conflict of Interest** notwithstanding whether or not the Mayor is entitled to vote on an ~~Issue~~ **Item**. The question of whether or not a ~~conflict of interest~~ **Special Interest** exists is subject to debate. The question will then be decided by the Council as set forth above.

The Mayor and Councilors shall file with the City Clerk in January of each year a Statement of **Special** Interests on a form prepared for that purpose by the City Clerk. The Statement of **Special** Interests shall identify for the Mayor and for each Councilor and for each ~~other person in the Immediate Family~~ **Household Member** the person's employer, and ~~for the Mayor and for each Councilor,~~ any board, commission, organization, association, or other entity **in which the Mayor and Councilor or Household Member has a Substantial Interest.** ~~is a member of, and whether or not the person holds a leadership position in that organization.~~ The Statement of **Special** Interests shall be available in the Office of the City Clerk for public inspection.

(Amended 6-5-1975, 4-15-1976, 4-20-1978, 4-17-1980, 6-18-1981, 8-2-1984, 4-18-1991, 2-17-2005, 6-5-2008, 1-18-2018, 6-18-2020, 4-7-2022)