



CITY OF KEENE NEW HAMPSHIRE

ITEM #1.1.

Meeting Date: March 16, 2023
To: Mayor and Keene City Council
From: Evan Clements, Planner
Through: Jesse Rounds, Community Development Director
Elizabeth Dragon, City Manager
Subject: **Relating to Amendments to the Land Development Code, Accessory Dwelling Units Ordinance O-2023-06**

Council Action:

In City Council March 16, 2023.

Referred to the Joint Planning Board and Planning, Licenses and Development Committee.

Recommendation:

That Ordinance O-2023-06 be referred to the Joint Committee of the Planning Board and the Planning, Licenses and Development Committee for a public workshop.

Attachments:

1. O-2023-06_Application_Signed
2. Narrative
3. Ordinance O-2023-06
4. Article 1_Introductory Provisions_03_08_23
5. Article 8_Zoning Use Chapter_03_08_23

Background:

This ordinance proposes to amend Article 1 – Introductory Provisions and Article 8 – Permitted Uses by removing the distinction between attached and detached Accessory Dwelling Units (ADUs), increasing the allowable gross floor area, removing the minimum required gross floor area, expanding the locations in which they are allowed, and reducing the amount of parking that is required. These proposed changes will allow for greater opportunity for property owners to construct ADUs and expand housing options throughout the City of Keene.



APPLICATION TO AMEND THE ZONING ORDINANCE

Petitioner: City of Keene Community Development Dept. Date: 3/10/2023

Address: 3 Washington Street, Keene NH

Telephone: (603) 352-5440 Email: communitydevelopment@keenenh.gov

Existing Section Reference in Chapter 100, Land Development Code: Article 1, Section 1.1.3; Article 8, Section 8.4.2

Does the amendment affect "Minimum Lot Size"? [] Yes [x] No

Does the amendment affect "Permitted Uses"? [] Yes [x] No

Number of parcels in Zoning District*: N/A

Validation of Number of parcels by the Community Development Department

[Signature]
Petitioner's Signature

SUBMITTAL REQUIREMENTS WHICH MUST BE COMPLETE AT TIME OF SUBMISSION TO THE CITY CLERK:

- A properly drafted Ordinance containing the amendment in a form meeting the requirements of the City Clerk.
A typed or neatly printed narrative explaining the purpose of, effect of, and justification for the proposed change(s).
\$100.00 application fee.
As provided for in RSA 675:7, if the proposed amendment would change the minimum lot sizes or the permitted uses in a zoning district, *and such change includes 100 or fewer properties, the Petitioner shall submit a notarized list of property owners affected by the zoning amendment. The list shall include the tax map number and address of each abutter or owner, and must be current with the Assessing Department's records within ten days of submittal. Two sets of mailing labels shall be provided.

Date Received by City Clerk: 03/13/2023 Ordinance Number: 0-2023-06

On City Council agenda: 03/16/2023 Workshop to be held:

Public Hearing to be held



APPLICATION TO AMEND THE ZONING ORDINANCE

APPLICABLE FEES:

Application Fee @ \$100.00 \$ _____

Publication of Notice in The Keene Sentinel @ \$90.00 \$ _____

Postage Fees for property owners/agents and abutters at
current USPS 1st Class Mailing rate
(Only needed if amendment impacts 100 or fewer properties) \$ _____

Total Fees submitted to City Clerk \$ N/A

The petitioner is also responsible for the publication costs for the public workshop before the joint Planning Board and Planning, Licenses and Development Committee. Additional fees will be collected by the Community Development Department for the mailing costs associated with the public workshop (If a mailing is required pursuant to RSA 675:7), as well as the publication of the public workshop notice.

CITY OF KEENE
NEW HAMPSHIRE

**O-2023-06 Relating to Amendments to the City of Keene Land Development Code,
Accessory Dwelling Units**

The attached materials include the full text of Ordinance O-2023-06 relating to proposed amendments to the City of Keene Land Development Code (LDC), as well as excerpted sections of the adopted City of Keene Land Development Code that are proposed to be amended with Ordinance O-2023-06. Text that is highlighted in yellow and bolded is proposed to be added; and, text that is stricken through is proposed to be deleted.

This ordinance proposes to amend Article 1 – Introductory Provisions and Article 8 – Permitted Uses by removing the distinction between attached and detached Accessory Dwelling Units (ADUs), increasing the allowable gross floor area, removing the minimum required gross floor area, expanding the locations in which they are allowed, and reducing the amount of parking that is required. These proposed changes will allow for greater opportunity for property owners to construct ADUs and expand housing options throughout the City of Keene.



CITY OF KEENE

In the Year of Our Lord Two Thousand and Twenty Three

AN ORDINANCE Relating to Amendments to the Land Development Code, Accessory Dwelling Units

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 1.3.3 “Setbacks & Build-To Dimensions” of Article 1, subsection 4.e “The following structures may encroach up to 10-ft from the rear lot line of lots in residential zoning districts.” be amended as follows:
 - a. **iv. Accessory Dwelling Units, either detached or attached**
2. That Section 8.4.2.A “Accessory Dwelling Unit (ADU)” of Article 8, subsection 1 “Defined” be amended as follows:
 - a. Defined. An independent living unit ancillary to a single-family dwelling ~~unit~~ and under the same ownership as the principal dwelling unit. The unit may be an attached Accessory Dwelling Unit (ADU), located within or attached to the principal dwelling unit, or a detached ADU, located in **or as** a detached accessory building on the property.
3. That Section 8.4.2.2 “Use Standards” of Article 8, subsection c be amended as follows:
 - c. ~~Attached ADUs~~ **ADUs shall be permitted in any district and on any lot that contains a single-family dwelling. This shall include any legal non-conforming single-family dwelling.**
 - i. ~~Attached ADUs shall only be permitted in the Agriculture, Rural, Low Density, Low Density 1, Medium Density, High Density, High Density 1, Neighborhood Business, Office, Residential Preservation, and Downtown Transition Districts.~~
 - ii. ~~Attached ADUs shall have a minimum gross floor area of 400-sf. In no case shall the gross floor area exceed 800-sf.~~

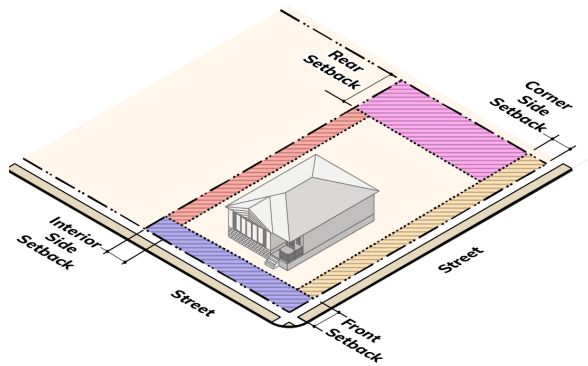
4. That Section 8.4.2.2 “Use Standards” of Article 8, subsection d be amended as follows:
- d. ~~Detached ADUs~~ **ADUs shall not exceed a maximum gross floor area of 1000-sf.**
 - i. ~~Detached ADUs shall only be permitted in the Agriculture and Rural Districts.~~
 - ii. ~~Detached ADUs shall have a minimum gross floor area of 400-sf, and, in no case, shall the floor area be greater than 50% of the gross floor area of the principal dwelling unit or greater than 1,000-sf, whichever is less.~~
5. That Section 8.4.2.2 “Use Standards” of Article 8, subsection f be amended as follows:
- f. ~~No more than 2 parking spaces shall be permitted for an ADU.~~ **Only 1 parking space shall be required for an ADU.**
6. That Section 8.4.2.2 “Use Standards” of Article 8, subsection k be added as follows:
- k. **An ADU is subject to the same overlying zoning district’s dimensions & siting, buildout, and height requirements, as permitted by RSA 674:72, that would be required for a single-family dwelling without an ADU. In the case of zoning districts that do not allow a single-family dwelling, the zoning district’s dimensions & siting, buildout, and height requirements shall apply.**
 - i. **An ADU may encroach up to 10-ft from the rear lot line of any lot where an ADU is permitted.**

In City Council March 16, 2023.
Referred to the Joint Planning
Board and Planning, Licenses and
Development Committee.



Patricia Castle
City Clerk

George S. Hansel, Mayor



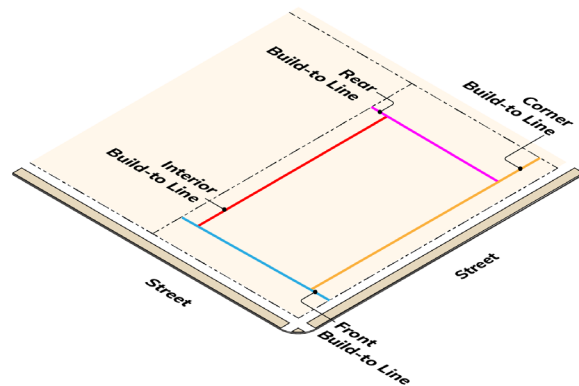
4. Structure Setback Exceptions.

- a. The following may be excluded from required setbacks.
 - i. Steps and stairs necessary to provide access to a building or structure
 - ii. Access landings up to 25-sf
 - iii. Structures necessary to afford access for persons with physical disabilities
 - iv. Canopies and awnings
 - v. One detached utility accessory building of less than 125-sf (e.g. garden shed)
 - vi. Fences
 - vii. Signs as regulated by Article 10
- b. Paved and unpaved parking lots and associated travel surfaces associated with all uses other than single- and two-family dwellings shall comply with the setback requirements in Section 9.4 of this LDC.
- c. Driveways and parking spaces associated with single- and two-family dwellings shall comply with the setback requirements in Section 9.3 of this LDC.
- d. If a front building setback extends beyond the front of a legally nonconforming building, an accessory use or structure may occupy the portion of the front setback beyond the front of

the building.

- e. The following structures may encroach up to 10-ft from the rear lot line of lots in residential zoning districts.
 - i. Pools, either above- or in-ground
 - ii. Decks, either detached or attached
 - iii. Garages, either detached or attached
 - iv. **Accessory Dwelling Units, either detached or attached**

- B. **Building Façade Line.** The vertical plane along a lot where the building's façade is located. Upper story building façade lines relate to that part of the façade that requires a setback.
- C. **Build-To Line (BTL).** A build-to line (BTL) is a set line on a lot, measured perpendicularly from the applicable lot line, where a structure must be located. The building façade line of a structure must be located on the build-to line. Façade articulation (e.g. window or wall recesses and projections) are not counted as the building façade line, which begins at the applicable façade wall.



- D. **Build-To Percentage.** A build-to percentage specifies the percentage of the building façade that must be located within the build-to zone or at the build-to line. Façade articulation (e.g. window or wall recesses and projections) do not count against the required build-to percentage. Plazas, outdoor dining, and other public open space features that are also bounded by a building façade parallel to the frontage are

8.4 ACCESSORY USES & STRUCTURES

8.4.1 General

- A. All accessory uses shall comply with the standards in Section 8.4.1.
- B. Accessory uses and structures may be permitted in conjunction with permitted principal uses. Permitted accessory uses and structures include those listed in Section 8.4.2 and additional accessory uses and structures that, as interpreted by the Zoning Administrator, meet the following criteria.
 - 1. Are clearly incidental and customarily found in connection with an allowed principal building or use.
 - 2. Are subordinate in area, extent, and purpose to the principal building or use served.
 - 3. Are located on the same site as the principal building or use served.
 - 4. Were not established on a lot prior to the establishment of a permitted principal use.
 - 5. Do not create a public or private nuisance.
- C. Accessory uses and structures shall comply with the dimensional requirements (e.g. setbacks, lot coverage, height) of the zoning district in which they are located, unless an exception is expressly granted below or elsewhere in this LDC.
 - 1. No accessory use or structure may occupy any part of a front setback unless the front setback extends beyond the front of a legally nonconforming building; in such case, the portion beyond the front of the building may be used.

8.4.2 Specific Use Standards

A. Accessory Dwelling Unit (ADU)

- 1. **Defined.** An independent living unit ancillary to a single-family dwelling unit and under the same ownership as the principal dwelling unit. The unit may be an attached Accessory Dwelling Unit (ADU), located within or attached to the principal dwelling unit, or a detached ADU, located in **or as** a detached accessory building on the property.
- 2. **Use Standards**
 - a. Only 1 ADU shall be permitted per lot.
 - b. There shall be no more than 2 bedrooms in an ADU.
 - c. **Attached ADUs ADUs shall be permitted in any district and on any lot that contains a single-family dwelling. This shall include any legal non-conforming single-family dwelling.**
 - i. ~~Attached ADUs shall only be permitted in the Agriculture, Rural, Low Density, Low Density-1, Medium Density, High Density, High Density-1, Neighborhood Business, Office, Residential Preservation, and Downtown-Transition Districts.~~
 - ii. ~~Attached ADUs shall have a minimum gross floor area of 400-sf. In no case shall the gross floor area exceed 800-sf.~~
 - d. **Detached ADUs ADUs shall not exceed a maximum gross floor area of 1000-sf.**
 - i. ~~Detached ADUs shall only be permitted in the Agriculture and Rural Districts.~~
 - ii. ~~Detached ADUs shall have a minimum gross floor area of 400-sf, and, in no case, shall the floor area be greater than 50% of the~~

~~gross floor area of the principal dwelling unit or greater than 1,000-sf, whichever is less.~~

- e. An interior door shall be provided between the principal single-family dwelling unit and an attached ADU. This interior door does not need to remain unlocked.
- f. **No more than 2 parking spaces shall be permitted for an ADU. Only 1 parking space shall be required for an ADU.**
- g. An ADU shall have city water and sewer service, or, in the absence of city sewer, a septic system plan approved by the state shall be required prior to the issuance of a building permit.
- h. A scaled and dimensional plot plan of the property shall be submitted as part of the building permit application for an ADU. This plan shall show the location and number of required parking spaces, driveway and paved areas, buildings, building setbacks, utilities, fences, and any other relevant site features.
- i. The record property owner shall occupy either the single-family dwelling or the ADU, and shall submit an affidavit in support of an ADU with their building permit application stating under oath that they satisfy the owner occupancy requirement.
- j. Adequate notice in an acceptable legal form for recording at the County Registry of Deeds shall be duly executed by the owner of record identifying the property on which the ADU is located by source deed sufficient to notify successor owners that the ADU is subject to the City's Zoning Regulations.
 - i. This notice shall be reviewed by the Zoning Administrator

for acceptable form and, upon signature, it shall be recorded at the Registry by the property owner.

- ii. Evidence of recording shall be submitted to the Community Development Department prior to the issuance of a building permit.
- k. **An ADU is subject to the same overlying zoning district's dimensions & siting, buildout, and height requirements, as permitted by RSA 674:72, that would be required for a single-family dwelling without an ADU. In the case of zoning districts that do not allow a single-family dwelling, the zoning district's dimensions & siting, buildout, and height requirements shall apply.**
 - i. **An ADU may encroach up to 10-ft from the rear lot line of any lot where an ADU is permitted.**