ORDINANCE

O-2022-09-B

CITY OF KEENE

In the Year of Our Lord Two Thousand and .....**Twenty-Two**.....

AN ORDINANCE .....**Relating to Amendments to the Land Development Code**.....

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 3.1.5 "Permitted Uses" of Article 3 be amended to display "Dwelling, Two-Family / Duplex" and "Dwelling, Multifamily" as permitted uses by a Conservation Residential Development Subdivision in the Rural District.

2. That Section 3.3.5 "Permitted Uses" of Article 3 be amended to display "Dwelling, Two-Family / Duplex" and "Dwelling, Multifamily" as permitted uses by a Conservation Residential Development Subdivision in the Low Density District.

3. That Section 3.4.5 "Permitted Uses" of Article 3 be amended to display "Dwelling, Two-Family / Duplex" and "Dwelling, Multifamily" as permitted uses by a Conservation Residential Development Subdivision in the Low Density 1 District.

4. Update Table 8-1 "Permitted Principal Uses by Zoning District" in Article 8 to display "Dwelling, Two-Family / Duplex" and "Dwelling, Multifamily" as permitted uses by a Conservation Residential Development Subdivision in the Rural, Low Density, and Low-Density 1 Districts.

5. That Section 19.3.2.C "Density" of Article 19 be amended as follows:

   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.~~

   1. The 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.

   2. A density bonus may be granted to developments that meet the criteria for one or more of the density incentives detailed in Section 19.3.6. In no instance shall a total density bonus of more than 30% above the standard allowable density be granted to any single development. This section shall not be waivable.

6. That Table 19-1 "Dimensional Requirements for Conservation Residential Development Subdivisions" in Article 19 be amended to change the minimum lot area for the Rural District from 1 acre to 32,000 square feet.

7. That Table 19-1 "Dimensional Requirements for Conservation Residential Development Subdivisions" in Article 19 be amended to add a footnote that states "New lots in the Rural District that are created as part of a CRD that are less than 1 acre in size may utilize an approved Subsurface Disposal System."

8. Remove Section 19.3.2.D "Open Space Reserve," sub-section 2 of Article 19, which sates "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."

9. That Table 19-2 "Density & Open Space Requirements" in Article 19 be amended as follows:

Zoning District	Density Factor per Dwelling Unit[1]	Min Open Space
Rural	~~4 acres~~ **2 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%

[1] Density bonus(es) may be granted as specified in Section 19.3.6

10. That Table 19-3 "Conservation Residential Development Permitted Uses" be amended as follows:

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[1] (max of 3 dwelling units per structure)	P[1] (max of 3 dwelling units per structure)	P (max of 6 dwelling units per structure)

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

P1 = Use permitted with workforce housing density incentive

11. That a new Section entitled "Optional Density Incentives" be added after Section 19.3.5 of Article 19, as follows:

Section 19.3.6: Optional Density Incentives

Conservation Residential Development Subdivisions that meet certain performance criteria shall be eligible for a density bonus above the standard allowable density, up to a maximum of 30%. The 30% density cap shall not be waivable. If a density incentive is granted, the minimum lot size specified in Table 19-1 shall be waived.

A. Open Space Density Incentive. Conservation Residential Development Subdivisions with a minimum tract size of 10 acres that permanently reserve at least 65% of the existing tract area as open space shall be eligible for a density bonus of 10% or one dwelling unit, whichever is greater.

B. Solar Density Incentive. Conservation Residential Development Subdivisions that meet the following criteria shall be eligible for a density bonus of 10% or one dwelling unit, whichever is greater:

1. **At least 50% of the lots shall be solar-oriented. A "solar-oriented lot" shall mean a lot with its longest lot line dimension oriented to within thirty (30) degrees of a true east-west line.**
2. **The long axis of all dwelling units on solar-oriented lots shall be oriented so that the long axis faces within 20 degrees of true south.**
3. **At least four (4) kilowatts of solar PV shall be installed for each dwelling unit on a solar-oriented lot.**
4. **Where, as determined by the City, topographic, environmental, and soil conditions, and existing street configurations permit, the predominant pattern of new streets in subdivisions subject to this section shall be oriented within thirty (30) degrees of east-west orientation.**

C. Workforce Housing Density Incentive. Conservation Residential Development Subdivisions that meet the criteria below shall be eligible for a density bonus of 20% or one dwelling unit, whichever is greater. In addition, the permitted uses for a development that meets this section in the Rural District or Low Density-1 District shall include "multifamily dwelling" (max of 3 units per structure).

1. **Workforce Housing, Owner-Occupied. A Workforce Housing Density Incentive will be granted to developments that guarantee the following:**
   a. **Twenty percent (20%) or more of the units constructed will be sold at initial sale for a price that can be afforded by a household with an income not more than 80% of the HUD Median Area Income for a family of four in Cheshire County.**
   b. **Units will be sold with a deed restriction and recorded housing agreement that names an Income Verification Agent who will verify that the purchaser meets the income requirements. The resale value of the unit shall be restricted to the affordable purchase price for a period of 30 years. The resale value of the unit is not to be more than the original purchase price plus two times the accumulated consumer price index.**

c. All units built under this provision shall be of the same approximate size, character, quality, and construction as the market rate units, and shall be distributed evenly throughout the project.

d. Affordability shall be defined as housing that can be purchased under a conventional mortgage whereby the combined annual expenses for principal, interest, property taxes, homeowner's insurance and condominium fees (if applicable) will not exceed 30% of household income.

2. Workforce Housing, Rental. A Workforce Housing Density Incentive will be granted to developments that guarantee the following:

a. Twenty percent (20%) or more of the units constructed will be rented for a price that can be afforded by a household with an income not more than 60% of the HUD Median Area Income for a family of three in Cheshire County.

b. Units will be rented with a deed restriction and recorded housing agreement that names an Income Verification Agent who will verify that the renter meets the income requirements. The rental value of the unit shall be restricted to the affordable rental price for a period of 30 years.

c. All units built under this provision shall be of the same approximate size, character, quality, and construction as the market rate units, and shall be evenly distributed throughout the project.

d. Affordability shall be defined as housing that can be rented whereby the combined annual rental and utility expenses will not exceed 30% of household income.

3. Assurance of Continued Affordability. In order to qualify as workforce housing under this section, the application shall make a binding commitment that the dwelling units will remain affordable for a period of 30 years. This shall be enforced through a deed restriction, restrictive covenant, or some other contractual arrangement through a local, state or federal housing authority or other non-profit housing trust or agency to administer this provision. No dwelling unit created by this bonus shall be occupied until written confirmation of the income eligibility of the tenant or buyer of the unit has been documented.

12. That Section 25.10.5 "Submittal Requirements," sub-section C "Conservation Residential Development Subdivision Applications" of Article 25 be amended as follows:

In addition to the submittal requirements for a subdivision or boundary line adjustment in Section 25.10.5.B, a completed application for a proposed conservation residential development subdivision shall include the following.

1. An overview plan (1-copy on 22-in by 34-in paper or larger size; 1-copy on 11-in by 17- in paper; and, an electronic pdf file), which displays the entire tract and any existing public roads, public or private protected lands, woodlands areas, surface waters, and precautionary or prohibitive slopes located within 200-ft of the tract.

2. An existing conditions plan displaying the location of primary and secondary conservation values as defined in Section 19.3 of this LDC.

~~3. A yield analysis (1-copy on 22-in by 34-in paper or larger size; 1-copy on 11-in by 17-in paper; and, an electronic pdf file) to determine the number of residential units that may be permitted within a conservation residential development subdivision. Although this plan shall be drawn to scale, it need not be based upon a field survey. The yield analysis may be prepared as an overlay to the existing conditions plan.~~

~~a. The yield analysis shall be performed by applying a conventional subdivision layout, including lots conforming to the dimensional standards of the underlying zoning district and streets needed to access such lots. The conventional layout shall reflect a development density and pattern, taking into account surface waters, floodplains, steep slopes, existing easements or encumbrances, and the suitability of soils for private subsurface wastewater disposal if City sewer service is not available.~~

4 **3**. A proposed conditions plan including the following.

a. The area(s) designated as Open Space, any common land and any specifically protected conservation values.

b. Any proposed uses of the Open Space (e.g. agriculture, recreation, forestry, etc.) and/or common lands shall be noted on the plan.

c. The location and dimensions of any proposed roads, sidewalks, and trails.

5 **4**. A landscaping plan (1-copy on 22-in by 34-in paper or larger size; 1-copy on 11-in by 17-in paper; and, an electronic pdf file) providing the following information:

a. The location of existing wooded and vegetated areas and proposed changes to the outline of these areas.

b. The location, species and size of all landscaping materials proposed to be installed on the site, including street trees.

c. A table listing all plant species to be installed on the site, indicating the size (average height and width) at planting and at maturity as well as the number of each species to be installed.

6 **5.** Written documentation of the process applied by the applicant in the layout of the proposed conservation residential development subdivision to ensure that proposed or future development does not adversely impact primary and secondary conservation areas as defined in Section 19.3 of this LDC.

6. Applications that include a request for the Solar Density Incentive in Section 19.3.6.B shall include the following information:

a. A written request for the density incentive that describes how the application meets the requirements of Section 19.3.6.B.

b. A solar access plan that displays the building areas or locations of structures on all solar-oriented lots in order to demonstrate that it would be possible to site a structure

which is unshaded by other nearby structures, site features, or topography. This solar access plan shall demonstrate that the building areas or structures on solar-oriented lots are not obscured by any vegetation, building, or object for a minimum of four hours between the hours of 9:00 AM and 3:00 PM Standard time on any day of the year. This plan may be included as an overlay to the subdivision plan or site plan, if required.

7. Applications that include a request for the Workforce Housing Density Incentive in Section 19.3.6.C shall include the following information:

a. A written request for the density incentive that includes a calculation of the number of units provided under this section and a description of each unit's size, type, number of bedrooms, estimated cost, location within the development, and other relevant data.

c. Written statement describing how the proposed development will meet the requirements of Section 19.3.6.C.3.

d. The Planning Board shall request additional information if, in their judgment, it is necessary to determine whether the requirements of Section 19.3.6.C have been met.

13. That Section 25.10.9 "Filing," sub-section C of Article 25 be amended as follows:

C. For approved conservation residential development subdivision applications, applicants shall also submit written documentation of any legal instruments required for the management of the designated Open Space land ~~to the Community Development Department~~. **In addition, applicants shall submit written documentation of any legal instruments required to demonstrate compliance with the criteria of any and all optional density incentives granted by the Planning Board.** Such documents **shall be submitted to the Community Development Department and** are subject to the review and approval of the City Attorney prior to signature.

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George S. Hansel, Mayor