



DRAFT

**CITY OF KEENE, NH**

**LAND DEVELOPMENT CODE**

*JULY 2020*



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# ARTICLE 1. INTRODUCTORY PROVISIONS

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## 1.1 TITLE, PURPOSE & APPLICABILITY

### 1.1.1 Title

The official title of this document is the City of Keene New Hampshire Land Development Code and may be referred to or cited throughout this document as “Land Development Code,” “LDC,” “these regulations,” or “this Code.”

### 1.1.2 Purpose & Intent

This LDC is adopted in accordance with the City of Keene’s Comprehensive Master Plan in order to:

- A. Protect, promote, and improve the public health, safety and general welfare of the City of Keene and its inhabitants.
- B. Facilitate orderly development and the compatible use of land that will result in a strong viable economy, enhance the attractiveness of the community, preserve the quality and function of natural systems and maintain and enhance quality of life in the City of Keene, while not imposing unreasonable costs upon the City.

### 1.1.3 Effective Date

This LDC was adopted on **[insert date]** and became effective on **[insert date]** by Ordinance **[insert ordinance #]**.

### 1.1.4 Applicability

- A. To the extent allowed by law, the provisions of this LDC shall apply to all land, buildings, structures, and uses located within the jurisdiction of the City of Keene, NH.
- B. Except for non-conformances allowed pursuant to **Article 19**, no structure may be erected, converted, enlarged, reconstructed, moved or altered; no land or structures may be used or changed; and no lots of record established by subdivision or otherwise, that do not conform with all applicable regulations of this LDC.

### 1.1.5 Minimum Requirements

In their interpretation and application, the provisions of this LDC are held to be the minimum requirements for the promotion and protection of the public health, safety, and welfare.

### 1.1.6 Conflicting Provisions

If any provisions of this LDC are inconsistent with similar provisions prescribed by any ordinance, regulation, law, or other section of this LDC, the more restrictive provision shall control, to the extent permitted by law.

### 1.1.7 Severability

If any section, paragraph, sentence, clause or provision of this LDC is adjudged by any court of competent jurisdiction to be invalid, that judgement does not affect, impair, invalidate, or nullify the remainder of this LDC. The effect of the judgement shall be confined to the section, paragraph, sentence, clause, or provision specifically addressed in the controversy in which the judgement or decree was made.

## 1.2 RULES OF INTERPRETATION

### 1.2.1 Definitions

Terms that are not specifically defined in this LDC shall be accorded their commonly accepted meanings, unless the context in which they are used clearly indicates to the contrary.

- A. For the purposes of determining the commonly accepted meaning of any term, reference may be made to the latest edition of Webster's Dictionary.
- B. The definitions of this LDC shall take precedence over any conflicting definitions, if such conflict arises.

### 1.2.2 Lists & Examples

Unless otherwise expressly indicated, lists of items or examples that use "including," "such as," or similar terms are intended to provide examples only, and shall not be construed as being limited to the items or examples listed.

### 1.2.3 Time Computation

In computing any period of time prescribed or allowed by these rules, except as may be required by order of a court or by applicable law, the day of the act, event, or default after which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, Sunday, legal holiday, or other day upon which the City is closed, in which event the period shall extend until the end of the next day that is not a Saturday, Sunday, legal holiday, or other day upon which the City is closed.

### 1.2.4 Conjunctions

- A. "And" indicates that all connected words or provisions apply.
- B. "Or" indicates that the connected words or provisions may apply singly or in any combination.
- C. "Either [...] or" indicates that the connected words or provisions apply singly, but not in combination.

### 1.2.5 Mandatory, Prohibitory, & Permissive Terms

- A. "Must," "will," and "shall" are mandatory terms that express a requirement.
- B. "Must not," "will not," "shall not," "may not," and "no...may" are terms that express a prohibition.
- C. "Should" is a term that expresses a suggestion or recommendation.
- D. "May" is permissive term.

### 1.2.6 Current Versions & Citations

All references to other regulations or manuals in this LDC refer to the most current version and citation for those regulations or manuals, unless indicated otherwise. When the referenced regulations or manuals have been repealed and not replaced by other regulations or manuals, the requirements for compliance as specified in this LDC are no longer in effect.

### 1.2.7 Graphics, Illustrations, & Flowcharts

Graphics, illustrations, diagrams, and flowcharts are included in this LDC to visually explain the intent and requirements of the text. In the case of a conflict between the text and any graphic, illustration, diagram, or flowchart, the text controls.

### 1.2.8 Common Abbreviations

- A. "ft" is an abbreviation for "feet."
- B. "in" is an abbreviation for "inch."
- C. "Max" is an abbreviation for "maximum."
- D. "Min" is an abbreviation for "minimum."
- E. "sf" is an abbreviation for "square feet" or "square foot."
- F. "e.g." is used interchangeably with "for example" or "such as."
- G. "gfa" is an abbreviation for "gross floor area."

## 1.3 RULES OF MEASUREMENT & EXCEPTIONS

### 1.3.1 Lot Dimensions

- A. Lot Area.** The total area within the boundary lines of a lot, excluding any public right-of-way open to public use.
1. Where a minimum lot area is specified in this LDC, no principal building or use shall be erected or established on any lot of lesser size, except for non-conformances allowed pursuant to **Article 19**.
- B. Lot Line, Front.** The boundary line separating a lot from a street right-of-way or, for a corner lot, the line separating the narrower street frontage of the lot from the street right-of-way.
- C. Lot Line, Rear.** The boundary line most distant and opposite from the front lot line or, where the lot is irregular, a line parallel to the front lot line and at least 10-ft long within the lot.
- D. Lot Line, Side.** The boundary lines connecting the front and rear lot lines.
- E. Lot Width at Building Line.** The horizontal distance between side lot lines measured at the building line.
- F. Road Frontage.** The continuous portion of a lot fronting on a public right-of-way. The minimum frontage shall mean the smallest width, measured along the lot line that abuts a public right-of-way to which access may be permitted.

### 1.3.2 Lot Coverage

- A. Impervious Coverage.** Maximum area of a lot that is permitted to be covered by surfaces that do not allow the absorption of water into the ground (e.g. roofed buildings or structures, pavement), which is measured by dividing the total impervious surface area of the lot by the total lot area.
- B. Building Coverage.** Maximum area of a lot that is permitted to be covered by buildings or structures, which is measured by dividing the total area of building footprints (as measured

from the outside ground wall and floor wall lines) of all principal and accessory structures by the total lot area.

**Placeholder for graphic of lot showing impervious and building coverage.**

### 1.3.3 Building Setbacks & Build-To Dimensions

- A. Building Setback.** The required minimum or maximum distance a building or structure must be located from a lot line, which is unoccupied and unobstructed by any portion of a building or structure, unless expressly permitted by this LDC.
1. **Front Setback.** The required minimum or maximum distance that a building or structure must be located from the front lot line.
  2. **Rear Setback.** The required minimum or maximum distance that a building or structure must be located from the rear lot line.
  3. **Side Setback.** The required minimum or maximum distance that a building or structure must be located from the side lot line. A side setback may be measured perpendicular to the interior side setback or to the corner side lot line.
    - a. In residential zoning districts, the corner side lot line shall be measured from the property line adjacent to the street, and shall be 10-ft greater than the minimum side setback required in the zoning district.

**Placeholder for graphic of building setbacks**

**4. Building 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. 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

**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.

**Placeholder for graphic of Build to Line**

**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 counted as meeting the build-to percentage. Build-to percentage is calculated by building façade, not lot width.

**Placeholder for graphic of Build to Percentage**

**E. Build-To Zone (BTZ).** A build-to zone (BTZ) is the area on a lot, measured perpendicularly from the lot line, within which a structure must locate. A BTZ sets a minimum and maximum dimension within which the building façade line must be located (e.g. 0-5’). 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.

**Placeholder for graphic of Build to Zone**

### 1.3.4 Building Height

- A. Building Height, Feet.** The vertical distance measured from the grade plane of the lot grade to the highest point of the roof or structure.
- B. Building Height, Stories.** The vertical distance measured from the finished ground floor level to the surface of the second floor, or, in the case of a one-story building, from the finished ground floor level to the surface of the roof. Each upper story of a structure is measured from the surface of the floor to the surface of the floor above it, or, if there is no floor above, from the surface of the floor to the surface of the roof above it.
  - 1. When building height allows for half-stories, the half-story is calculated as the space under a sloping roof where the line of intersection of roof decking and exterior wall face is no more than 5-ft above the top floor level.
  - 2. Attics, habitable attics, and basements are not counted as stories.
- C. Height, Ground Floor.** Ground floor height is the measurement of height for the first story of a structure, calculated as the height from the grade plane to the floor of the second story.
- D. Story, Above Grade.** Any story having its finished floor surface entirely above grade, except that a basement shall be considered as a story above grade when the finished surface of the floor above the basement is:
  - 1. More than 6-ft above grade plane;
  - 2. More than 6-ft above the finished ground level for more than 50% of the total building perimeter; or
  - 3. More than 12-ft above the finished ground level at any point.
- E. Optional Corner Tower Element.** A corner tower element is an accentuated vertical element located on a building corner at a street intersection that can be located within a

required setback. In no case may the corner tower element exceed the building's overall height.

- F. Stepback.** A stepback is the required additional distance that upper stories of a structure must be recessed from the façade of the stories below. A required stepback must continue through all upper stories once established, though it may be increased from any required minimums on any stories.

**Placeholder for graphic of Building Height / Stepback and Optional Corner Tower Element**

#### **G. Building Height Exceptions.**

- 1. The following structures and features may extend above the building height and number of story limitations set forth in this LDC, but only if it is necessary for their function and proper operations. In no case may these excepted structures exceed 60-ft or 4-stories, whichever is less.
  - a.** Chimneys, ventilators, tanks, bulkheads, and other accessory features required above the roof.
  - b.** Towers, spires, domes, and similar ornamental features, if not used for living purposes.
- 2. The following structures may extend above the building height and story limitations set forth in this LDC, only if it is necessary



for their function and proper operation, and if a special exception is granted by the Zoning Board of Adjustment.

- a. Towers, spires, domes, and similar ornamental features, if not used for living purposes.
- b. Barns, silos, and other farm buildings and structures required for agricultural purposes.
- c. Towers for transmission and communication lines, radio towers, fire towers, water towers and airplane beacons.

### 1.3.5 Gross Floor Area (GFA)

The sum of the total horizontal areas of all floors of the structure as measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings. Habitable basements and attics shall be included in gross floor area.

### 1.3.6 Grade Plane

A reference plane representing the average of the finished ground level adjoining the building at all exterior walls. Where the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line or, where the lot line is more than 6-ft from the building between the structure and a point 6-ft from the building.

Placeholder for graphic of Grade Plane

### 1.3.7 Pedestrian Access

- A. **Building Length.** Building length is measured as the length of the façade abutting a street. Pedestrian passages, breezeways, and similar building connections are included in the calculation of total building length.
- B. **Pedestrian Passage.** A passageway through the ground floor façade of a building, accessed from a public right-of-way and including stories above the ground floor. Pedestrian passages must be a minimum of 15-ft in width and include exterior lighting treatments, landscaping, seating areas, and similar elements to ensure cohesive design and pedestrian safety and comfort. For the purposes of calculating a build-to line, build-to zone, and/or build-to percentage, a building passage is considered part of the building façade that meets such requirements.

### 1.3.8 Transparency

- A. **Blank Wall, Ground Floor.** The horizontal linear dimension of contiguous building wall that does not contain fenestration, doors, or decorative elements (e.g. banding, medallions), artwork (e.g. murals and mosaics), change in wall plane of at least 3-in, or other architectural or material embellishment. Any wall less than 5-ft in height is not considered to be a blank wall.
- B. **Blank Wall, Upper Floor.** The horizontal or vertical linear dimension of contiguous building wall that does not contain fenestration, doors, or decorative elements (e.g. banding, medallions), artwork (e.g. murals and mosaics), change in wall plane of at least 3-in, or other architectural or material embellishment. Any wall with a minimum dimension of less than 5-ft (height or width) is not considered to be a blank wall.
- C. **Transparency.** Transparency is the required amount of window area as a percentage of the specified façade area. Doors are included in ground floor transparency when such doors are designed with glass or other transparent materials. To qualify as transparent for

the calculation, the glazing must meet the following standards.

- 1.** Ground floor transparency must have a minimum 60% Visible Light Transmittance (VLT) and no more than 15% Visible Light Reflectance (VLR).
- 2.** For upper floor glazing, the glazing must have a minimum of 40% VLT and no more than 15% VLR.
- 3.** Colored tinting is prohibited.
- 4.** The following do not meet the ground floor or upper floor transparency requirements and do not count in meeting the standard.
  - a.** Windows with interior shadowboxes
  - b.** Glass block
  - c.** Printed window film, regardless of whether it allows views into or out of the building.

**Placeholder for graphics of Blank Wall and Transparency**

# ARTICLE 2. ESTABLISHMENT OF ZONING REGULATIONS & DISTRICTS

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## 2.1 TITLE

Articles 2 through 19 of this LDC shall constitute the official Zoning Ordinance for the City of Keene, as may be amended, in accordance with state law. For the purposes of this LDC, the Zoning Ordinance, shall be referred to as the Zoning Regulations.

## 2.2 AUTHORITY

It shall be the authority of the City Council to adopt or amend the Zoning Regulations, including amendments to the official Zoning Map. The Zoning Administrator shall have the authority to administer and make interpretations of the Zoning Regulations.

## 2.3 ESTABLISHMENT OF DISTRICTS

In order to carry out the purpose and intent of these Zoning Regulations and this LDC, the City of Keene is divided into the zoning districts in Table 2-1.

## 2.4 ZONING MAP

### 2.4.1 Official Zoning Map

The location and boundaries of zoning districts established in these Zoning Regulations are shown and maintained upon the map entitled "1977 Amended Zoning Map of the City of Keene," as may be amended, filed in the office of the City of Keene Clerk. This map, including all the boundary lines and designations thereon, is hereby made a part of these Zoning Regulations and this LDC, and may be referred to as the "Zoning Map."

Table 2-1: City of Keene Zoning Districts

Residential Districts	
R	Rural
RP	Residential Preservation
LD	Low Density
LD-1	Low Density-1
MD	Medium Density
HD	High Density
HD-1	High Density-1
Downtown Districts	
DT-C	Downtown Core
DT-G	Downtown Growth
DT-L	Downtown Limited
DT-E	Downtown Edge
DT-T	Downtown Transition
DT-I	Downtown Institutional Campus
Commercial Districts	
COM	Commerce
CL	Commerce Limited
NB	Neighborhood Business
BGR	Business, Growth & Reuse
O	Office
Industrial Districts	
CP	Corporate Park
I	Industrial
IP	Industrial Park
Special Purpose Districts	
HC	Health Care
A	Agriculture
C	Conservation

### 2.4.2 Interpretation of Map Boundaries

- A.** Where uncertainty exists as to the boundaries of any zoning district shown on the Zoning Map, the precise location is to be determined as follows.
  - 1.** Where zoning district boundary lines are shown on the Zoning Map within the street lines of public or private streets or ways, the centerlines of such streets or ways shall be the boundary lines.
  - 2.** Where zoning district boundary lines are shown approximately on the location of property lot lines and the exact location of such boundary lines is not indicated by means of figures, distances, or otherwise, the property lot lines shall be the boundary lines.
  - 3.** Zoning district boundary lines located outside of street lines and shown approximately parallel thereto shall be regarded as parallel to such street lines, and figures placed upon the map between such boundary lines and the street lines shall be the distances in feet of such boundary lines from the street lines, such distances being measured at right angles to the street lines, unless otherwise indicated.
  - 4.** In all cases which are not covered by this section, the location of zoning district boundary lines shall be determined by the distances in feet, if given, from other lines upon the map or, if no distances are given, by the scale of the map.
- B.** Whenever any uncertainty exists as to the exact location of a boundary line, the location of such line shall be determined by the Zoning Administrator upon review of the official Zoning Map. This administrative determination may be appealed to the Zoning Board of Adjustment.

### 2.5 OVERLAY DISTRICTS

- A.** The overlay districts listed in Table 2-2 are established and applied to property as set forth on the official zoning map.
- B.** An overlay district establishes regulations to combine with the regulations of an underlying zoning district. The purposes of overlay districts are to prohibit uses otherwise allowed in the underlying zoning district, to establish additional or different conditions for such uses, or to authorize special uses, together with standards for such uses, not otherwise allowed in the underlying zoning district.

**Table 2-2: City of Keene Overlay Zoning Districts**

Surface Water Protection	<b>Article 11</b>
Hillside Protection	<b>Article 12</b>
Earth Excavation	<b>Article 13</b>
Telecommunications	<b>Article 14</b>
Sustainable Energy & Efficiency	<b>Article 15</b>

# ARTICLE 3. RESIDENTIAL ZONING DISTRICTS

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### 3.1 RURAL DISTRICT (R)

#### 3.1.1 Purpose

The Rural (R) District is intended to provide for areas of very low density development, predominantly of a residential or agricultural nature. These areas are generally outside of the valley floor, beyond where city water, sewer and other city services can be readily supplied.

#### 3.1.2 Dimensions & Siting

<b>Min Lot Area</b>	5 acres
<i>Min lot area per dwelling unit without city water &amp; sewer</i>	5 acres
<i>Min lot area per dwelling unit with city water &amp; sewer</i>	2 acres
<b>Min Lot Width at Building Line</b>	200 ft
<b>Min Road Frontage</b>	50 ft
<b>Min Front Setback</b>	50 ft
<b>Min Rear Setback</b>	50 ft
<b>Min Side Setback</b>	50 ft

#### 3.1.3 Buildout

<b>Max Building Coverage</b>	10%
<b>Max Impervious Coverage</b>	20%

#### 3.1.4 Height

<b>Max Stories Above Grade</b>	2
<b>Max Building Height</b>	35 ft

### 3.1.5 Permitted Uses

#### RESIDENTIAL

Dwelling, Manufactured Housing	P <sup>1</sup>
Dwelling, Single-Family	P
Manufactured Housing Park	P

#### COMMERCIAL USES

Animal Care Facility	P
Bed and Breakfast	SE
Greenhouse / Nursery	P
Kennel	P

#### OPEN SPACE USES

Cemetery	P
Community Garden	P
Conservation Area	P
Farming	P
Golf Course	P <sup>1</sup>
Gravel Pit	SE

#### INFRASTRUCTURE

Solar Energy System (Small-Scale)	P
Solar Energy System (Medium-Scale)	CUP
Solar Energy System (Large-Scale)	CUP
Telecommunications Facilities	P <sup>1</sup>

P = Permitted  
P<sup>1</sup> = Permitted with limitations per Article 8.  
SE = Permitted by Special Exception  
CUP = Permitted by Conditional Use Permit

## 3.2 RESIDENTIAL PRESERVATION DISTRICT (RP)

### 3.2.1 Purpose

The Residential Preservation (RP) District is intended to return this area of the City to neighborhoods composed predominantly of moderately dense single-family residential development. This district serves as an additional downtown zoning district that promotes pedestrian-scale development, walkability, bikeability, and urban green space where possible. All uses in this district shall have city water and sewer service.

### 3.2.2 Dimensions & Siting

<b>Min Lot Area</b>	8,000 sf
<b>Min Lot Width at Building Line</b>	60 ft
<b>Min Road Frontage</b>	50 ft
<b>Min Front Setback</b>	15 ft
<b>Min Rear Setback</b>	20 ft
<b>Min Side Setback</b>	10 ft

### 3.2.3 Buildout

<b>Max Building Coverage</b>	35%
<b>Max Impervious Coverage</b>	45%
<b>Min Green / Open Space</b>	55%

### 3.2.4 Height

<b>Max Stories Above Grade</b>	2
<b>Max Building Height</b>	35 ft

## 3.2.5 Permitted Uses

### RESIDENTIAL

Dwelling, Single-Family	P
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### COMMERCIAL USES

Bed and Breakfast	SE
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### OPEN SPACE USES

Community Garden	P
------------------	---

Conservation Area	P
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### INFRASTRUCTURE

Solar Energy System (Small-Scale)	P
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Solar Energy System (Medium-Scale)	CUP
------------------------------------	-----

Telecommunications Facilities	P <sup>1</sup>
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P = Permitted

P<sup>1</sup> = Permitted with limitations per Article 8.

SE = Permitted by Special Exception

CUP = Permitted by Conditional Use Permit



### 3.3 LOW DENSITY (LD)

#### 3.3.1 Purpose

The Low Density (LD) District is intended to provide for low-intensity single-family residential development. All uses in this district shall have city water and sewer service.

#### 3.3.2 Dimensions & Siting

<b>Min Lot Area</b>	10,000 sf
<b>Min Lot Width at Building Line</b>	70 ft
<b>Min Road Frontage</b>	60 ft
<b>Min Front Setback</b>	15 ft
<b>Min Rear Setback</b>	20 ft
<b>Min Side Setback</b>	10 ft

#### 3.3.3 Buildout

<b>Max Building Coverage</b>	35%
<b>Max Impervious Coverage</b>	45%
<b>Min Green / Open Space</b>	55%

#### 3.3.4 Height

<b>Max Stories Above Grade</b>	2
<b>Max Building Height</b>	35 ft

### 3.3.5 Permitted Uses

#### RESIDENTIAL

Dwelling, Single-Family	P
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#### OPEN SPACE USES

Community Garden	P
------------------	---

#### INFRASTRUCTURE

Solar Energy System (Small-Scale)	P
-----------------------------------	---

Solar Energy System (Medium-Scale)	CUP
------------------------------------	-----

Telecommunications Facilities	P <sup>1</sup>
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P = Permitted

P<sup>1</sup> = Permitted with limitations per Article 8.

CUP = Permitted by Conditional Use Permit

### 3.4 LOW DENSITY 1 (LD-1)

#### 3.4.1 Purpose

The Low Density 1 (LD-1) District is intended to provide for low intensity residential development, which is primarily detached single-family dwellings on lots of 1-acre or larger in areas on the outer edge of available city water and sewer service. All uses in this district shall have city sewer. City water is required if sufficient volume and pressure is available as determined by the Public Works Department.

#### 3.4.2 Dimensions & Siting

##### Lots Without City Water Service

<b>Min Lot Area</b>	1 acre
<b>Min Lot Width at Building Line</b>	75 ft
<b>Min Road Frontage</b>	100 ft
<b>Min Road Frontage</b> (For lots fronting on a cul-de-sac)	60 ft
<b>Min Front Setback</b>	15 ft
<b>Min Rear Setback</b>	20 ft
<b>Min Side Setback</b>	10 ft

##### Lots With City Water Service

<b>Min Lot Area</b>	20,000 sf
<b>Min Lot Width at Building Line</b>	75 ft
<b>Min Road Frontage</b>	75 ft
<b>Min Road Frontage</b> (For lots fronting on a cul-de-sac)	60 ft
<b>Min Front Setback</b>	15 ft
<b>Min Rear Setback</b>	20 ft
<b>Min Side Setback</b>	10 ft

#### 3.4.3 Buildout

<b>Max Building Coverage</b>	30%
<b>Max Impervious Coverage</b>	35%
<b>Min Green / Open Space</b>	65%

#### 3.4.4 Height

<b>Max Stories Above Grade</b>	2
<b>Max Building Height</b>	35 ft

### 3.4.5 Permitted Uses

#### RESIDENTIAL

Dwelling, Single-Family	P
-------------------------	---

#### OPEN SPACE USES

Community Garden	P
Conservation Area	P

#### INFRASTRUCTURE

Solar Energy System (Small-Scale)	P
Solar Energy System (Medium-Scale)	CUP
Telecommunications Facilities	P <sup>1</sup>

P = Permitted  
P<sup>1</sup> = Permitted with limitations per Article 8.  
CUP = Permitted by Conditional Use Permit

### 3.5 MEDIUM DENSITY (MD)

#### 3.5.1 Purpose

The Medium Density (MD) District is intended to provide for medium intensity residential development and associated uses. All uses in this district shall have city water and sewer service.

#### 3.5.2 Dimensions & Siting

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

#### 3.5.3 Buildout

<b>Max Building Coverage</b>	45%
<b>Max Impervious Coverage</b>	60%
<b>Min Green / Open Space</b>	40%

#### 3.5.4 Height

<b>Max Stories Above Grade</b>	2
<b>Max Building Height</b>	35 ft

### 3.5.5 Permitted Uses

#### RESIDENTIAL

Dwelling, Multifamily	P <sup>1</sup>
Dwelling, Single-Family	P
Dwelling, Two-Family / Duplex	P

#### CONGREGATE LIVING / SOCIAL SERVICE

Domestic Violence Shelter	P
Group Home	CUP
Lodginghouse	CUP

#### OPEN SPACE USES

Community Garden	P
Conservation Area	P

#### INFRASTRUCTURE

Solar Energy System (Small-Scale)	P
Solar Energy System (Medium-Scale)	CUP
Telecommunications Facilities	P <sup>1</sup>

P = Permitted  
P<sup>1</sup> = Permitted with limitations per Article 8.  
CUP = Permitted by Conditional Use Permit

### 3.6 HIGH DENSITY (HD)

#### 3.6.1 Purpose

The High Density (HD) District is intended to provide for high intensity residential development and associated uses. All uses in this district shall have city water and sewer service.

#### 3.6.2 Dimensions & Siting

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

#### 3.6.3 Buildout

<b>Max Building Coverage</b>	55%
<b>Max Impervious Coverage</b>	75%
<b>Min Green / Open Space</b>	25%

#### 3.6.4 Height

<b>Max Stories Above Grade</b>	2
<b>Max Building Height</b>	35 ft

### 3.6.5 Permitted Uses

#### RESIDENTIAL

Dwelling, Multifamily	P
Dwelling, Single-Family	P
Dwelling, Two-Family / Duplex	P

#### COMMERCIAL USES

Bed and Breakfast	SE
Neighborhood Grocery Store	SE

#### INSTITUTIONAL

Senior Center	SE
---------------	----

#### CONGREGATE LIVING / SOCIAL SERVICE

Domestic Violence Shelter	P
Fraternity/Sorority	CUP
Group Home	CUP
Lodginghouse	CUP
Residential Care Facility	CUP

#### OPEN SPACE USES

Community Garden	P
Conservation Area	P

#### INFRASTRUCTURE

Solar Energy System (Small-Scale)	P
Solar Energy System (Medium-Scale)	CUP
Telecommunications Facilities	P <sup>1</sup>

P = Permitted  
P<sup>1</sup> = Permitted with limitations per Article 8.  
SE = Permitted by Special Exception  
CUP = Permitted by Conditional Use Permit

### 3.7 HIGH DENSITY 1 (HD-1)

#### 3.7.1 Purpose

- A. The High Density-1 (HD-1) District is intended to provide for high intensity residential development. All uses in this district shall have city water and sewer service.
- B. Lots in the district shall have frontage on the following list of street locations, and all vehicle access, except for gated emergency access, shall be from the following streets.
  1. Court St (On the west side from Westview St to Maple Ave and on the east side from Evergreen Ave to Maple Ave)
  2. Maple Ave
  3. Marlboro St (From Main St to Eastern Ave)
  4. Park Ave
  5. Washington St
  6. West St (From Central Square to Park Ave)
  7. Winchester St

#### 3.7.2 Dimensions & Siting

<b>Min Lot Area</b>	2 acres
Min lot area per dwelling unit	3,000 sf
<b>Min Lot Width at Building Line</b>	150 ft
<b>Min Road Frontage</b>	50 ft
<b>Min Front Setback</b>	50 ft
<b>Min Rear Setback</b>	50 ft
Min rear setback for 3-story building	50 ft
<b>Min Side Setback</b>	50 ft
Min side setback for 3-story building	50 ft

#### 3.7.3 Buildout

<b>Max Building Coverage</b>	55%
<b>Max Impervious Coverage</b>	75%
<b>Min Green / Open Space</b>	25%

#### 3.7.4 Height

<b>Max Stories Above Grade</b>	3
<b>Max Building Height</b>	50 ft

#### 3.7.5 Permitted Uses

<b>RESIDENTIAL</b>	
Dwelling, Multifamily	P
Dwelling, Single-Family	P
Dwelling, Two-Family / Duplex	P
<b>COMMERCIAL USES</b>	
Bed and Breakfast	SE
<b>CONGREGATE LIVING / SOCIAL SERVICE</b>	
Residential Care Facility	CUP
<b>OPEN SPACE USES</b>	
Community Garden	P
Conservation Area	P
<b>INFRASTRUCTURE</b>	
Solar Energy System (Small-Scale)	P
Solar Energy System (Medium-Scale)	CUP
Telecommunications Facilities	P <sup>1</sup>

P = Permitted  
P<sup>1</sup> = Permitted with limitations per Article 8.  
SE = Permitted by Special Exception  
CUP = Permitted by Conditional Use Permit

# ARTICLE 4. DOWNTOWN ZONING DISTRICTS

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**4.1 GENERAL**

**4.1.1 Purpose**

To facilitate development that reinforces and enhances existing varied character areas, and encourages creative, innovative development within downtown Keene, there are 6 Downtown Zoning Districts. Each district includes tailored dimensional, design, and use standards related to their specific contexts. More specifically, these districts are intended to:

- 1. Provide a series of standards allowing for the orderly growth and development of downtown Keene in a manner that respects and enhances the City's unique identity.
- 2. Allow for new development that is creative, innovative, and sustainable, and that reinforces the vibrancy, human scale, and pedestrian-orientation of downtown.
- 3. Ensure that development remains sensitive to surrounding community context, form, and use.

**A. Downtown Core (DT-C)**

The DT-C District is the heart of downtown Keene, accommodating the highest intensity of development. The district is intended to accommodate a rich mix of commercial, residential, civic, cultural, and open space uses in a highly walkable, vertically and horizontally mixed-use environment.

**B. Downtown Growth (DT-G)**

The DT-G District accommodates the reuse of existing structures within downtown Keene, as well as new construction of significant size. It is intended to provide the flexibility needed to create a mixed-use environment suitable for commercial, residential, civic, cultural, and open space uses in areas of downtown where growth is desired, with standards for new construction and infill that complement the walkable, urban form of Keene's downtown.

**C. Downtown Edge (DT-E)**

The DT-E District provides for a heterogeneous mix of commercial and residential uses and varied development forms including areas of both walkable development as well as more auto-oriented development at the edges of downtown Keene. The district accommodates this rich mixture, while providing for a transition into lower intensity commercial or residential development outside of the delineated downtown area.

**D. Downtown Limited (DT-L)**

The DT-L District is intended to accommodate the unique development pattern exhibited in downtown Keene to the north of Central Square. The district accommodates a mixture of commercial, residential, civic and cultural uses in structures of a lower height, located close to the street.

**E. Downtown Transition (DT-T)**

The DT-T District is intended to accommodate a variety of residential, open space, and other low intensity uses in a mixed-use environment of attached and detached structures. Development within the DT-T District is intended to complement and transition into existing residential neighborhoods adjacent to downtown Keene.

**F. Downtown Institutional Campus (DT-I)**

The DT-I District accommodates the unique form of Keene State College as it interfaces with the mixed-use, walkable fabric of downtown Keene.

### 4.1.2 Street Types

To accommodate varying patterns of development, and to guide the creation of a walkable pedestrian environment that responds to the built form of downtown Keene, existing and future streets and pedestrian rights-of-way located within the Downtown Core (DT-C) and Downtown Growth (DT-G) Districts are classified as Type A or Type B Streets. Street types do not imply a hierarchy of importance; rather, they serve to tailor elements of building placement and form, as well as parking location and design elements to the established character and context of downtown Keene.

and placement of structures to ensure a consistent, walkable pedestrian orientation.

- Type B Streets** are all those streets and/or pedestrian rights-of-way within the DT-C and DT-G Districts that are not classified as Type A Streets. Type B Streets allow for more flexibility in design and the placement of structures, as well as consideration of both walkability and the interface between building design and automobile transportation.

#### A. Establishment of Street Types

- Type A Streets** are those streets and/or pedestrian rights-of-way designated as areas of greater focus on the design

#### B. Street Types Map

A Street Types Map, as may be amended, is provided as **Figure 4-1**. This map displays the location of Type A Streets in the downtown.

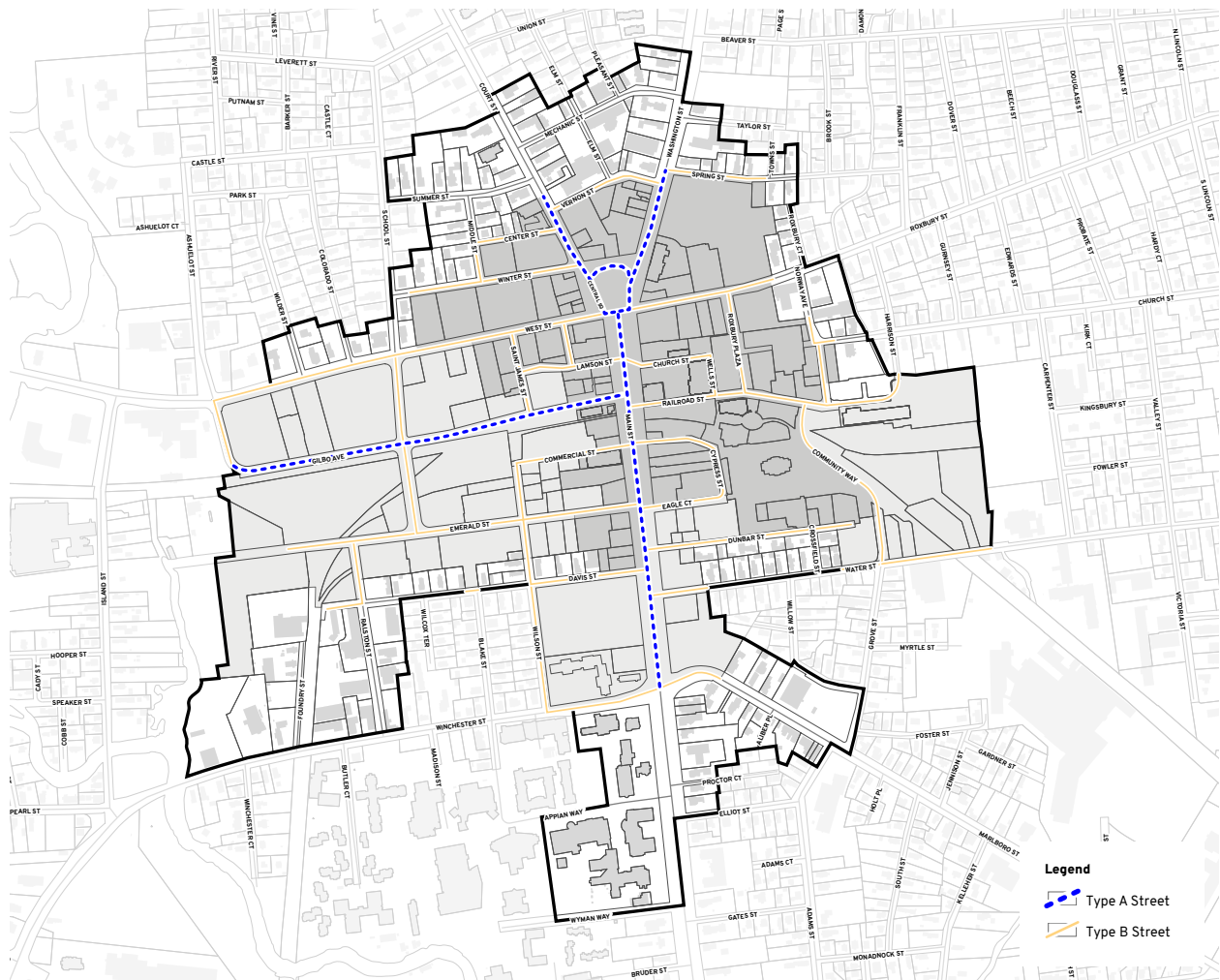


Figure 4-1: Downtown Street Types Map



### 4.1.3 Permitted Uses

**Table 4-1: Downtown Districts Permitted Uses**

identifies the principal uses permitted within the Downtown Districts.

- A. A "P" within the table indicates that the use is permitted by-right in the district indicated.
- B. An "P<sup>1</sup>" within the table indicates that the use is permitted with limitations in the district indicated. Use specific standards are located in **Section 8.3**, underneath the definition for the use.
- C. An "SE" within the table indicates that the use requires approval by the Zoning Board of Adjustment as a Special Exception in the district indicated.
- D. A "CUP" within the table indicates that the use requires a Conditional Use Permit from the Planning Board in the district indicated.
- E. A "-" within the table indicates the use is not allowed in the district indicated.

**Table 4-1: Downtown Districts Permitted Uses**

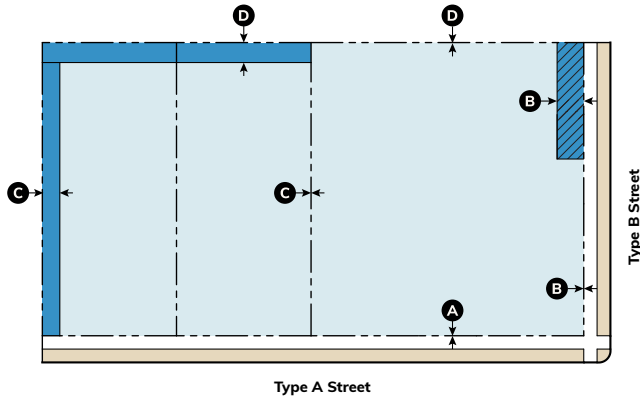
	DT-C	DT-G	DT-E	DT-L	DT-T	DT-I
<b>RESIDENTIAL USES</b>						
Dwelling, Above Ground Floor	P	P	P	P	P	P
Dwelling, Multifamily	P <sup>1</sup>	P	P	P	P	-
Dwelling, Single-Family	-	-	-	-	P	-
Dwelling, Two-Family / Duplex	-	-	P	P	P	-
<b>COMMERCIAL USES</b>						
Animal Care Facility	-	P	P	P	-	-
Art Gallery	P	P	P	P	-	P
Art or Fitness Studio	P	P	P	P	-	P
Banking or Lending Institution	P	P	P	P	-	P
Bar	P	P	-	-	-	-
Bed and Breakfast	-	-	-	-	P <sup>1</sup>	-
Car Wash	-	-	SE	-	-	-
Clinic	P	P	P	P	-	P
Day Care Center	P	P	P	SE	SE	P
Event Venue	-	P	-	-	-	P
Funeral Home	-	P	P	P	P	-
Health Center / Gym	P	P	P	P	-	P
Hotel/Motel	P	P	-	-	-	P
Micro-Brewery/Micro-Distillery/Micro-Winery	P	P	-	-	-	-
Motor Vehicle Dealership	-	-	P	-	-	-
Neighborhood Grocery Store	P	P	P	P	-	-
Office	P	P	P	P	P	P
Personal Service Establishment	P	P	P	P	-	P
Private Club / Lodge	P	P	P	P	SE	-
Recreation/Entertainment Facility - Indoor	P	P	-	-	-	P
Recreation/Entertainment Facility - Outdoor	-	P	-	-	-	P
Research and Development	SE	P	-	-	-	P
Restaurant	P	P	P	P	-	P
Retail Establishment, Light	P	P	P	P	-	P
Self Storage Facility - Indoor	-	SE	P	-	-	-

**Table 4-1: Downtown District Permitted Uses**

	DT-C	DT-G	DT-E	DT-L	DT-T	DT-I
Specialty Food Service	P	P	P	P	-	P
Vehicle Repair Facility – Minor	-	P <sup>1</sup>	P <sup>1</sup>	-	-	-
<b>INSTITUTIONAL USES</b>						
Community Center	P <sup>1</sup>	P <sup>1</sup>	P <sup>1</sup>	P <sup>1</sup>	SE	P <sup>1</sup>
Cultural Facility	P <sup>1</sup>	P <sup>1</sup>	P <sup>1</sup>	P <sup>1</sup>	SE	P <sup>1</sup>
Hospital	-	-	-	-	-	-
Place of Worship	P <sup>1</sup>	P <sup>1</sup>	P <sup>1</sup>	P <sup>1</sup>	-	P <sup>1</sup>
Senior Center	P <sup>1</sup>	P <sup>1</sup>	P <sup>1</sup>	P <sup>1</sup>	SE	-
Private School	P <sup>1</sup>	P <sup>1</sup>	P <sup>1</sup>	-	-	P <sup>1</sup>
<b>CONGREGATE LIVING / SOCIAL SERVICE USES</b>						
Domestic Violence Shelter	P	P	P	P	-	-
Drug Treatment Clinic	-	CUP	-	-	-	-
Fraternity/Sorority	-	-	-	-	-	CUP
Food Pantry	P	P	P	P	-	-
Group Home	-	-	-	-	CUP	-
Group Resource Center	CUP	CUP	CUP	CUP	-	CUP
Homeless Shelter	-	CUP	-	-	-	-
Lodginghouse	CUP	CUP	CUP	CUP	CUP	-
Residential Care Facility	CUP	CUP	CUP	CUP	-	-
Residential Drug/Alcohol Treatment Facility	-	CUP	-	CUP	-	-
<b>INDUSTRIAL USES</b>						
Artisanal Production	P <sup>1</sup>	P <sup>1</sup>	P <sup>1</sup>	SE	-	P <sup>1</sup>
Data Center	-	P	P	-	-	-
Industrial, Light	-	SE	-	-	-	-
<b>OPEN SPACE USES</b>						
Community Garden	P	P	P	P	P	-
<b>INFRASTRUCTURE USES</b>						
Solar Energy System (Small-Scale)	P	P	P	P	P	P
Solar Energy System (Medium-Scale)	CUP	CUP	CUP	CUP	CUP	CUP
Telecommunications Facilities	P <sup>1</sup>	P <sup>1</sup>	P <sup>1</sup>	P <sup>1</sup>	P <sup>1</sup>	P <sup>1</sup>
<b>TRANSPORTATION USES</b>						
Parking Lot (Principal Use)	-	SE	-	-	-	P
Parking – Structured Facility (Principal Use)	P	P	P	P	-	P

## 4.2 DOWNTOWN CORE (DT-C)

### 4.2.1 Dimensions and Siting

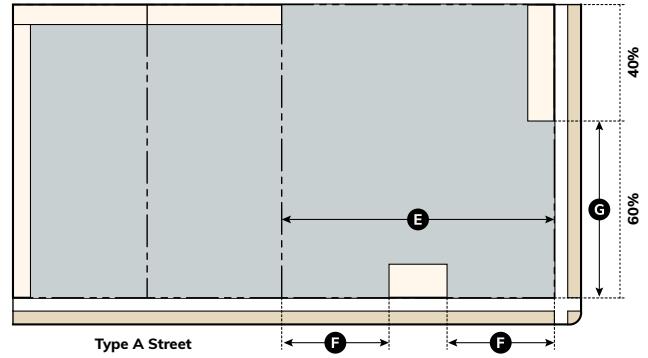


#### Dimensions and Siting

Minimum Lot Area	None
Minimum Lot Width	None
<b>A</b> Type A Street Setback <sup>1</sup>	0 ft Build-to Line
<b>B</b> Type B Street Setback <sup>1</sup>	0-10 ft Build-to Zone unless located on a corner lot with Type A Street frontage, then 0 ft Build-to Line
<b>C</b> Minimum Interior Side Setback	0 ft, unless abutting residential district or DT-T District, then 15 ft
<b>D</b> Minimum Rear Setback	0 ft, unless abutting residential district or DT-T District, then 15 ft

<sup>1</sup> When the front lot line intersects or overlaps with the right-of way line, the required build-to line or 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.

### 4.2.2 Buildout

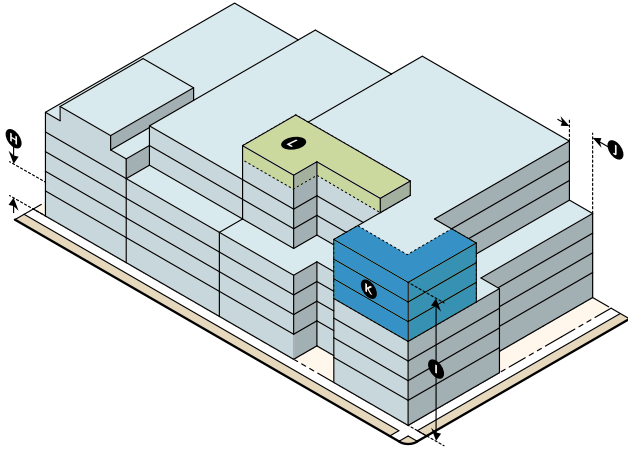


#### Buildout

<b>E</b> Maximum Building Length	250'
<b>F</b> Minimum Type A Street Build-to Percentage	80%
<b>G</b> Minimum Type B Street Build-to Percentage <sup>1</sup>	60%

<sup>1</sup> When a corner lot also has frontage on a Type A Street, minimum build-to percentage is calculated as the first 60% of total building length measured from the corner.

### 4.2.3 Height



#### Building Height

<b>H</b>	Minimum Building Height	18'
<b>I</b>	Maximum Building Height	85' and 7 Stories
<b>I</b>	Minimum Height Stepback	15'

Height stepback required for buildings taller than 65' in height. Stepback must occur above the ground story and no higher than the 5th story.

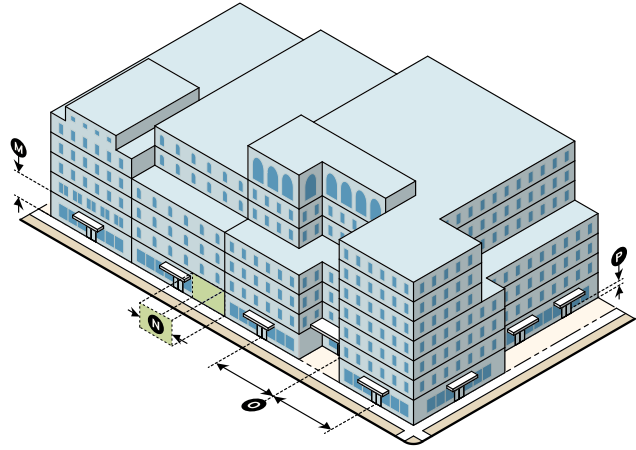
#### **K** Optional Corner Tower Element

Corner tower element is limited in width and depth to a maximum of 25% of the building frontage. May exceed height at which stepback is required, but may not exceed overall building height.

#### **L** Permitted Height Exception

Buildings may exceed maximum permitted height by 8' for a maximum of 25% of the square footage of the top floor. Such additional height may not be used to create an additional story.

### 4.2.4 Activation

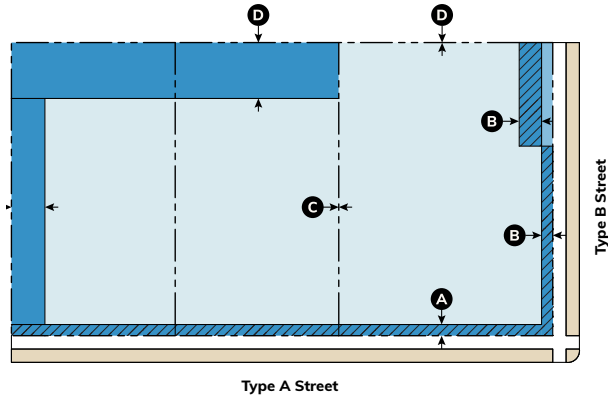


#### Building Activation

<b>M</b>	Minimum Ground Floor Height	14 ft
<b>N</b>	Maximum Blank Wall Area	20 ft
<b>O</b>	Maximum Building Entry Spacing	Type A Street: 50 ft Type B Street: None
<b>P</b>	Maximum Height of Building Entry Threshold Above Sidewalk	3 ft
<b>Q</b>	Minimum Ground Floor Transparency	50%
<b>R</b>	Minimum Upper Floor Transparency	15%

## 4.3 DOWNTOWN GROWTH (DT-G)

### 4.3.1 Dimensions and Siting

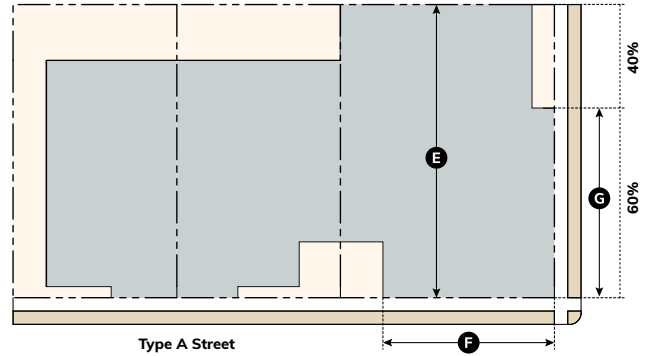


#### Dimensions and Siting

Minimum Lot Area	None
Minimum Lot Width	None
<b>A</b> Type A Street Setback <sup>1</sup>	0-5 ft Build-to Zone
<b>B</b> Type B Street Setback <sup>1</sup>	5-15 ft Build-to Zone unless located on a corner lot with Type A Street frontage, then 0-5 ft Build-to Zone
<b>C</b> Minimum Interior Side Setback	0 ft, unless abutting residential district or DT-T District, then 15 ft
<b>D</b> Minimum Rear Setback	0 ft, unless abutting residential district or DT-T District, then 25 ft

<sup>1</sup> When the front 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.

### 4.3.2 Buildout

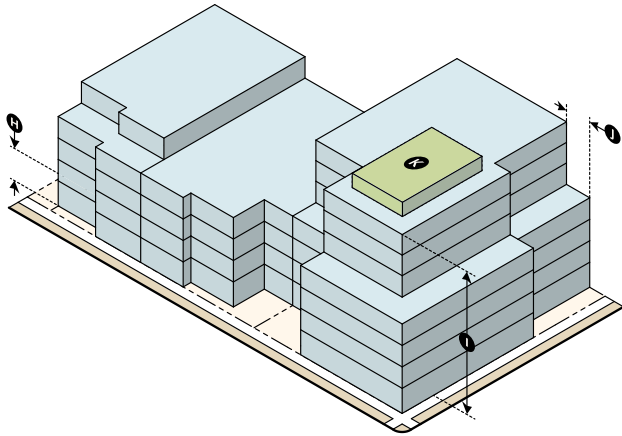


#### Buildout

<b>E</b> Maximum Building Length	350 ft, Unless a pedestrian passage is provided, then 500 ft
<b>F</b> Minimum Type A Street Build-to Percentage	80%
<b>G</b> Minimum Type B Street Build-to Percentage <sup>1</sup>	60%

<sup>1</sup> When a corner lot also has frontage on a Type A Street, minimum build-to percentage is calculated as the first 60% of total building length measured from the corner.

### 4.3.3 Height



#### Building Height

<b>H</b>	Minimum Building Height	24 ft
<b>I</b>	Maximum Building Height	85 ft & 7 Stories
<b>J</b>	Minimum Height Stepback	15 ft

Height stepback required for buildings taller than 65 ft in height. Stepback must occur above the ground story and no higher than the 5th story.

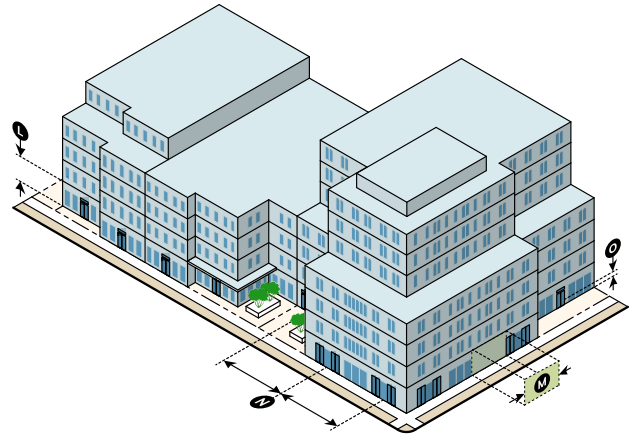
#### **K** Permitted Height Exception

Buildings may exceed maximum permitted height by 8' for a maximum of 25% of the square footage of the top floor. Such additional height may not be used to create an additional story.

#### Optional Corner Tower Element

Corner tower element limited in width and depth to a maximum of 25% of the building frontage. May exceed height at which stepback is required, but may not exceed overall building height.

### 4.3.4 Activation

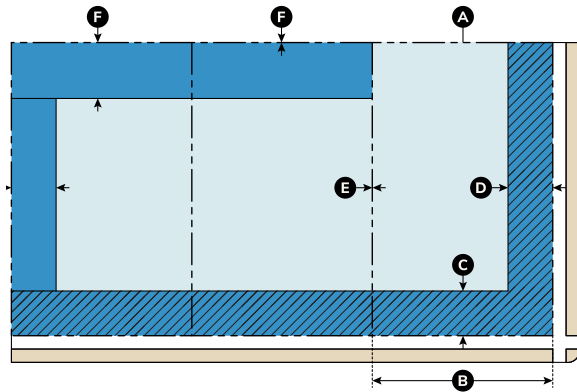


#### Building Activation

<b>L</b>	Minimum Ground Floor Height	14 ft
<b>M</b>	Maximum Blank Wall Area	30 ft
<b>N</b>	Maximum Building Entry Spacing	Type A Street: 75 ft Type B Street: None
<b>O</b>	Maximum Height of Building Entry Threshold Above Sidewalk	3 ft
	Minimum Ground Floor Transparency	Type A Street: 50% Type B Street: 40%
	Minimum Upper Floor Transparency	15%

## 4.4 DOWNTOWN EDGE (DT-E)

### 4.4.1 Dimensions and Siting

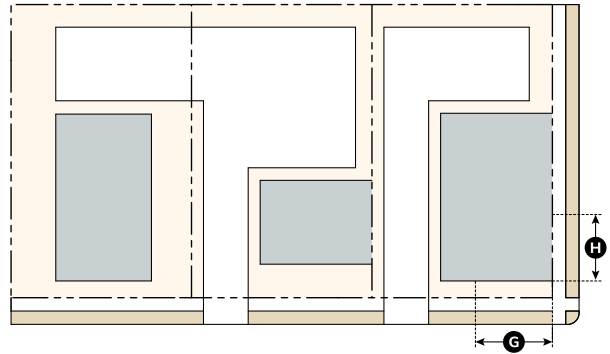


#### Dimensions and Siting

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

<sup>1</sup> 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.

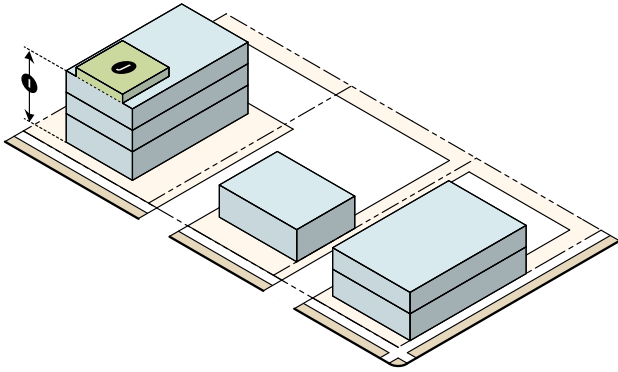
### 4.4.2 Buildout



#### Buildout

<b>G</b>	Minimum Front Build-to Percentage	60%
<b>H</b>	Minimum Corner Side Build-to Percentage	40%

### 4.4.3 Height

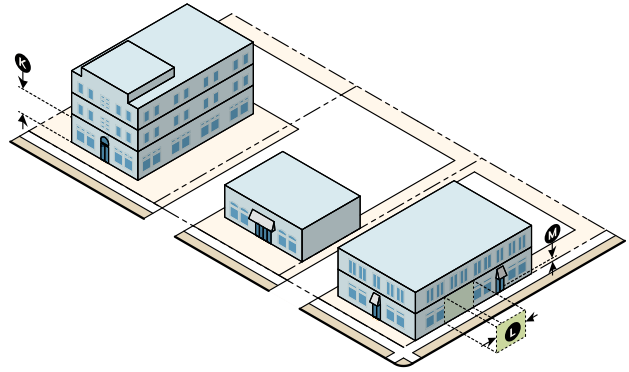


#### Building Height

	Minimum Building Height	None
❶	Maximum Building Height	40 ft & 3 Stories
❷	Permitted Height Exception	

Buildings may exceed maximum permitted height by 5' for a maximum of 25% of the square footage of the top floor. Such additional height may not be used to create an additional story.

### 4.4.4 Activation



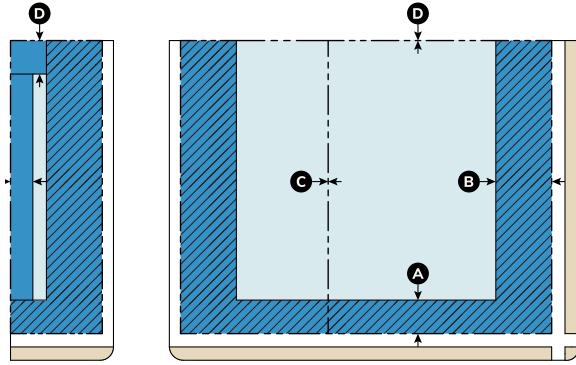
#### Building Activation

❷	Minimum Ground Floor Height	12 ft
❸	Maximum Blank Wall Area	30 ft
❹	Maximum Height of Building Entry Threshold Above Sidewalk	18 in
	Minimum Ground Floor Transparency	30%
	Minimum Upper Floor Transparency	15%



## 4.5 DOWNTOWN LIMITED (DT-L)

### 4.5.1 Dimensions and Siting

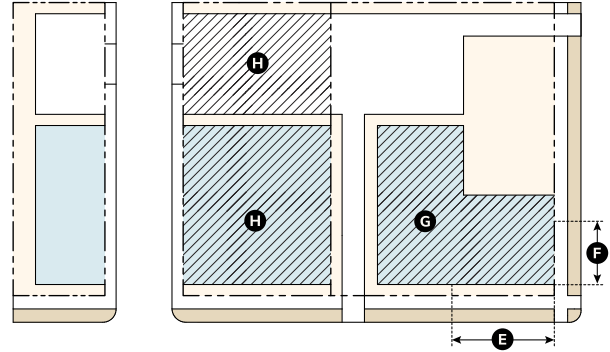


#### Dimensions and Siting

	Minimum Lot Area	None
	Minimum Lot Width	None
<b>A</b>	Front Setback <sup>1</sup>	0-15 ft Build-to Zone
<b>B</b>	Corner Side Setback <sup>1</sup>	0-25 ft Build-to Zone
<b>C</b>	Minimum Interior Side Setback	0 ft, unless abutting residential district or DT-T District, then 10 ft
<b>D</b>	Minimum Rear Setback	0 ft, unless abutting residential district or DT-T District, then 15 ft

<sup>1</sup> 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.

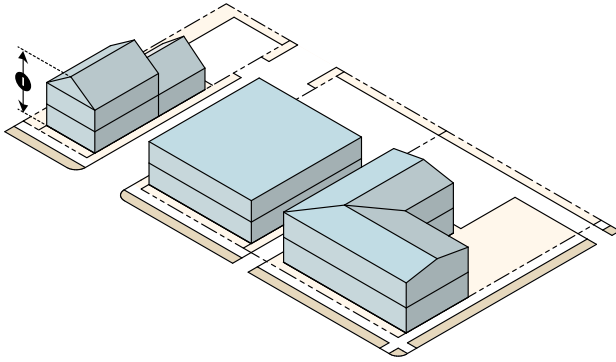
### 4.5.2 Buildout



#### Buildout

<b>E</b>	Minimum Front Build-to Percentage	60%
<b>F</b>	Minimum Corner Side Build-to Percentage	40%
<b>G</b>	Maximum Building Coverage	65%
<b>H</b>	Maximum Impervious Surface Coverage	80%

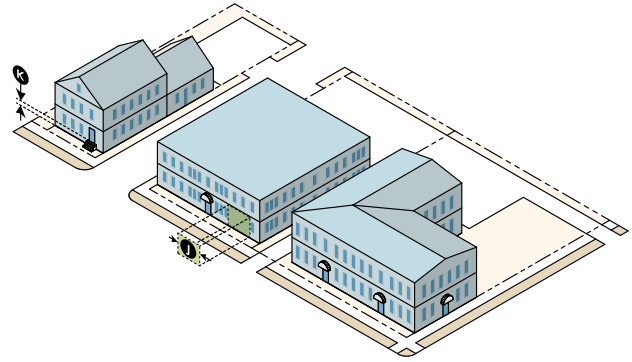
### 4.5.3 Height



#### Building Height

Minimum Building Height	None
<b>I</b> Maximum Building Height	35 ft & 2.5 Stories

### 4.5.4 Activation

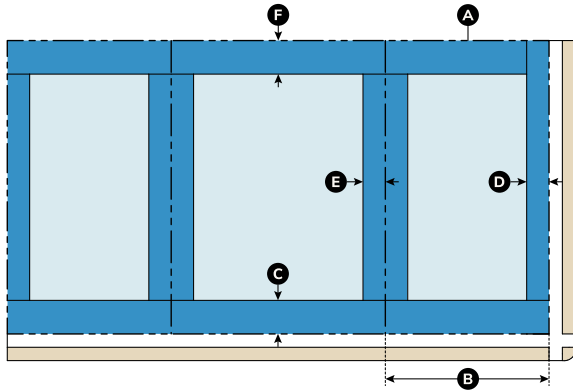


#### Building Activation

<b>J</b> Maximum Blank Wall Area	20 ft
<b>K</b> Maximum Height of Building Entry Threshold Above Sidewalk	4 ft
Minimum Ground Floor Transparency	30%
Minimum Upper Floor Transparency	15%

## 4.6 DOWNTOWN TRANSITION (DT-T)

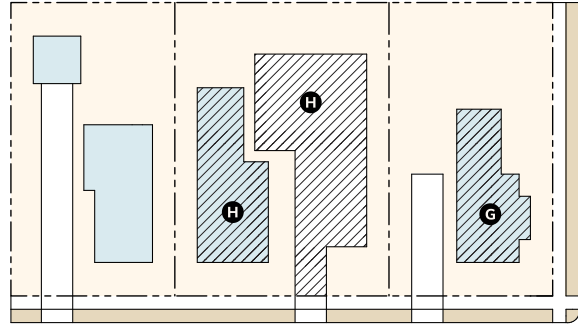
### 4.6.1 Dimensions and Siting



#### Dimensions and Siting

	Minimum Road Frontage	50 ft
<b>A</b>	Minimum Lot Area	8,000 sf
<b>B</b>	Minimum Lot Width	60 ft
<b>C</b>	Minimum Front Setback	15 ft
<b>D</b>	Minimum Corner Side Setback <sup>1</sup>	10 ft
<b>E</b>	Minimum Interior Side Setback	10 ft
<b>F</b>	Minimum Rear Setback	15 ft

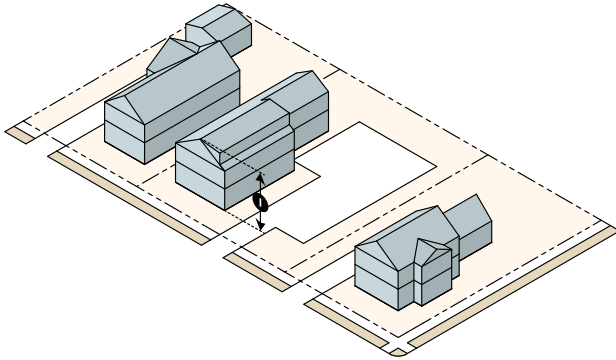
### 4.6.2 Buildout



#### Buildout

<b>G</b>	Maximum Building Coverage	50%
<b>H</b>	Maximum Impervious Surface Coverage	70%

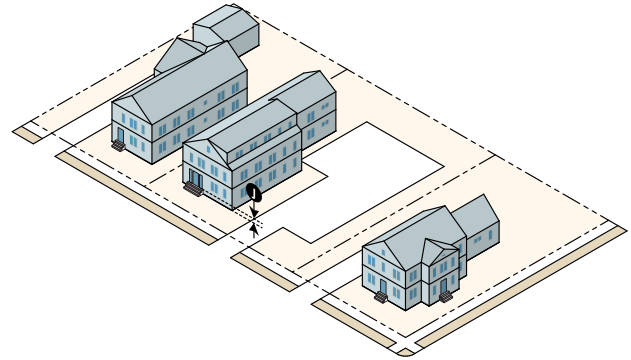
### 4.6.3 Height



#### Building Height

Minimum Building Height	None
1 Maximum Building Height	40 ft & 3 Stories

### 4.6.4 Activation

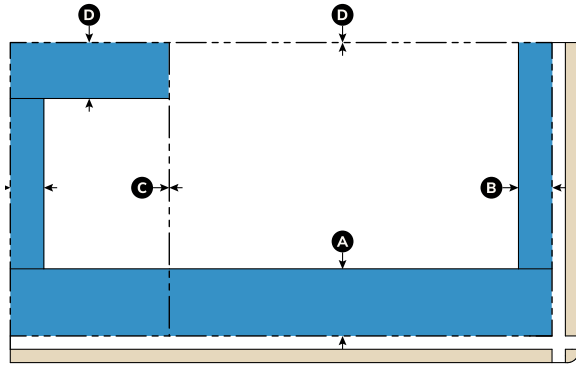


#### Building Activation

1 Maximum Height of Building Entry Threshold Above Sidewalk	Multi-Family + Nonresidential Uses: 5 ft
Minimum Ground Floor Transparency	Multi-Family + Nonresidential Uses: 25%
Minimum Upper Floor Transparency	Multi-Family + Nonresidential Uses: 10%

## 4.7 DOWNTOWN INSTITUTIONAL CAMPUS (DT-I)

### 4.7.1 Dimensions and Siting

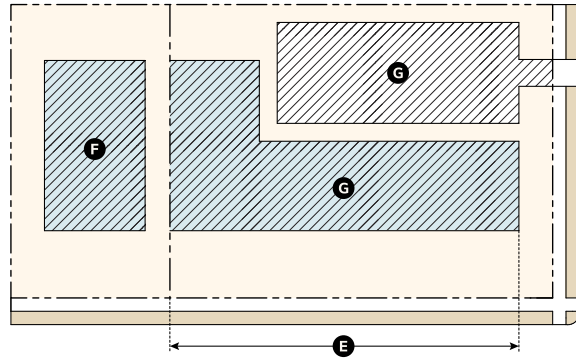


#### Dimensions and Siting

	Minimum Lot Area	None
	Minimum Lot Width	None
<b>A</b>	Minimum Front Setback <sup>1</sup>	30 ft
<b>B</b>	Minimum Corner Side Setback <sup>1</sup>	15 ft
<b>C</b>	Minimum Interior Side Setback	0 ft, unless abutting residential district or DT-T District, then 15 ft
<b>D</b>	Minimum Rear Setback	0 ft, unless abutting residential district or DT-T District, then 25 ft

- <sup>1</sup> 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.

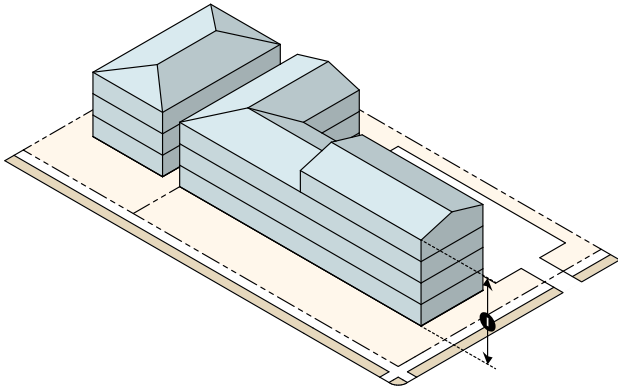
### 4.7.2 Buildout



#### Buildout

<b>E</b>	Maximum Building Length	350 ft, unless a pedestrian passage is provided, then 500 ft
<b>F</b>	Maximum Building Coverage	50%
<b>G</b>	Maximum Impervious Surface Coverage	75%

### 4.7.3 Height



#### Building Height

Minimum Building Height	None
① Maximum Building Height	50 ft at required setbacks Structures may increase height over 50 ft by setting back an additional 2 ft for every 1 ft of additional height from all required setbacks.

# ARTICLE 5. COMMERCIAL ZONING DISTRICTS

5.1 COMMERCE DISTRICT (COM) .....5-2

5.2 COMMERCE LIMITED (CL).....5-4

5.3 NEIGHBORHOOD BUSINESS (NB) .....5-5

5.4 BUSINESS GROWTH & REUSE (BGR).....5-6

5.5 OFFICE (O) .....5-7

## 5.1 COMMERCE (COM)

### 5.1.1 Purpose

The Commerce (COM) District is intended to provide an area for intense commercial development that is accessed predominantly by vehicles. Shopping plazas and multiple businesses in one building would be typical in this district. All uses in this district shall have city water and sewer service.

### 5.1.2 Dimensions & Siting

<b>Min Lot Area</b>	15,000 sf
<b>Min Road Frontage</b>	50 ft
<b>Min Front Setback</b>	20 ft
<b>Min Rear Setback</b>	20 ft
<i>Min rear setback if abutting residential district</i>	50 ft
<b>Min Side Setback</b>	20 ft

### 5.1.3 Buildout

<b>Max Building Coverage</b>	80%
<b>Max Impervious Coverage</b>	80%
<b>Min Green / Open Space</b>	20%

### 5.1.4 Height

<b>Max Stories Above Grade*</b>	2
<i>*With Special Exception</i>	3.5
<b>Max Building Height*</b>	35 ft
<i>*With Special Exception</i>	50

## 5.1.5 Permitted Uses

### COMMERCIAL USES

Animal Care Facility	P
Art Gallery	P
Art or Fitness Studio	P
Banking or Lending Institution	P
Bar	P
Car Wash	P
Clinic	P
Day Care Center	P
Event Venue	P
Funeral Home	P
Greenhouse / Nursery	P
Health Center / Gym	P
Hotel/Motel	P
Micro-Brewery/Micro-Distillery/Micro-Winery	P
Motor Vehicle Dealership	P
Neighborhood Grocery Store	P
Office	P
Personal Service Establishment	P
Private Club / Lodge	P
Recreation/Entertainment Facility - Indoor	P
Recreation/Entertainment Facility - Outdoor	P
Research and Development	P
Restaurant	P
Retail Establishment, Heavy	P
Retail Establishment, Light	P
Self Storage Facility - Indoor	P
Self Storage Facility - Outdoor	P
Sexually Oriented Business	P <sup>1</sup>
Specialty Food Service	P
Vehicle Fueling Station	P <sup>1</sup>
Vehicle Rental Service	P
Vehicle Repair Facility – Major	P <sup>1</sup>
Vehicle Repair Facility – Minor	P <sup>1</sup>

### INSTITUTIONAL

Community Center	P <sup>1</sup>
Cultural Facility	P <sup>1</sup>
Place of Worship	P <sup>1</sup>
Senior Center	P <sup>1</sup>
Private School	P <sup>1</sup>

### CONGREGATE LIVING / SOCIAL SERVICE

Domestic Violence Shelter	P
Drug Treatment Clinic	CUP
Food Pantry	P



Group Resource Center	CUP
Homeless Shelter	CUP
Residential Care Facility	CUP
Residential Drug/Alcohol Treatment Facility	CUP
<b>INDUSTRIAL USES</b>	
Artisanal Production	P1
Data Center	P
Industrial, Light	SE
Outdoor Storage Yard	P
<b>OPEN SPACE USES</b>	
Conservation Area	P
<b>INFRASTRUCTURE</b>	
Solar Energy System (Small-Scale)	P
Solar Energy System (Medium-Scale)	CUP
Telecommunications Facilities	P1
<b>TRANSPORTATION USES</b>	
Parking Lot (Principal Use)	P
Parking – Structured Facility (Principal Use)	P

*P = Permitted*  
*P1 = Permitted with limitations per Article 8.*  
*SE = Permitted by Special Exception*  
*CUP = Permitted by Conditional Use Permit*

## 5.2 COMMERCE LIMITED (CL)

### 5.2.1 Purpose

The Commerce Limited (CL) District is intended to provide for a mixture of commercial and light industrial uses that may require larger land area and have less intense vehicle traffic as in the Commerce District. Curb cuts shall be a minimum of 150-ft from any intersection, and shall be a minimum of 450-ft apart, except that each lot shall be entitled to access, either through its own curb cut or a common curb cut shared with other lots. All uses in this district shall have city water and sewer service.

### 5.2.2 Dimensions & Siting

<b>Min Lot Area</b>	20,000 sf
<b>Min Lot Width at Building Line</b>	100 ft
<b>Min Road Frontage</b>	100 ft
<b>Min Front Setback</b>	100 ft
<b>Min Rear Setback</b>	20 ft
<i>Min rear setback if abutting a residential district</i>	50 ft
<b>Min Side Setback</b>	20 ft

### 5.2.3 Buildout

<b>Max Building Coverage</b>	40%
<b>Max Impervious Coverage</b>	70%
<b>Min Green / Open Space</b>	30%

### 5.2.4 Height

<b>Max Stories Above Grade</b>	2
<b>Max Building Height</b>	35 ft

### 5.2.5 Permitted Uses

COMMERCIAL USES	
Animal Care Facility	P
Art Gallery	P
Art or Fitness Studio	P
Banking or Lending Institution	P
Bar	P
Car Wash	P
Clinic	P

Day Care Center	P
Funeral Home	P
Greenhouse / Nursery	P
Health Center / Gym	P
Heavy Rental & Service Establishment	P
Micro-Brewery/Micro-Distillery/Micro-Winery	P
Motor Vehicle Dealership	P
Office	P
Personal Service Establishment	P
Private Club / Lodge	P
Recreation/Entertainment Facility - Indoor	P
Recreation/Entertainment Facility - Outdoor	P
Research and Development	P
Retail Establishment, Heavy	P
Retail Establishment, Light	P
Self Storage Facility - Indoor	P
Self Storage Facility - Outdoor	P
Specialty Food Service	P
Vehicle Fueling Station	P <sup>1</sup>
Vehicle Rental Service	P
Vehicle Repair Facility – Major	P <sup>1</sup>
Vehicle Repair Facility – Minor	P <sup>1</sup>
INDUSTRIAL USES	
Artisanal Production	P <sup>1</sup>
Bulk storage & distribution, excluding flammable material	P
Data Center	P
Industrial, Light	SE
Outdoor Storage Yard	P
Warehouse & Distribution	P
Wholesale	P
OPEN SPACE USES	
Community Garden	P
Conservation Area	P
INFRASTRUCTURE	
Solar Energy System (Small-Scale)	P
Solar Energy System (Medium-Scale)	CUP
Public Utility Facilities	SE
Telecommunications Facilities	P <sup>1</sup>
TRANSPORTATION USES	
Parking Lot (Principal Use)	P
Parking – Structured Facility (Principal Use)	P

P = Permitted  
P<sup>1</sup> = Permitted with limitations per Article 8.  
SE = Permitted by Special Exception  
CUP = Permitted by Conditional Use Permit

### 5.3 NEIGHBORHOOD BUSINESS (NB)

#### 5.3.1 Purpose

The Neighborhood Business (NB) District is intended to serve as an additional downtown zoning district that promotes smaller-sized business and professional uses, which support adjacent neighborhoods and workplaces, with an orientation toward pedestrian and bicycle access. Some uses are restricted in size to limit adverse impacts on nearby residences and to maintain a pedestrian scale of development. All uses in this district shall have city water and sewer service.

#### 5.3.2 Dimensions & Siting

<b>Min Lot Area</b>	8,000 sf
<b>Min Road Frontage</b>	50 ft
<b>Front Setback</b>	5-10 ft Build-to Zone
<b>Min Rear Setback</b>	20 ft
<b>Corner Side Setback</b>	5-10 ft Build-to Zone
<b>Min Interior Side Setback</b>	10 ft

#### 5.3.3 Buildout

<b>Max Building Coverage</b>	55%
<b>Max Impervious Coverage</b>	65%
<b>Min Green / Open Space</b>	35%

#### 5.3.4 Height

<b>Max Stories Above Grade</b>	2
Max stories above grade with first floor parking	4

### 5.3.5 Permitted Uses

<b>RESIDENTIAL</b>	
Dwelling, Above Ground Floor	P
Dwelling, Multifamily	P
Dwelling, Single-Family	P
Dwelling, Two-Family / Duplex	P
<b>COMMERCIAL USES</b>	
Art Gallery	P
Art or Fitness Studio	P
Banking or Lending Institution	P
Bed and Breakfast	SE
Day Care Center	SE
Funeral Home	P
Neighborhood Grocery Store	P
Office	P <sup>1</sup>
Personal Service Establishment	P
Restaurant	P <sup>1</sup>
Retail Establishment, Light	P <sup>1</sup>
Specialty Food Service	P
<b>CONGREGATE LIVING / SOCIAL SERVICE</b>	
Residential Care Facility	CUP
<b>OPEN SPACE USES</b>	
Community Garden	P
Conservation Area	P
<b>INFRASTRUCTURE</b>	
Solar Energy System (Small-Scale)	P
Solar Energy System (Medium-Scale)	CUP
Telecommunications Facilities	P <sup>1</sup>

P = Permitted  
P<sup>1</sup> = Permitted with limitations per Article 8.  
SE = Permitted by Special Exception  
CUP = Permitted by Conditional Use Permit

## 5.4 BUSINESS GROWTH & REUSE (BGR)

### 5.4.1 Purpose

The Business Growth & Reuse (BGR) District is intended to serve as an additional downtown zoning district that provides opportunity for redevelopment and revitalization of a former industrial area in an environmentally sensitive manner that is of a scale and type compatible with adjacent residential neighborhoods. The development in this District should be oriented towards pedestrian and bicyclist access. All uses in this district shall have city water and sewer service.

### 5.4.2 Dimensions & Siting

Min Lot Area	8,000 sf
<b>Min lot area for incentive eligible projects</b>	<b>None</b>
Min Road Frontage	50 ft
Front Setback	5-10 ft Build-to Zone
Min Rear Setback	20 ft
Corner Side Setback	5-10 ft Build-to Zone
Min Interior Side Setback	10 ft

### 5.4.3 Buildout

Max Building Coverage	55%
Max Impervious Coverage	65%
Min Green / Open Space	35%

### 5.4.4 Height

Max Stories Above Grade	2
<b>Max stories above grade with first floor parking</b>	<b>4</b>
<b>Max stories above grade for incentive eligible projects</b>	<b>3</b>
<b>Max stories above grade for incentive eligible projects with first floor parking</b>	<b>5</b>

## 5.4.5 Permitted Uses

### RESIDENTIAL

Dwelling, Above Ground Floor	P
Dwelling, Multifamily	P

### COMMERCIAL USES

Art Gallery	P
Art or Fitness Studio	P
Bed and Breakfast	P <sup>1</sup>
Day Care Center	P
Greenhouse / Nursery	P
Health Center / Gym	P
Neighborhood Grocery Store	P
Office	P <sup>1</sup>
Research and Development	P
Restaurant	P <sup>1</sup>
Specialty Food Service	P

### INSTITUTIONAL

Community Center	SE
Cultural Facility	P <sup>1</sup>
Senior Center	SE
Private School	L

### CONGREGATE LIVING / SOCIAL SERVICE

Residential Care Facility	CUP
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### INDUSTRIAL USES

Artisanal Production	P <sup>1</sup>
Data Center	P
Industrial, Light	P <sup>1</sup>
Warehouse & Distribution	P <sup>1</sup>
Wholesale	P <sup>1</sup>

### OPEN SPACE USES

Community Garden	P
Conservation Area	P

### INFRASTRUCTURE

Solar Energy System (Small-Scale)	P
Solar Energy System (Medium-Scale)	CUP
Solar Energy System (Large-Scale)	CUP
Telecommunications Facilities	P <sup>1</sup>

P = Permitted  
P<sup>1</sup> = Permitted with limitations per Article 8.  
SE = Permitted by Special Exception  
CUP = Permitted by Conditional Use Permit

## 5.5 OFFICE (O)

### 5.5.1 Purpose

The Office (O) District is intended to provide for noncommercial offices and low intensity uses within walking distance to the downtown, while preserving the look and feel of a residential area. This district serves as a buffer between areas of intense commercial activity and residential areas. All uses in this district shall have city water or sewer service.

### 5.5.2 Dimensions & Siting

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

### 5.5.3 Buildout

<b>Max Building Coverage</b>	50%
<b>Max Impervious Coverage</b>	70%
<b>Min Green / Open Space</b>	30%

### 5.5.4 Height

<b>Max Stories Above Grade</b>	2
<b>Max Building Height</b>	35 ft

## 5.5.5 Permitted Uses

<b>RESIDENTIAL</b>	
Dwelling, Above Ground Floor	P
Dwelling, Multifamily	P
Dwelling, Single-Family	P
Dwelling, Two-Family / Duplex	P
<b>COMMERCIAL USES</b>	
Bed and Breakfast	P <sup>1</sup>
Day Care Center	SE
Funeral Home	P
Office	P
Private Club / Lodge	SE
<b>INSTITUTIONAL</b>	
Community Center	SE
Cultural Facility	SE
Senior Center	SE
<b>CONGREGATE LIVING / SOCIAL SERVICE</b>	
Group Home	CUP
Lodginghouse	CUP
<b>INFRASTRUCTURE</b>	
Solar Energy System (Small-Scale)	P
Solar Energy System (Medium-Scale)	CUP
Telecommunications Facilities	P <sup>1</sup>

P = Permitted  
P<sup>1</sup> = Permitted with limitations per Article 8.  
SE = Permitted by Special Exception  
CUP = Permitted by Conditional Use Permit

# ARTICLE 6. INDUSTRIAL ZONING DISTRICTS

6.1 CORPORATE PARK (CP) .....6-2

6.2 INDUSTRIAL (I) .....6-3

6.3 INDUSTRIAL PARK (IP) .....6-4

## 6.1 CORPORATE PARK (CP)

### 6.1.1 Purpose

The Corporate Park (CP) District is intended to allow industrial and large-scale office activity in a parklike setting. On-site services or retail activity should be limited to uses that are clearly accessory to a primary business or necessary support services to a corporate park environment. It is the intent of this zone to preclude small offices, except those accessory to permitted uses. All uses in this district shall have city sewer and water services.

### 6.1.2 Dimensions & Siting

<b>Min Lot Area</b>	2 acres
<b>Min Lot Width at Building Line</b>	200 ft
<b>Min Road Frontage</b> (may be along internal road)	100 ft
<b>Min Front Setback</b>	40 ft
<b>Min Rear Setback</b>	50 ft
Min rear setback if abutting residential district	75 ft
<b>Min Side Setback<sup>1</sup></b>	50 ft
Min side setback if abutting residential district	75 ft

<sup>1</sup>One side setback may be reduced to 40-ft with no parking on this side of the building

### 6.1.3 Buildout

<b>Max Building Coverage</b>	80%
<b>Max Impervious Coverage</b>	80%
<b>Min Green / Open Space</b>	20%

### 6.1.4 Height

<b>Max Building Height</b>	60 ft
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### 6.1.5 Additional Site Requirements

- A. Curb cuts onto arterial roads within this district shall be at least 1,000-ft apart.
- B. No more than 100 tractor-trailer trips per day shall be permitted for any use in this district.

## 6.1.6 Permitted Uses

### COMMERCIAL USES

Day Care Center	P
Office	P <sup>1</sup>
Research and Development	P

### INDUSTRIAL USES

Data Center	P
Industrial, Light	P
Warehouse & Distribution	P

### INFRASTRUCTURE

Solar Energy System (Small-Scale)	P
Solar Energy System (Medium-Scale)	CUP
Solar Energy System (Large-Scale)	CUP
Public Utility Facilities	SE
Telecommunications Facilities	P <sup>1</sup>

### TRANSPORTATION USES

Parking Lot (Principal Use)	P
Parking – Structured Facility (Principal Use)	P

P = Permitted  
P<sup>1</sup> = Permitted with limitations per Article 8.  
SE = Permitted by Special Exception  
CUP = Permitted by Conditional Use Permit

## 6.2 INDUSTRIAL (I)

### 6.2.1 Purpose

The Industrial (I) District is intended to provide space for industrial activities (e.g. manufacturing, warehousing, distribution) not typically suited for commercial areas by virtue of operational characteristics and space needs. Retail sales and offices should be allowed only as accessory uses. All uses in this district shall have city water and sewer service.

### 6.2.2 Dimensions & Siting

<b>Min Lot Area</b>	None
<b>Min Lot Width at Building Line</b>	None
<b>Min Road Frontage</b>	50 ft
<b>Min Front Setback</b>	20 ft
<b>Min Rear Setback</b>	20 ft
<i>Min rear setback if abutting a residential district</i>	50 ft
<b>Min Side Setback</b>	15 ft

### 6.2.3 Buildout

<b>Max Building Coverage</b>	80%
<b>Max Impervious Coverage</b>	80%

### 6.2.4 Height

<b>Max Stories Above Grade*</b>	2
<i>*With Special Exception</i>	3.5
<b>Max Building Height*</b>	35 ft
<i>*With Special Exception</i>	50

## 6.2.5 Permitted Uses

COMMERCIAL USES	
Art or Fitness Studio	P
Car Wash	P
Day Care Center	SE
Greenhouse / Nursery	P
Health Center / Gym	P
Heavy Rental & Service Establishment	P
Office	SE
Research and Development	P
Self Storage Facility - Indoor	P
Self Storage Facility - Outdoor	P
Vehicle Repair Facility – Major	P <sup>1</sup>
Vehicle Repair Facility – Minor	P <sup>1</sup>
INDUSTRIAL USES	
Artisanal Production	P
Bulk storage & distribution of goods, including flammable material	P
Bulk storage & distribution, excluding flammable material	P
Data Center	P
Industrial, Heavy	P
Industrial, Light	P
Outdoor Storage Yard	P
Warehouse & Distribution	P
Wholesale	P
OPEN SPACE USES	
Conservation Area	P
INFRASTRUCTURE	
Solar Energy System (Small-Scale)	P
Solar Energy System (Medium-Scale)	CUP
Solar Energy System (Large-Scale)	CUP
Public Utility Facilities	P
Telecommunications Facilities	P <sup>1</sup>

P = Permitted  
P<sup>1</sup> = Permitted with limitations per Article 8.  
SE = Permitted by Special Exception  
CUP = Permitted by Conditional Use Permit



## 6.3 INDUSTRIAL PARK (IP)

### 6.3.1 Purpose

The Industrial Park (IP) District is intended to provide for relatively low-intensity manufacturing and research and development firms that are employee intensive, clean in nature, and promote an attractive industrial park environment. Service operations and sales activities are excluded from this district, except for minor sales that may be accessory to the primary use. All uses in this district shall have city water and sewer service.

### 6.3.2 Dimensions & Siting

<b>Min Lot Area</b>	4 acres
<b>Min Road Frontage</b>	50 ft
<b>Min Front Setback</b>	50 ft
<b>Min Rear Setback</b>	50 ft
<b>Min Side Setback</b>	30 ft

### 6.3.3 Buildout

<b>Max Building Coverage</b>	25%
<b>Max Impervious Coverage</b>	70%

### 6.3.4 Height

<b>Max Stories Above Grade*</b>	2
<i>*With Special Exception</i>	3.5
<b>Max Building Height*</b>	35 ft
<i>*With Special Exception</i>	50

## 6.3.5 Permitted Uses

### COMMERCIAL USES

Day Care Center	P
Office	SE
Research and Development	P

### INDUSTRIAL USES

Data Center	P
Industrial, Light	P

### OPEN SPACE USES

Conservation Area	P
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### INFRASTRUCTURE

Solar Energy System (Small-Scale)	P
Solar Energy System (Medium-Scale)	CUP
Solar Energy System (Large-Scale)	CUP
Telecommunications Facilities	P <sup>1</sup>

P = Permitted  
P<sup>1</sup> = Permitted with limitations per Article 8.  
SE = Permitted by Special Exception  
CUP = Permitted by Conditional Use Permit



# ARTICLE 7. SPECIAL PURPOSE ZONING DISTRICTS

7.1 REGIONAL HEALTH CARE (HC).....7-2

7.2 AGRICULTURE (A) .....7-3

7.3 CONSERVATION (C).....7-4

## 7.1 REGIONAL HEALTH CARE (HC)

### 7.1.1 Purpose

The Regional Health Care (HC) District is intended to provide land area for larger-scale health care institutions and their associated facilities and services, ranging from wellness and education programs to care for the acutely and chronically ill. Uses that are clearly accessory to a primary health care use and/or necessary as support services to provide a successful health care delivery system may be allowed. All uses in this district shall have city water and sewer services.

### 7.1.2 Dimensions & Siting

<b>Min Lot Area</b>	2 acres
<b>Min Lot Width at Building Line</b>	50 ft
<b>Min Road Frontage</b>	50 ft
<b>Min Front Setback</b>	50 ft
<b>Min Rear Setback</b>	20 ft
<b>Min Side Setback</b>	20 ft

### 7.1.3 Buildout

<b>Max Building Coverage</b>	55%
<b>Max Impervious Coverage</b>	75%
<b>Min Green / Open Space</b>	25%

### 7.1.4 Height

<b>Max Stories Above Grade</b>	4
<b>Max Building Height</b>	55 ft

## 7.1.5 Permitted Uses

### COMMERCIAL USES

Clinic	P
Day Care Center	P
Health Center / Gym	P
Office	P
Personal Service Establishment	P
Research and Development	P
Retail Establishment, Light	P

### INSTITUTIONAL

Hospital	P <sup>1</sup>
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### CONGREGATE LIVING / SOCIAL SERVICE

Drug Treatment Clinic	CUP
Group Resource Center	CUP
Lodginghouse	CUP
Residential Care Facility	CUP
Residential Drug/Alcohol Treatment Facility	CUP

### OPEN SPACE USES

Conservation Area	P
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### INFRASTRUCTURE

Telecommunications Facilities	P <sup>1</sup>
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### TRANSPORTATION USES

Solar Energy System (Small-Scale)	P
Solar Energy System (Medium-Scale)	CUP
Parking Lot (Principal Use)	P
Parking – Structured Facility (Principal Use)	P

P = Permitted  
P<sup>1</sup> = Permitted with limitations per Article 8.  
SE = Permitted by Special Exception  
CUP = Permitted by Conditional Use Permit

## 7.2 AGRICULTURE (A)

### 7.2.1 Purpose

The Agriculture (A) District is intended to allow for farms and farmland, and to discourage activity that is not related to agriculture. Large-scale commercial recreation, even if agriculture related, is not suitable for this district.

### 7.2.2 Dimensions & Siting

<b>Min Lot Area</b>	10 acres
Min lot area per dwelling unit	10 acres
<b>Min Lot Width at Building Line</b>	200 ft
<b>Min Road Frontage</b>	50 ft
<b>Min Front Setback</b>	50 ft
<b>Min Rear Setback</b>	50 ft
<b>Min Side Setback</b>	50 ft

### 7.2.3 Buildout

<b>Max Building Coverage<sup>1</sup></b>	10%
<b>Max Impervious Coverage<sup>1</sup></b>	20%

<sup>1</sup>May be increased by Special Exception solely for bona fide agricultural uses and no more than is necessary to permit the reasonable operation of such uses. Any Special Exception so granted shall be treated as a nonconforming use.

### 7.2.4 Height

<b>Max Stories Above Grade</b>	2
<b>Max Building Height</b>	35 ft

## 7.2.5 Permitted Uses

### RESIDENTIAL

Dwelling, Above Ground Floor	P
Dwelling, Single-Family	P
Dwelling, Two-Family / Duplex	SE

### COMMERCIAL USES

Agricultural-Related Educational & Recreational Activity as a Business	P <sup>1</sup>
Animal Care Facility	P
Bed and Breakfast	SE
Event Venue	SE
Greenhouse / Nursery	P
Kennel	P
Recreation/Entertainment Facility - Outdoor	SE

### OPEN SPACE USES

Cemetery	P
Community Garden	P
Conservation Area	P
Farming	P
Golf Course	P <sup>1</sup>

### INFRASTRUCTURE

Solar Energy System (Small-Scale)	P
Solar Energy System (Medium-Scale)	CUP
Solar Energy System (Large-Scale)	CUP
Telecommunications Facilities	P <sup>1</sup>

P = Permitted  
P<sup>1</sup> = Permitted with limitations per Article 8.  
SE = Permitted by Special Exception  
CUP = Permitted by Conditional Use Permit

## 7.3 CONSERVATION (C)

### 7.3.1 Purpose

The Conservation (C) District is intended to provide for those lands which have been identified as necessary to preserve as open space because of their critical or delicate environmental nature.

### 7.3.2 Dimensions & Siting

<b>Min Lot Area</b>	5 acres
<b>Min Lot Width at Building Line</b>	200 ft
<b>Min Road Frontage</b>	50 ft
<b>Min Front Setback</b>	50 ft
<b>Min Rear Setback</b>	50 ft
<b>Min Side Setback</b>	50 ft

### 7.3.3 Buildout

<b>Max Building Coverage</b>	10%
<b>Max Impervious Coverage</b>	20%

### 7.3.4 Height

<b>Max Stories Above Grade</b>	2
<b>Max Building Height</b>	35 ft

## 7.3.5 Permitted Uses

### OPEN SPACE USES

Cemetery	P
Conservation Area	P

### INFRASTRUCTURE

Solar Energy System (Small-Scale)	P
Solar Energy System (Medium-Scale)	CUP
Telecommunications Facilities	P <sup>1</sup>

P = Permitted

P<sup>1</sup> = Permitted with limitations per Article 8.

SE = Permitted by Special Exception

CUP = Permitted by Conditional Use Permit

# ARTICLE 8. PERMITTED USES

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8.3 PRINCIPAL USES .....8-4

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## 8.1 GENERAL

### 8.1.1 Applicability

- A. The use of all land or structures in the City shall be in accordance with the standards of this Article.
- B. No land or structure in the City shall be used for any purpose or in any manner other than that which is permitted in the zoning district in which it is located.

### 8.1.2 Principal Uses

- A. A principal use is the main or primary use conducted on a lot or located within a building or structure, as distinguished from an accessory use.
- B. Table 8-1 identifies the principal uses allowed by zoning district, with cross references for use-specific standards that may apply.

### 8.1.3 Multiple Principal Uses

With the exception of lots located in a residential zoning district, a lot may contain more than one principal use, so long as each use is allowed in the zoning district.

### 8.1.4 Accessory Uses & Structures

- A. An accessory use is a structure or use subordinate in both purpose and size to and is normally and customarily associated with any principal structure or use located on the same lot.
- B. Accessory uses may be allowed in conjunction with a permitted principal use as set forth in **Section 8.4.**

### 8.1.5 Use Categories

Categories of principal uses have been established to provide a structure for organizing land uses and activities based on common functional or physical characteristics.

### 8.1.6 Unlisted Uses

If a use is not listed in **Table 8-1**, the Zoning Administrator may interpret the use as permitted in accordance with **Section 8.2.7** Use Determination.

### 8.1.7 Use Determination

- A. When determining whether a proposed use is similar in nature and impact to a listed use, the Zoning Administrator will consider each of the following criteria, which shall be submitted in the form of a written narrative with supporting materials by the applicant to the Zoning Administrator.
  1. How the proposed use aligns with the intent of the zoning district
  2. The actual or projected characteristics of the proposed use
  3. The relative amount of site or floor area and equipment devoted to the proposed use
  4. The anticipated impacts (e.g. noise, sewer/water demand) of the proposed use on the surrounding environment, abutting properties, city infrastructure, and city services
  5. The anticipated number of employees
  6. Hours of operation
  7. Types of vehicles used and their parking requirements
  8. The number of vehicle trips generated
  9. Whether the activity is likely to be found independent of the other activities on the site
  10. Any additional supporting information deemed necessary by the Zoning Administrator
- B. Following a use determination by the Zoning Administrator, a written record shall be kept on file with the Community Development Department.



### 8.2.8 Principal Use Table

- A. Table 8-1 identifies the principal uses allowed in each zoning district, with cross references to sections of this Article that address the use-specific standards that may apply.
- B. The key for Table 8-1 is as follows:
  - 1. **P** = Permitted Use. Indicates that the use is allowed by right in the zoning district.
  - 2. **P<sup>1</sup>** = Permitted Use with Limitations. Indicates that the use, while allowed by right in the zoning district, must meet standards associated with the specific use. These use-specific standards are located in **Section 8.3**, underneath the definition for the use.
  - 3. **CUP** = Conditional Use Permit. Indicates uses that may be allowed in the district following the issuance of a Conditional Use Permit from the Planning Board. Use-specific standards may also apply.
  - 4. **SE** = Special Exception. Indicates that the use requires approval by the Zoning Board of Adjustment as a Special Exception before it is allowed in the District. Use-specific standards may also apply.
  - 5. **-** = Use Not Permitted. Indicates that a use is not permitted in the zoning district.

### 8.2 INSTITUTIONAL USE STREET LIST

Uses grouped under the category of Institutional, shall be allowed on the following road sections in the City of Keene, in addition to any zoning district where they are expressly permitted either by right, special exception, or conditional use permit.

- A. Arch St, from Park Ave to Whitcomb Mill Rd
- B. Court St, on the west side from Westview St to Maple Ave and on the east side from Evergreen Ave to Maple Ave
- C. Hastings Ave, on the west side from Trowbridge Rd to Evans Ln
- D. Main St, on the east side from Central Square to the Swanzey townline and on the west side from Central Square to Greenwood Ave
- E. Maple Ave
- F. Marlboro St, from Main St to Eastern Ave
- G. Park Ave
- H. Base Hill Rd on the east side, from the south edge of the right-of-way of NH Route 9 southerly, a distance of approximately 800-ft
- I. Summit Rd, from Park Ave to the intersection of Maple Ave and Hastings Ave, and continuing northerly on the west side of Summit Rd for a distance of approximately 1,000-ft
- J. Washington St
- K. West St, from the intersection of NH Routes 9/10/12 to Park Ave
- L. Winchester St
- M. Wyman Rd, on both sides of the road, from the north edge of the right-of-way of NH Route 12 northerly to the northeasterly boundaries of the lots with tax map parcel numbers #210-010-000-000-000 and #221-019-000-000-000, with said boundaries being approximately 230-ft northeasterly of Black Brook

## 8.3 PRINCIPAL USES

This section provides a definition for each of the uses identified in Table 8-1. Some uses may have limitations or conditions that are associated with them, which will be listed as use standards underneath the definition.

### 8.3.1 Residential Uses

#### A. Dwelling, Above Ground Floor

1. **Defined.** A dwelling unit that is located on the second story or higher of a building that is above ground.

#### B. Dwelling, Manufactured Housing

1. **Defined.** Any structure, transportable in one or more sections, which, in the traveling mode is 8 body feet or more in width and 40 body feet or more in length, or when erected on site, is 320-sf or more, and which is built on a permanent chassis and is designed to be used as a dwelling with or without a permanent foundation when connected to required utilities, which include plumbing, heating and electrical systems contained therein. Manufactured housing is regulated by the U.S. Department of Housing and Urban Development via the National Manufactured Housing Construction and Safety Standards and is so labeled. Manufactured housing as defined in this section does not include campers or recreation vehicles as defined in RSA 216-I:1 or RSA 259:84-a; presite built housing as defined in RSA 674:31-a; or modular buildings as defined in RSA 205-C:1, XI.
2. **Use Standard.** Manufactured housing shall only be permitted if located within a manufactured housing park as defined in this Article.

#### C. Dwelling, Multi-family

1. **Defined.** A structure containing 3 or more dwelling units located on a single lot, with dwelling units either stacked or attached horizontally, which is designed, occupied,

or intended for occupancy by 3 or more separate families.

#### 2. Use Standards

- a. In the Medium Density District, no more than 3 dwelling units are allowed per lot.
- b. In the Downtown Core District, a minimum of 4 or more dwelling units is required if the units are not located above the ground floor.

#### D. Dwelling, Single-Family

1. **Defined.** A free-standing building containing only 1 dwelling unit on a single lot, which is designed, occupied, or intended for occupancy by 1 family.
2. **Use Standard.** Any owner-occupied, single-family dwelling unit may let guestrooms to up to 3 natural persons who are unrelated to the owner by blood, legal adoption, marriage, or conservatorship.

#### E. Dwelling, Two-Family / Duplex

1. **Defined.** One building on a single lot containing 2 independent dwelling units, which is designed, occupied or intended for occupancy by 2 separate families.

#### F. Manufactured Housing Park

1. **Defined.** Any parcel of land under single or common ownership or control which contains, or is designed, laid out or adapted to accommodate 2 or more manufactured houses to be occupied as dwelling units, and includes all buildings, services and facilities for use as part of the park and its residents. Manufactured housing parks are subject to RSA 205-A.

### 8.3.2 Commercial Uses

#### A. Agricultural-Related Educational and Recreational Activity as a Business.

1. **Defined.** A commercial activity that is appropriate to a farm or rural setting and/or relates to agricultural uses or customs. Activities may include programs, functions, and other demonstrations that are either recreational or educational in nature (e.g. sleigh rides, hay rides, petting farms) and other demonstrations of rural, agricultural and natural resource activities and customs.

#### 2. Use Standards

- a. There shall be no outdoor display of equipment for sale.
- b. Adequate road access to the site shall be available.
- c. All parking, including special event parking, shall be on-site with screening from roads and adjacent properties.
- d. Roadside spectator parking is prohibited and shall be controlled by directional/informational signage, fencing, and/or providing traffic control personnel.
- e. On-site water storage may be required to ensure adequate fire protection, if city water service of adequate volume and pressure is not available at the site.
- f. Toilet facilities for employees and visitors, which are deemed satisfactory by the City's Health Inspector, shall be provided within 300-ft of the primary activity area.
- g. Adequate solid waste disposal and recycling facilities shall be provided, which are screened from the road and adjacent properties.
- h. Areas of special environmental sensitivity (e.g. surface waters,

floodplains, wellfields or steep slopes) shall be adequately protected.

- i. No outdoor activities requiring artificial lighting shall be held after 10:00 pm.
- j. No more than 100 visitors shall be allowed for outdoor functions after 10:00 pm.
- k. There shall be no more than 400 persons on the property at any one time, nor shall the site be visited by more than 250 vehicles within any 24-hour period, unless an Outdoor Event License has been obtained from the City Clerk in accordance with Chapter 46 of the City Code of Ordinances.

#### B. Animal Care Facility

- 1. **Defined.** An establishment that provides care for domestic animals, including veterinary offices for the treatment of animals where such animals may be boarded indoors during their convalescence, and pet grooming facilities. An animal care facility does not include kennels or animal training centers.

#### C. Art Gallery

- 1. **Defined.** An establishment that sells, loans, or displays works of art (e.g. paintings, sculpture, photographs, video art). Art gallery does not include a cultural facility.

#### D. Art or Fitness Studio

- 1. **Defined.** An establishment where an art or activity is taught, studied, or practiced in a classroom or studio setting (e.g. dance, martial arts, photography, pottery, music, painting, gymnastics, pilates, or yoga).

#### E. Banking or Lending Institution

- 1. **Defined.** An establishment that is engaged in the business of a bank, savings and loan association, or credit union that is regulated by state or federal authority.

**F. Bar**

1. **Defined.** An establishment where the primary purpose is the sale of alcoholic beverages for consumption on the premises. Snack foods or other prepared food may be available for consumption on the premises.

**G. Bed and Breakfast**

1. **Defined.** An owner or operator-occupied single-family dwelling unit that provides lodging for a daily fee in guest rooms with no in-room cooking facilities (excluding microwaves and mini-refrigerators), and prepares meals for guests.
2. **Use Standards**
  - a. No more than 9 guest rooms are permitted.
  - b. Meals shall be served to registered guests only.

**H. Car Wash**

1. **Defined.** An establishment for the washing and cleaning of motor vehicles or other light duty equipment, whether automatic, by hand, or self-service. The car wash facility may be within an enclosed structure, an open bay structure, or other configuration.

**I. Clinic**

1. **Defined.** A facility with more than 5 employees where medical, dental, mental health, alternative medical practitioners, or other licensed healthcare practitioners examine and treat persons on an outpatient basis.

**J. Day Care Center**

1. **Defined.** A facility where, for a portion of a 24-hour day, licensed care and supervision is provided in a protective setting outside of a residential dwelling for children or elderly and/or persons with functional impairments that are not related to the owner or operator.

**K. Event Venue**

1. **Defined.** A facility that provides hosting and rental services of a banquet hall or similar facilities for private events (e.g. wedding receptions, holiday parties, fundraisers) with on-site or catered food service to invited guests during intermittent dates and hours of operation. Live entertainment may occur as part of an event. An event venue is not operated as a restaurant with regular hours of operation.

**L. Funeral Home**

1. **Defined.** A facility where the deceased are prepared for burial display and for rituals before burial or cremation. A funeral home may include chapels, crematoriums, and showrooms for the display and sale of caskets, vaults, urns, and other items related to burial services.

**M. Greenhouse / Nursery**

1. **Defined.** An establishment where flowers, shrubbery, vegetables, trees, and other horticultural and floricultural products are propagated and sold, and may include the sale of items directly related to their care and maintenance.

**N. Health Center / Gym**

1. **Defined.** An establishment that provides indoor and/or outdoor activities for members related to health, physical fitness or exercise (e.g. weight training, aerobics, swimming, court sports, climbing).

**O. Heavy Rental and Service Establishment**

1. **Defined.** Rental or service establishments of a heavier- and larger-scale commercial character, typically requiring permanent outdoor service or storage areas or partially enclosed structures. Examples of heavy rental and service establishments include truck rental establishments, and rental and repair of heavy equipment.

**P. Hotel/Motel**

- 1. Defined.** A commercial facility that provides rooms for sleeping and customary lodging services for a fee. Related accessory services include, but are not limited to, meeting facilities, restaurants, bars, and recreational facilities for the use of guests.
- 2. Use Standard.** Rooms accessed individually from the outside of the building or structure are permitted only in the Commerce District.

**Q. Kennel**

- 1. Defined.** The use of land and structures for the boarding of 4 or more dogs for remuneration or sale.

**R. Micro-Brewery**

- 1. Defined.** A facility for the production and packaging of malt beverages of alcoholic content for retail sales on-site. It may also include a tasting room where guests may sample the facility's products.

**S. Micro-Distillery**

- 1. Defined.** A facility for the production and packaging of alcoholic spirits for retail sales on-site. It may also include a tasting room where guests may sample the facility's products.

**T. Micro-Winery**

- 1. Defined.** A facility for the production and packaging of any alcoholic beverages obtained by the fermentation of fruits or vegetables containing sugar, including such beverages when fortified by the addition of alcohol or spirits for retail sales on-site. It may also include a tasting room where guests may sample the facility's products.

**U. Motor Vehicle Dealership**

- 1. Defined.** An establishment that sells or leases new or used automobiles, vans, trucks, motorcycles, recreational vehicles

or other similar motorized transportation vehicles, with outdoor storage and/or display of such vehicles on-site. Motor vehicle dealerships do not include sales of commercial vehicles or heavy equipment, which are considered heavy retail establishments.

**V. Neighborhood Grocery Store**

- 1. Defined.** An establishment primarily engaged in the provision of frequently or recurrently needed food or items for household consumption (e.g. prepared food, beverages, limited household supplies) in a space that is less than or equal to 3,500-sf in gross floor area.

**W. Office**

- 1. Defined.** An establishment that engages in the processing, manipulation, or application of business information or professional expertise, which may or may not offer services to the public. An office is not materially involved in the fabricating, assembling, warehousing or on-site sales of physical products for the retail or wholesale market, nor engaged in the repair of products.

**2. Use Standards**

- a.** In the Corporate Park District and Industrial District, a building occupied by a single office use shall be a minimum of 10,000-sf and a building that includes 2 or more office uses shall be a minimum of 20,000-sf.
- b.** In the Neighborhood Business District, an office use shall occupy less than 5,000-sf of gross floor area.
- c.** In the Business Growth and Reuse District, an office use shall occupy less than 20,000-sf of gross floor area, unless granted a Special Exception from the Zoning Board of Adjustment.

**X. Personal Service Establishment**

- 1. Defined.** An establishment that provides services of a personal nature including, but not limited to, barbershops or hair salons, spas, nail salons, laundromats, dry cleaners, tailors, tattoo or body piercing parlors.

**Y. Private Club Lodge**

- 1. Defined.** A facility operated by an organization or association for a common purpose including, but not limited to, a meeting hall for a fraternal or social organization. Private club / lodge does not include any organization or group that is primarily organized to render a service customarily carried on as a business.
- 2. Use Standard.** In the Office District and Downtown Transition District, primary access to the site of the private club / lodge shall be via an arterial street.

**Z. Recreation / Entertainment Facility - Indoor**

- 1. Defined.** A facility for spectator and participatory uses conducted within an enclosed building including, but not limited to, movie theaters, live performance venues, night clubs, indoor sports arenas, bowling alleys, skating centers, physical adventure game facilities, and pool halls.

**AA. Recreation / Entertainment Facility - Outdoor**

- 1. Defined.** A facility for spectator and participatory uses conducted outdoors or within partially enclosed structures, including, but not limited to, outdoor stadiums, fairgrounds, and batting cages.

**AB. Research and Development.**

- 1. Defined.** A facility where research and development is conducted in industries including, but not limited to, biotechnology, pharmaceuticals, medical instrumentation or supplies, communication and information technology, electronics and instrumentation, and computer hardware and software.

**AC. Restaurant**

- 1. Defined.** An establishment where the primary purpose is the sale and provision of food to the public for on-premises consumption by seated patrons.
- 2. Use Standards**
  - a.** In the Business Growth and Reuse District, a restaurant shall have less than 50 seats.
  - b.** In the Neighborhood Business District, a restaurant shall occupy less than 3,500-sf in gross floor area.

**AD. Retail Establishment, Heavy**

- 1. Defined.** Retail centers of a heavier and larger-scale commercial character typically requiring permanent outdoor storage areas or partially enclosed structures. Examples of this use include large-scale home improvement centers with outdoor storage and display, lumberyards, recreational vehicle dealerships, and sales of heavy equipment. Wholesale establishments that sell to the general public, including those establishments where membership is required, are considered heavy retail establishments.

**AE. Retail Establishment, Light**

- 1. Defined.** An establishment that provides physical goods, products, or merchandise directly to the consumer, where such goods are typically available for immediate purchase and removal from the premises by the purchaser. A retail goods establishment does not include specialty food service.
- 2. Use Standard.** In the Neighborhood Business District, light retail establishments shall occupy less than 3,500-sf in gross floor area.

**AF. Self-Storage Facility – Exterior Access**

- 1. Defined.** A facility for the storage of personal property, where individual renters control and access individual storage

spaces, and where each storage unit has individual access from the outdoors. Outdoor storage of materials is prohibited.

#### **AG. Self-Storage Facility – Interior Access.**

- 1. Defined.** A facility for the storage of personal property, excluding hazardous or flammable materials, where individual renters control and access individual storage spaces located within a fully enclosed building. Outdoor storage of materials is prohibited.

#### **AH. Sexually Oriented Business**

- 1. Defined.** Any place of business at which the following activities are conducted. For an adult motion picture arcade, adult cabaret, adult drive-in theater, adult motel and adult theater, the term "substantial portion of the total presentation time" shall mean the presentation of films or shows described in this subsection for viewing on more than 7-days within any 56-consecutive-day period.

- a.** Adult bookstore and adult video store, which mean a business that devotes more than 15% of the total display, shelf, rack, table, stand or floor area for the display, sale and/or rental of the following:
  - i.** Books, magazines, periodicals or other printed matter or photographs, films, motion pictures, videocassettes, slides, tapes, records, computer disks, CD-ROMs or other forms of visual or audio representations which meet the definition of "harmful to minors" and/or "sexual conduct" as set forth in NH RSA 571-B:1; or
  - ii.** Instruments or devices which are designed for use in connection with "sexual conduct" as defined by NH RSA 571-B:1, other than birth control devices.
  - iii.** An adult bookstore or adult video store does not include an

establishment that sells or rents books, videos or periodicals representing "harmful to minors" or "sexual conduct" materials as listed in this subsection if sales and rentals of such materials are an incidental or accessory part of its principal stock and trade and does not devote more than 15% of the total display, shelf, rack, table, stand or floor area of the establishment.

- b.** Adult cabaret means a bar, restaurant, or similar establishment which, during a substantial portion of the total presentation time, features live performances that meet the definition of "harmful to minors" and/or "sexual conduct" as set forth in NH RSA 571-B:1 and/or features, films, motion pictures, videocassettes, CD-ROMs, computer displays, slides, audio tapes, or other audio or photographic reproductions, a substantial portion of the total presentation time of which is devoted to showing of material that meets the definition of "harmful to minors" and/or "sexual conduct" as set forth in NH RSA 571-B:1.
- c.** Adult drive-in theater means an open lot or part thereof, with appurtenant facilities devoted primarily to the presentation of motion pictures, films, theatrical productions and other forms of visual productions for any form of consideration to persons in motor vehicles or on outdoor seats, in which a substantial portion of the total presentation time being presented for observation by patrons is devoted to the showing of material that meets the definition of "harmful to minors" and/or "sexual conduct" as set forth in NH RSA 571-B:1.
- d.** Adult motel means a motel or similar establishment offering public

accommodations for any form of consideration which provides patrons with closed circuit television transmissions, films, motion pictures, videocassettes, computers, CD-ROMs, slides or other audio or photographic reproductions, a substantial portion of the total presentation time of which is distinguished or characterized by an emphasis upon the depiction or description of material that meets the definition of "harmful to minors" and/or "sexual conduct" as set forth in NH RSA 571-B:1.

- e. Adult motion picture arcade means any place to which the public is permitted or invited wherein coin- or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, computers, projectors or other image-producing devices are maintained to show images to 5 or fewer persons per machine at any one time, in which a substantial portion of the total presentation time of the images so displayed is devoted to the showing of material that meets the definition of "harmful to minors" and/or "sexual conduct" as set forth in NH RSA 571-B:1.
- f. Adult motion picture theater means an establishment with a capacity of 5 or more persons where for any form of consideration are shown films, motion pictures, videocassettes, slides, CD-ROMs, computer displays or similar photographic reproductions, and in which substantial portions of the total presentation is devoted to the showing of material that meets the definition of "harmful to minors" and/or "sexual conduct," as set forth in NH RSA 571-B:1, for observation by patrons.
- g. Adult theater means a theater, concert hall, auditorium or similar

establishment, either indoor or outdoor in nature, which for any form of consideration, regularly features live performances, a substantial portion of the total presentation time of which is distinguished or characterized by an emphasis on activities that meet the definition of "harmful to minors" and/or "sexual conduct" as set forth in NH RSA 571-B:1.

- h. Nude model studio means a place where a person who appears in a state of nudity or displays male genitals in a state of sexual arousal and/or the vulva or more intimate parts of the female genitals and is observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons, who pay money or any form of consideration of such display, or where such display is otherwise characterized by an emphasis on activities that meet the definition of "harmful to minors" and/or "sexual conduct" as set forth in NH RSA 571-B:1.
- i. Sexual encounter center means a business or commercial enterprise that as one of its primary business purposes offers for any form of consideration: (i) physical contact in the form of wrestling or tumbling between persons of the opposite sex; or (ii) activities between male and female persons and/or persons of the same sex when one or more persons is in the state of nudity; or where the activity in (i) or (ii) is characterized by an emphasis on activities that meet the definition of "harmful to minors" and/or "sexual conduct" as set forth in NH RSA 571-B:1.

## 2. Use Standards

- a. Sexually oriented business shall only be allowed in the following areas of the Commerce District.



- i. Land with frontage on West St. The storefront of such business shall face West St or be in a shopping center/plaza with the storefront facing a parking area that has a common boundary with West St.
  - ii. Land with frontage on the portion of Winchester St south of Island St and north of NH Route 101. The storefront of such business shall face Winchester St or be in a shopping center/plaza with the storefront facing a parking area that has a common boundary with Winchester St.
  - iii. Land with frontage on Ashbrook Rd, north of NH Route 9 and west of the NH Route 9/10/12 intersection. The storefront of such business shall face Ashbrook Rd or be in a shopping center/plaza with the storefront facing a parking area having a common boundary with Ashbrook Rd.
- b. All sexually oriented businesses shall be subject to the following distance requirements, which shall be measured in a straight line, without regard to intervening structures from the property line of any site, to the closest exterior wall of the sexually oriented business.
- i. No sexually oriented business shall be permitted within 1,000-ft of another sexually oriented business, which is either existing as of September 15, 1994 or one for which a building permit has been applied for.
  - ii. No sexually oriented business shall be permitted within a building, premises, structure or other facility that contains another sexually oriented business.
  - iii. No sexually oriented business

shall be permitted within 500-ft of any place of worship, youth center, city hall, child day care center, or public or private school.

- c. These conditions have neither the purpose nor the effect of imposing limitations or restrictions on the content of any communicative materials, including sexually oriented materials, and it is not the intent or effect of these conditions to restrict or deny access by adults to sexually oriented materials protected by the First Amendment or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market; neither is it the intent nor effect of these conditions to condone or legitimize the distribution of obscene material. The intent of these conditions is to establish reasonable and uniform standards to prevent the concentration of sexually oriented businesses within the City, and to promote the health, safety and general welfare of the citizens of the City.

#### **AI. Specialty Food Service**

- 1. **Defined.** Specialty food service includes preparation, processing, canning, or packaging of food products where all processing is completely enclosed and there are no outside impacts. Such business specializes in the sale of specific food products (e.g. bakery, candy maker, meat market, catering business, cheese-monger, coffee roaster, fish-monger), and may include space for retail sales or restaurant uses that serve the products processed on-site.

#### **AJ. Vehicle Fueling Station**

- 1. **Defined.** A commercial establishment primarily engaged in the retail sales of vehicle fuels, traditional and alternative fuel types (e.g. electric-charging stations, ethanol, natural gas, propane, solar),

lubricants, parts, and accessories. This use may include retail establishments (e.g. convenience stores). This use does not include stand-alone, alternative-fuel charging units for vehicles.

**2. Use Standards**

- a. Pump islands and charging stations shall be located not less than 20-ft from all lot lines.
- b. If the use adjoins a residential use, an open and unused space of not less than 10-ft in width shall be maintained between such uses.
- c. No merchandise shall be displayed within the required front and side setbacks.

**AK. Vehicle Rental Service**

- 1. **Defined.** An establishment that rents automobiles and vans, including incidental parking and servicing of rental vehicles, with outdoor storage or display of such vehicles on-site. Such establishment may maintain an inventory of the vehicles for sale or lease off-site.

**AL. Vehicle Repair Facility - Major**

- 1. **Defined.** A facility that offers major vehicle repairs and services including, but not limited to, engine rebuilding; reconditioning of worn or damaged motor vehicles or trailers; towing and collision service; bodywork, welding, and painting; and, repair to commercial vehicles or heavy equipment. A major vehicle repair facility may also include minor vehicle repair services.
- 2. **Use Standards**
  - a. All making of repairs, except emergency repairs, shall be conducted entirely within a building sufficiently insulated to confine noise, flashing, fumes and odors to the premises.
  - b. No display of merchandise or outside storage of vehicles, vehicle parts or

equipment shall be permitted within the required front and side yard setbacks.

- c. The retail sales of motor vehicles to the general public on-site is limited to 4 vehicles in any consecutive 12-month period.

**AM. Vehicle Repair Facility - Minor**

- 1. **Defined.** A facility that offers minor repairs and services to passenger vehicles, light and medium trucks, and other consumer motor vehicles (e.g. motorcycles). Minor vehicle services or repairs may include, but are not limited to, lubrication services; minor scratch and repair; glass repair or replacement; replacement of systems for cooling, electrical, fuel and exhaust; brake adjustments; tire replacements; wheel servicing, alignment, and balancing. Minor repair work does not include replacement of engines or transmissions, or major body work.
- 2. **Use Standards**
  - a. All making of repairs, except emergency repairs, shall be conducted entirely within a building sufficiently insulated to confine noise, flashing, fumes and odors to the premises.
  - b. Buildings and all accessory structures shall not be closer than 20-ft to the side and rear lot lines.
  - c. No display of merchandise or outside storage of vehicles, vehicle parts or equipment shall be permitted within the required front and side yard setbacks.
  - d. The retail sales of motor vehicles to the general public on site is limited to 4 vehicles in any consecutive 12-month period.

### 8.3.3 Institutional Uses

#### A. Community Center

1. **Defined.** A facility used as a place of meeting, recreation, or social activity, which may offer a variety of educational and community service activities.
2. **Use Standard.** If this use is located directly adjacent to or within a residential zoning district, the side and rear building setbacks shall be double the requirements in the zoning district, unless an alternative solution is approved by the Planning Board as part of a site plan.

#### B. Cultural Facility

1. **Defined.** A facility open to the public that provides access to cultural exhibits and activities including, but not limited to, museums, cultural or historical centers, and libraries.
2. **Use Standards.** If this use is located directly adjacent to or within a residential zoning district, the side and rear building setbacks shall be double the requirements in the zoning district, unless an alternative solution is approved by the Planning Board as part of a site plan.

#### C. Hospital

1. **Defined.** A medical facility where acute medical and surgical care is given to humans on an inpatient basis. Such facility may also have outpatient facilities and ancillary uses integral to its functions (e.g. laboratories, cafeterias, gift shops, classrooms, temporary housing for families of admitted patients, offices).
2. **Use Standard.** If this use is located directly adjacent to a residential zoning district, the side and rear building setbacks shall be double the requirements in the zoning district, unless an alternative solution is approved by the Planning Board as part of a site plan.

#### D. Place of Worship

1. **Defined.** A facility where persons regularly assemble for religious purposes and related events.
2. **Use Standard.** If this use is located directly adjacent to or within a residential zoning district, the side and rear building setbacks shall be double the requirements in the zoning district, unless an alternative solution is approved by the Planning Board as part of a site plan.

#### E. Private School

1. **Defined.** An establishment that offers training and instruction in knowledge or physical skills, which is operated for that purpose only and on a full-time basis. An educational facility may include, but is not limited to, facilities that offer early childhood, primary, secondary, post-secondary, and vocational education or instruction.
2. **Use Standards**
  - a. In the Business Growth and Reuse District, this shall occupy no more than 30,000-sf in gross floor area, unless granted a Special Exception from the Zoning Board of Adjustment.
  - b. If this use is located directly adjacent to or within a residential zoning district, the side and rear building setbacks shall be double the requirements in the zoning district, unless an alternative solution is approved by the Planning Board as part of a site plan.

#### F. Senior Center

1. **Defined.** A facility operated by a public, nonprofit or charitable institution, which provides meeting space and organizational administration in assisting the social needs of the community's senior citizens.
2. **Use Standard.** If this use is located directly adjacent to or within a residential zoning district, the side and rear building setbacks

shall be double the requirements in the zoning district, unless an alternative solution is approved by the Planning Board as part of a site plan.

### 8.3.4 Congregate Living & Social Service Uses

#### A. Domestic Violence Shelter

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

#### B. Drug Treatment Clinic

1. **Defined.** A non-residential facility authorized by the state to provide treatment and licensed drugs to persons, including, but not limited to, methadone or suboxone, to manage and treat drug dependencies.
2. **Use Standards**
  - a. No drug treatment clinic shall be constructed or operate without first having obtained a conditional use permit from the Planning Board in accordance with **Article 16.**
  - b. Annually, a drug treatment clinic shall obtain a Congregate Living and Social Service License from the City Council as set forth in Chapter 46 of the City Code of Ordinances.
  - c. Security lighting is required and shall be adequate to deter or detect intrusions or other criminal activity during non-daylight hours.
  - d. If this use is located directly adjacent

to a residential zoning district there shall be a building setback of 50-ft from the property line(s) directly abutting such district, unless an alternative solution is approved by the Planning Board as part of a site plan.

#### C. Fraternity/Sorority

1. **Defined.** A place of residence, with or without meals, for persons attending a college or university, who are all members of or pledged to a local or national fraternity or sorority.
2. **Use Standards**
  - a. No fraternity/sorority shall be constructed or operate without first having obtained a conditional use permit from the Planning Board in accordance with **Article 16.**
  - b. Annually, a fraternity/sorority shall obtain a Congregate Living and Social Service License from the City Council as set forth in Chapter 46 of the City Code of Ordinances.

#### D. Food Pantry

1. **Defined.** A non-profit organization that provides food directly to those in need. Food pantries receive, buy, store, and distribute food. Food pantries may also prepare meals to be served at no cost to those who receive them.

#### E. Group Home

1. **Defined.** A facility in a residential dwelling, providing living accommodations and care for between 5 and 16 unrelated persons who are in need of personal care services and/or are in need of supervision. Group home may include non-medical drug and alcohol rehabilitation.
2. **Use Standards**
  - a. Only 1 group home shall be permitted per lot.
  - b. No group home shall be constructed or operate without first having obtained

a conditional use permit from the Planning Board in accordance with **Article 16.**

- c. Annually, a group home shall obtain a Congregate Living and Social Service License from the City Council as set forth in Chapter 46 of the City Code of Ordinances.
- d. Group homes shall maintain the appearance of a residential structure, and the design and operation of the facility shall not alter the residential character of the structure.
- e. All parking areas shall be adequately screened from adjacent properties and public rights of way.

#### F. Group Resource Center

- 1. **Defined.** An establishment designed with the primary purpose of providing access to services related to counseling, personal care, or social well-being in a group setting. It does not include in-patient, overnight services, or treatments normally conducted in a medical office.
- 2. **Use Standards**
  - a. No group resource center shall be constructed or operate without first having obtained a conditional use permit from the Planning Board in accordance with **Article 16.**
  - b. Annually, a group resource center shall obtain a Congregate Living and Social Service License from the City Council as set forth in Chapter 46 of the City Code of Ordinances.
  - c. If this use is located directly adjacent to a residential zoning district there shall be a building setback of 50-ft from the property line(s) directly abutting such district, unless an alternative solution is approved by the Planning Board as part of a site plan.

#### G. Homeless Shelter

- 1. **Defined.** A facility that provides temporary shelter without a fee to persons who are homeless. The facility shall be managed by a public or non-profit agency with in-house supervision provided during operation.
- 2. **Use Standards**
  - a. No homeless shelter shall be constructed or operate without first having obtained a conditional use permit from the Planning Board in accordance with **Article 16.**
  - b. Annually, a homeless shelter shall obtain a Congregate Living and Social Service License from the City Council as set forth in Chapter 46 of the City Code of Ordinances.
  - c. If this use is located directly adjacent to a residential zoning district there shall be a building setback of 50-ft from the property line(s) directly abutting such district, unless an alternative solution is approved by the Planning Board as part of a site plan.

#### H. Lodginghouse

- 1. **Defined.** Any dwelling for more than 4 unrelated persons, which provides separate rooms for sleeping for a fee, without personal care services and without separate cooking facilities for individual occupants. For purposes of this LDC, the term lodginghouse shall not include a hotel or motel.
- 2. **Use Standards**
  - a. Only 1 lodginghouse shall be permitted per lot.
  - b. No lodginghouse shall be constructed or operate without first having obtained a conditional use permit from the Planning Board in accordance with **Article 16.**
  - c. Annually, a lodginghouse shall obtain

a Congregate Living and Social Service License from the City Council as set forth in Chapter 46 of the City Code of Ordinances.

- d. If located in a residential zoning district, lodgings shall maintain the appearance of a residential structure, and the design and operation of the facility shall not alter the residential character of the structure.

#### I. Residential Care Facility

- 1. **Defined.** A licensed facility that provides 24-hour medical and/or non-medical care to persons in need of personal care services, supervision, or assistance essential for sustaining the activities of daily living, or for the protection of the individual. A residential care facility may include nursing care, assisted living, hospice care, and continuum of care facilities. Continuum of care facilities may also include independent living facilities as part of the continuum. Residential care facility does not include a residential drug/alcohol treatment facility.

#### 2. Use Standards

- a. No residential care facility shall be constructed or operate without first having obtained a conditional use permit from the Planning Board in accordance with **Article 16.**
- b. Annually, a residential care facility shall obtain a Congregate Living and Social Service License from the City Council as set forth in Chapter 46 of the City Code of Ordinances.
- c. If located in a residential zoning district, residential care facilities shall maintain the appearance of a residential structure, and the design and operation of the facility shall not alter the residential character of the structure.

#### J. Residential Drug/Alcohol Treatment Facility

- 1. **Defined.** A licensed facility that provides 24-hour in house supervision for medical and/or non-medical/therapeutic care of persons seeking rehabilitation from a drug and/or alcohol addiction. Such facilities may include medical detoxification.

#### 2. Use Standards

- a. No residential drug/alcohol treatment facility shall be constructed or operate without first having obtained a conditional use permit from the Planning Board in accordance with **Article 16.**
- b. Annually, a residential drug/alcohol treatment facility shall obtain a Congregate Living and Social Service License from the City Council as set forth in Chapter 46 of the City Code of Ordinances.
- c. If this use is located directly adjacent to a residential zoning district there shall be a building setback of 50-ft from property line(s) directly abutting such districts, unless an alternative solution is approved by the Planning Board as part of a site plan.

### 8.3.5 Industrial Uses

#### A. Artisanal Production

- 1. **Defined.** The on-site production of hand-fabricated or hand-manufactured artisanal, custom or craft goods (e.g. small-scale metalworking, glassblowing, and furniture making). Showrooms and the ancillary sales of goods produced on-site are permitted. Artisanal production does not include micro-breweries, micro-distilleries, and micro-wineries.
- 2. **Use Standards**
  - a. Outside storage is prohibited, unless located in the Industrial District.
  - b. All manufacturing or production activities shall be conducted entirely

within a building sufficiently insulated to confine noise, flashing, fumes and odors to the premises, unless located in the Industrial District.

**B. Bulk Storage and Distribution of Goods**

1. **Defined.** The outdoor storage of a product or material in large quantities and/or the distribution of products for resale off the premises or to the end user, excluding retail sales on the site. This use is distinguished between bulk storage and distribution of goods including flammable materials and bulk storage and distribution of goods excluding flammable materials.

**C. Data Center**

1. **Defined.** A facility composed of networked computers and equipment that businesses or other organizations use to organize, process, store and disseminate large amounts of data.

**D. Industrial - Heavy**

1. **Defined.** Manufacturing from processed or unprocessed raw materials, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of such products. Heavy industrial uses typically produce noise, vibrations, illumination, or particulate that is perceptible to adjacent land users. These industrial uses typically have ancillary outdoor storage areas.

**E. Industrial - Light**

1. **Defined.** The manufacture, fabrication, processing, reduction, and/or destruction of any article, substance, or commodity, or any other treatment thereof, in such a manner as to change the form, character, and/or appearance, where such activities are conducted wholly within an enclosed building. A light industrial use may also include a showroom or ancillary sales of products related to the items manufactured or stored on-site.
2. **Use Standard.** In the Business Growth and

Reuse District, light industrial uses shall occupy no more than 30,000-sf in gross floor area of a building, unless granted a Special Exception from the Zoning Board of Adjustment.

**F. Outdoor Storage Yard**

1. **Defined.** The storage of equipment, vehicles, machinery, or materials as the principal use of land.

**G. Warehouse and Distribution**

1. **Defined.** An enclosed facility for the storage and distribution of manufactured products, supplies, or equipment.
2. **Use Standard.** In the Business Growth and Reuse District, a warehouse and distribution facility shall occupy no greater than 30,000-sf in gross floor area, unless granted a Special Exception from the Zoning Board of Adjustment.

**H. Wholesale.**

1. **Defined.** A business where goods are sold to either retailers, or to industrial, commercial, institutional, or other professional business users, or to other wholesalers and related services.
2. **Use Standard.** In the Business Growth and Reuse District, a wholesale business shall occupy a building no greater than 30,000-sf in gross floor area, unless granted a Special Exception from the Zoning Board of Adjustment.

**8.3.6 Open Space Uses**

**A. Cemetery**

1. **Defined.** Land or structures dedicated for the internment of human or animal remains.

**B. Community Garden**

1. **Defined.** The noncommercial use of land for the primary purpose of cultivating fruits, flowers, vegetables, or ornamental plants by one or more persons, households, or organizations. Community gardens shall

not include the raising of any livestock or poultry or the use of heavy machinery.

### C. Conservation Area

1. **Defined.** An area of undeveloped open space that preserves and protects natural features, wildlife, and critical environmental features, as well as sites of historical or cultural significance, and may include opportunities for passive recreation, such as hiking trails and lookout structures, and environmental education facilities.

### D. Farming

1. **Defined.** Any land, buildings or structures on or in which agriculture and farming operations or activities are carried out or conducted as defined by NH RSA 21:34-A. Such operations include, but are not limited to, animal husbandry, the cultivation, production, harvesting and sale of any agricultural, floricultural, viticultural, forestry, or horticultural crops as well as ancillary activities integral to the operation of a farm.

### E. Golf Course

1. **Defined.** A tract of land designed for playing a game of golf, comprised of a series of holes with tees, greens, fairways, and hazards.
2. **Use Standards.** The construction or expansion of any golf course of 2,000-sf or greater within the primary or secondary zone of any existing or proposed municipal wellfield or within 100-ft of any surface water shall be subject to the requirements below.
  - a. No golf course shall be allowed within a 400-ft radius of any existing or proposed municipal wellfield, except that in the West St or Court St wellfields such use may be allowed if the Planning Board determines that the construction, maintenance, and use of the golf course will not endanger the quantity or quality of the

municipal drinking water supply.

- i. Unless specifically approved, no chemicals shall be allowed within the 400-ft radius. If approved, the application of chemicals within the 400-ft zone shall require the construction of a barrier to prevent the transport of chemicals from the surface into the groundwater.
- b. A contaminant management plan approved by the Planning Board, which indicates the types, application methods, storage and handling of chemicals, shall be submitted to the Community Development Department prior to the operation or occupancy of any golf course use.
- c. A groundwater monitoring plan approved by the Planning Board, which includes addresses the design, installation, location and access of groundwater monitoring wells, shall be submitted to the Community Development Department prior to the operation or occupancy of any golf course use.

### F. Gravel Pit

1. **Defined.** A type of open-pit mine used for the extraction of sand, gravel, rock, soil or construction aggregate from a deposit near the surface of the earth.

## 8.3.7 Infrastructure Uses

### A. Solar Energy System (Small-Scale)

1. **Defined.** A solar energy system and associated mounting hardware that is either affixed to or placed upon the ground, and occupies 2,000-sf of solar footprint or less.
2. **Use Standards**
  - a. The height of ground-mounted solar energy systems shall not exceed 15-ft, as measured from the ground to the highest point of the system, when



oriented at maximum design tilt.

- b. Small-scale ground-mounted solar energy systems shall comply with the setback and lot coverage requirements of the underlying zoning district.

**B. Solar Energy System (Medium-Scale)**

- 1. **Defined.** A solar energy system and associated mounting hardware that is either affixed to or placed upon the ground, and occupies greater than 2,000-sf and less than 1-acre of solar footprint.
- 2. **Use Standards**
  - a. The height of ground-mounted solar energy systems shall not exceed 15-ft, as measured from the ground to the highest point of the system, when oriented at maximum design tilt.
  - b. No medium-scale ground-mounted solar energy system shall be constructed or operate without first having obtained a conditional use permit from the Planning Board in accordance with **Article 17.**

**C. Solar Energy System (Large-Scale)**

- 1. **Defined.** A solar energy system and associated mounting hardware that is either affixed to or placed upon the ground, and occupies 1-acre of solar footprint or greater.
- 2. **Use Standards**
  - a. Large-scale ground-mounted systems shall be located on parcels no less than 5 acres in size.
  - b. The solar footprint of large-scale ground-mounted solar energy systems shall not exceed 20 contiguous acres.
  - c. The height of ground-mounted solar energy systems shall not exceed 15-ft, as measured from the ground to the highest point of the system, when oriented at maximum design tilt.

- d. No large-scale ground-mounted solar energy system shall be constructed or operate without first having obtained a conditional use permit from the Planning Board in accordance with **Article 17.**

**D. Public Utility Facilities**

- 1. **Defined.** A facility owned or operated by a licensed public utility as defined in NH RSA 362 for the generation, transmission, storage or distribution of telephone services, electricity, gas or petroleum products, water, sewer, or other public utility services to the public to the extent permitted by state law. For the purposes of this LDC, public utility infrastructure shall not include telecommunication facilities or solar energy systems.

**E. Telecommunication Facilities**

- 1. **Defined.** Any structure, antenna, tower, or other device, which provides commercial mobile wireless services, unlicensed wireless services, cellular telephone services, specialized mobile radio communications (SMR), and personal communications service (PCS), and common carrier wireless exchange access services or other similar services. It does not include any structure erected solely for a residential, noncommercial individual use (e.g. television antennas, satellite dishes or amateur radio antennas).
- 2. **Use Standard.** Telecommunication facilities are subject to the standards set forth in the Telecommunications Overlay District in **Article 14**, which includes limitations on where these facilities are allowed to be located in the City and whether a conditional use permit is required from the Planning Board.

**8.3.8 Transportation Uses**

**A. Parking Lot**

- 1. **Defined.** The primary use of a parcel, which excludes any public or private street,

for the temporary parking or storage of operable motor vehicles, whether for compensation or at no charge.

**B. Parking - Structured Facility**

- 1. Defined.** The primary use of a lot for the temporary parking or storage of operable vehicles, whether for compensation or at no charge, in a multi-level parking structure.

## 8.4 ACCESSORY USES & STRUCTURES

### 8.4.1 General

- A.** All accessory uses shall comply with the standards of this Division.
- B.** Accessory uses and structures are permitted in conjunction with permitted principal uses. Permitted accessory uses and structures include those listed in this Division 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 Use Specific Standards

**A. Dwelling, Accessory Unit (ADU)**

- 1. Defined.** An independent living unit ancillary to a single-family dwelling unit and under the same ownership as the primary residence. The unit may be an attached Accessory Dwelling Unit (ADU),

located within or attached to the primary residence, or a detached ADU, located in 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. An attached ADU shall have a gross floor area of between 400-sf and 800-sf.
- d. A detached ADU 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 primary single-family dwelling unit or greater than 1,000-sf, whichever is less.
- e. An interior door shall be provided between the primary 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.
- 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 primary single-family dwelling unit or the ADU as their

primary residence, 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 Ordinance.
  - 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.

## B. Day Care, Home-Based

- 1. **Defined.** A residential dwelling where, for a portion of a 24-hour day, licensed care and supervision is provided in a protective setting by a permanent occupant of the dwelling for children or elderly and/or functionally-impaired adults that are not related to the owner or operator of the facility.
- 2. **Use Standard.** This use shall provide full-time care to no more than 6 persons and part-time care to no more than 9 persons each day of operation.

## C. Drive-Through

- 1. **Defined.** An establishment designed for the general public to make use from their vehicles of the sales or services provided on the premises.

#### D. Home Occupation

1. **Defined.** A use conducted by the inhabitants of a dwelling unit that is clearly incidental and secondary to the use of the premises for dwelling purposes and does not change the residential character thereof.
2. **Use Standards**
  - a. The use may not exceed 10% of the total gross floor area of the primary dwelling unit or 300-sf, whichever is less, and may be located in either the primary dwelling unit or an accessory building on the same lot.
  - b. There shall be no more than 1 employee who is not a resident of the primary dwelling unit.
  - c. All activity associated with producing, storing, or selling the goods or services of the home occupation shall be performed inside the primary dwelling unit or an accessory building on the same lot.
  - d. The use shall not be identified by any externally visible sign, on-premises advertising of any kind, or any off-premises advertising that identifies the location of the property.
  - e. The use shall not result in alteration of the residential appearance of the dwelling unit or the lot on which it is located.
  - f. The use shall not generate vehicular or pedestrian traffic of a quantity or quality as to be injurious, offensive, or otherwise detrimental to the neighborhood. Vehicular traffic of more than 10-vehicles per day shall be considered prima facie evidence of traffic that is detrimental to the neighborhood.
  - g. Retail sales as a primary home occupation that attracts customers

to the residence to purchase articles and/or goods is not permitted. Retail sales that are accessory to a home occupation, such as a beauty salon selling hair care products, is permitted. Retail sales where the customers do not visit the residence is permitted, such as sales over the Internet and the goods are shipped either from the residence or another location.

#### E. Mobile Food Vendors

1. **Defined.** A self-contained food service operation, located in a licensed, readily movable motorized/wheeled/towed vehicle, used to store, prepare, and sell food items to the general public, which operates on a temporary basis at various locations on private property with property owner consent or at locations designated by the City.
2. **Use Standards**
  - a. Vendors shall obtain a license from the City Clerk in accordance with Chapter 46 of the City Code of Ordinances. This license shall be displayed and open for inspection in the vehicle, together with any other license or permit that may be required by law or City ordinance.
  - b. Mobile vendors that wish to establish themselves for business on private property for over 1-hour are permitted in the Business Growth and Reuse, Commerce, Commerce Limited, Downtown Core, Downtown Growth, Downtown Edge, Downtown Limited, and Downtown Institutional Campus Districts per the following conditions.
    - i. The site must have sufficient on-site parking and an adequate and safe means of entrance/exit.
    - ii. The vendor cannot park on public streets or fire lanes in private lots.
    - iii. The vendor cannot occupy or encumber private parking spaces that have previously

been allocated for zoning or an approved site plan.

#### F. Roof-Mounted Solar Energy System

1. **Defined.** A solar energy system that is mounted to the roof of a building or other permitted structure, including accessory equipment associated with the system that may be ground mounted.

##### 2. Use Standards

- a. Roof-mounted solar energy systems are permitted as an accessory use in all zoning districts when attached to lawfully permitted primary and/or accessory structures.
- b. For a roof-mounted system installed on a sloped roof, the highest point of the system shall not exceed the highest peak of the roof on which it is attached.
- c. For a roof-mounted system installed on a flat roof, the highest point of the system shall not exceed 10-ft above the surface of the roof on which it is attached.
- d. The collector surface and mounting devices for roof-mounted solar energy systems shall not extend beyond the exterior perimeter of the building on which the system is attached. Exterior piping for solar hot water systems shall be allowed to extend beyond the perimeter of the building on a side or rear yard exposure.
- e. If a roof-mounted solar energy system is located in a Historic District, additional standards per **Article 22** may apply.

#### G. Ground-Mounted Solar Energy System (Small-Scale, Accessory to Principal Use)

1. **Defined.** A solar energy system and associated mounting hardware that is either affixed to or placed upon the ground, and occupies 2,000-sf of solar

footprint or less, and is accessory to a principal use.

#### 2. Use Standards

- a. The height of ground-mounted solar energy systems that are accessory to the principal use shall not exceed 15-ft, as measured from the natural grade at the base of the system to the highest point of the system, when oriented at maximum design tilt.
- b. Accessory small-scale ground-mounted solar energy systems shall comply with the setback and lot coverage requirements of the underlying zoning district.

#### H. Yard Sales / Garage Sale

1. **Defined.** A sale of used household or personal articles held on the seller's own premises.

##### 2. Use Standards

- a. Yard sales and/or garage sales and/or tag sales shall be limited to a maximum of 3 times per calendar year per lot in residential zoning districts.
- b. Each separate sale may be for no more than 2 consecutive days, and setup and takedown of the yard sale is to be included in these 2 days. Setup includes the placing of display tables, racks, merchandise, etc. in the area where the yard sale is to be held. Takedown includes removal of the remaining merchandise for sale and removal of display tables, racks, etc.
- c. Sale of a single item is not considered to be a yard sale.

#### I. Motor vehicle or trailer storage

##### 1. Use Standards

- a. Outside storage of unregistered motor vehicles shall be prohibited in all districts, except at motor vehicle dealerships or vehicle repair facilities.

- b.** Storage or overnight parking of trucks over 16,000 pounds gross weight shall be prohibited in the Low Density, Residential Preservation, Medium Density, and High Density Districts.
- c.** The use of trailers and/or vehicles, either registered or unregistered, for the storage or warehousing of goods or material is not a permitted accessory use and is prohibited in all zones.

  - i.** This section shall not limit or prohibit registered trailers from loading and/or unloading goods or material, or trailers parked at a loading dock, nor shall it limit or prohibit construction trailers at construction sites that are being used in conjunction with construction operations.

TABLE 8-1: PERMITTED PRINCIPAL USES BY ZONING DISTRICT

	R	RP	LD	LD-1	MD	HD	HD-1	DT-C	DT-G	DT-E	DT-L	DT-T	DT-I	COM	CL	BGR	NB	O	CP	I	IP	HC	A	C	Use Standards Section	
<b>RESIDENTIAL USES</b>																										
Dwelling, Above Ground Floor	-	-	-	-	-	-	-	P	P	P	P	P	P	-	-	P	P	P	-	-	-	-	P	-	8.3.1.A	
Dwelling, Manufactured Housing	P <sup>1</sup>	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	8.3.1.B	
Dwelling, Multifamily	-	-	-	-	P <sup>1</sup>	P	P	P <sup>1</sup>	P	P	P	P	-	-	-	P	P	P	-	-	-	-	-	-	8.3.1.C	
Dwelling, Single-Family	P	P	P	P	P	P	P	-	-	-	-	P	-	-	-	-	P	P	-	-	-	-	P	-	8.3.1.D	
Dwelling, Two-Family / Duplex	-	-	-	-	P	P	P	-	-	P	P	P	-	-	-	-	P	P	-	-	-	-	SE	-	8.3.1.E	
Manufactured Housing Park	P	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	8.3.1.F	
<b>COMMERCIAL USES</b>																										
Agricultural-Related Educational & Recreational Activity as a Business	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P <sup>1</sup>	-	8.3.2.A	
Animal Care Facility	P	-	-	-	-	-	-	-	P	P	P	-	-	P	P	-	-	-	-	-	-	-	P	-	8.3.2.B	
Art Gallery	-	-	-	-	-	-	-	P	P	P	P	-	P	P	P	P	P	-	-	-	-	-	-	-	8.3.2.C	
Art or Fitness Studio	-	-	-	-	-	-	-	P	P	P	P	-	P	P	P	P	P	-	-	P	-	-	-	-	8.3.2.D	
Banking or Lending Institution	-	-	-	-	-	-	-	P	P	P	P	-	P	P	P	-	P	-	-	-	-	-	-	-	8.3.2.E	
Bar	-	-	-	-	-	-	-	P	P	-	-	-	-	P	P	-	-	-	-	-	-	-	-	-	8.3.2.F	
Bed and Breakfast	SE	SE	-	-	-	SE	SE	-	-	-	-	P <sup>1</sup>	-	-	-	P <sup>1</sup>	SE	P <sup>1</sup>	-	-	-	-	SE	-	8.3.2.G	
Car Wash	-	-	-	-	-	-	-	-	-	SE	-	-	-	P	P	-	-	-	-	P	-	-	-	-	8.3.2.H	
Clinic	-	-	-	-	-	-	-	P	P	P	P	-	P	P	P	-	-	-	-	-	-	P	-	-	8.3.2.I	
Day Care Center	-	-	-	-	-	-	-	P	P	P	SE	SE	P	P	P	P	SE	SE	P	SE	P	P	-	-	8.3.2.J	
Event Venue	-	-	-	-	-	-	-	-	P	-	-	-	P	P	-	-	-	-	-	-	-	-	SE	-	8.3.2.K	
Funeral Home	-	-	-	-	-	-	-	-	P	P	P	P	-	P	P	-	P	P	-	-	-	-	-	-	8.3.2.L	
Greenhouse / Nursery	P	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P	-	-	-	P	-	-	P	-	8.3.2.M	
Health Center / Gym	-	-	-	-	-	-	-	P	P	P	P	-	P	P	P	P	-	-	-	P	-	P	-	-	8.3.2.N	
Heavy Rental & Service Establishment	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	-	-	-	-	P	-	-	-	-	8.3.2.O	
Hotel/Motel	-	-	-	-	-	-	-	P	P	-	-	-	P	P	-	-	-	-	-	-	-	-	-	-	8.3.2.P	
Kennel	P	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	-	8.3.2.Q	
Micro-Brewery/Micro-Distillery/Micro-Winery	-	-	-	-	-	-	-	P	P	-	-	-	-	P	P	-	-	-	-	-	-	-	-	-	8.3.2.R-T	
Motor Vehicle Dealership	-	-	-	-	-	-	-	-	-	P	-	-	-	P	P	-	-	-	-	-	-	-	-	-	8.3.2.U	
Neighborhood Grocery Store	-	-	-	-	-	SE	-	P	P	P	P	-	-	P	-	P	P	-	-	-	-	-	-	-	8.3.2.V	
Office	-	-	-	-	-	-	-	P	P	P	P	P	P	P	P	P <sup>1</sup>	P <sup>1</sup>	P	P <sup>1</sup>	SE	SE	P	-	-	8.3.2.W	
Personal Service Establishment	-	-	-	-	-	-	-	P	P	P	P	-	P	P	P	-	P	-	-	-	-	P	-	-	8.3.2.X	
Private Club / Lodge	-	-	-	-	-	-	-	P	P	P	P	SE	-	P	P	-	-	SE	-	-	-	-	-	-	8.3.2.Y	
Recreation/Entertainment Facility - Indoor	-	-	-	-	-	-	-	P	P	-	-	-	P	P	P	-	-	-	-	-	-	-	-	-	8.3.2.Z	
Recreation/Entertainment Facility - Outdoor	-	-	-	-	-	-	-	-	P	-	-	-	P	P	P	-	-	-	-	-	-	-	SE	-	8.3.2.AA	
Research and Development	-	-	-	-	-	-	-	SE	P	-	-	-	P	P	P	P	-	-	P	P	P	P	-	-	8.3.2.AB	
Restaurant	-	-	-	-	-	-	-	P	P	P	P	-	P	P	-	P <sup>1</sup>	P <sup>1</sup>	-	-	-	-	-	-	-	8.3.2.AC	
Retail Establishment, Heavy	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	-	-	-	-	-	-	-	-	-	8.3.2.AD	
Retail Establishment, Light	-	-	-	-	-	-	-	P	P	P	P	-	P	P	P	-	P <sup>1</sup>	-	-	-	-	P	-	-	8.3.2.AE	
Self Storage Facility - Indoor	-	-	-	-	-	-	-	-	SE	P	-	-	-	P	P	-	-	-	-	P	-	-	-	-	8.3.2.AF	
Self Storage Facility - Outdoor	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	-	-	-	-	P	-	-	-	-	8.3.2.AG	
Sexually Oriented Business	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P <sup>1</sup>	-	-	-	-	-	-	-	-	-	8.3.2.AH	
Specialty Food Service	-	-	-	-	-	-	-	P	P	P	P	-	P	P	P	P	P	-	-	-	-	-	-	-	8.3.2.AI	
Vehicle Fueling Station	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P <sup>1</sup>	P <sup>1</sup>	-	-	-	-	-	-	-	-	8.3.2.AJ	

TABLE 8-1: PERMITTED PRINCIPAL USES BY ZONING DISTRICT

	R	RP	LD	LD-1	MD	HD	HD-1	DT-C	DT-G	DT-E	DT-L	DT-T	DT-I	COM	CL	BGR	NB	O	CP	I	IP	HC	A	C	Use Standards Section	
Vehicle Rental Service	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	-	-	-	-	-	-	-	-	-	8.3.2.AK	
Vehicle Repair Facility – Major	-	-	-	-	-	-	-	-	-	-	-	-	-	P1	P1	-	-	-	-	P1	-	-	-	-	8.3.2.AL	
Vehicle Repair Facility – Minor	-	-	-	-	-	-	-	-	P1	P1	-	-	-	P1	P1	-	-	-	-	P1	-	-	-	-	8.3.2.AM	
<b>INSTITUTIONAL USES (See Article 8.2 for additional use locations)</b>																										
Community Center	-	-	-	-	-	-	-	P1	P1	P1	P1	SE	P1	P1	-	SE	-	SE	-	-	-	-	-	-	8.3.3.A	
Cultural Facility	-	-	-	-	-	-	-	P1	P1	P1	P1	SE	P1	P1	-	P1	-	SE	-	-	-	-	-	-	8.3.3.B	
Hospital	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P1	-	-	8.3.3.C	
Place of Worship	-	-	-	-	-	-	-	P1	P1	P1	P1	-	P1	P1	-	-	-	-	-	-	-	-	-	-	8.3.3.D	
Private School	-	-	-	-	-	-	-	P1	P1	P1	-	-	P1	P1	-	P1	-	-	-	-	-	-	-	-	8.3.3.E	
Senior Center	-	-	-	-	-	SE	-	P1	P1	P1	P1	SE	-	P1	-	SE	-	SE	-	-	-	-	-	-	8.3.3.F	
<b>CONGREGATE LIVING &amp; SOCIAL SERVICE USES</b>																										
Domestic Violence Shelter	-	-	-	-	P	P	-	P	P	P	P	-	-	P	-	-	-	-	-	-	-	-	-	-	8.3.4.A	
Drug Treatment Clinic	-	-	-	-	-	-	-	-	CUP	-	-	-	-	CUP	-	-	-	-	-	-	-	CUP	-	-	8.3.4.B	
Fraternity/Sorority	-	-	-	-	-	CUP	-	-	-	-	-	-	CUP	-	-	-	-	-	-	-	-	-	-	-	8.3.4.C	
Food Pantry	-	-	-	-	-	-	-	P	P	P	P	-	-	P	-	-	-	-	-	-	-	-	-	-	8.3.4.D	
Group Home	-	-	-	-	CUP	CUP	-	-	-	-	-	CUP	-	-	-	-	-	CUP	-	-	-	-	-	-	8.3.4.E	
Group Resource Center	-	-	-	-	-	-	-	CUP	CUP	CUP	CUP	-	CUP	CUP	-	-	-	-	-	-	-	CUP	-	-	8.3.4.F	
Homeless Shelter	-	-	-	-	-	-	-	-	CUP	-	-	-	-	CUP	-	-	-	-	-	-	-	-	-	-	8.3.4.G	
Lodginghouse	-	-	-	-	CUP	CUP	-	CUP	CUP	CUP	CUP	CUP	-	-	-	-	-	CUP	-	-	-	CUP	-	-	8.3.4.H	
Residential Care Facility	-	-	-	-	-	CUP	CUP	CUP	CUP	CUP	CUP	-	-	CUP	-	CUP	CUP	-	-	-	-	CUP	-	-	8.3.4.I	
Residential Drug/Alcohol Treatment Facility	-	-	-	-	-	-	-	-	CUP	-	CUP	-	-	CUP	-	-	-	-	-	-	-	CUP	-	-	8.3.4.J	
<b>INDUSTRIAL USES</b>																										
Artisanal Production	-	-	-	-	-	-	-	P1	P1	P1	SE	-	P1	P1	P1	P1	-	-	-	P	-	-	-	-	8.3.5.A	
Bulk storage & distribution of goods, including flammable material	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	-	-	-	-	8.3.5.B	
Bulk storage & distribution, excluding flammable material	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	-	-	-	-	P	-	-	-	-	8.3.5.B	
Data Center	-	-	-	-	-	-	-	-	P	P	-	-	-	P	P	P	-	-	P	P	P	-	-	-	8.3.5.C	
Industrial, Heavy	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	-	-	-	-	8.3.5.D	
Industrial, Light	-	-	-	-	-	-	-	-	SE	-	-	-	-	SE	SE	P1	-	-	P	P	P	-	-	-	8.3.5.E	
Outdoor Storage Yard	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	-	-	-	-	P	-	-	-	-	8.3.5.F	
Warehouse & Distribution	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P1	-	-	P	P	-	-	-	-	8.3.5.G	
Wholesale	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P1	-	-	-	P	-	-	-	-	8.3.5.H	
<b>OPEN SPACE USES</b>																										
Cemetery	P	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	8.3.6.A	
Community Garden	P	P	P	P	P	P	P	P	P	P	P	P	-	-	P	P	P	-	-	-	-	-	P	-	8.3.6.B	
Conservation Area	P	P	P	P	P	P	P	-	-	-	-	-	-	P	P	P	P	-	-	P	P	P	P	P	8.3.6.C	
Farming	P	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	-	8.3.6.D	
Golf Course	P1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P1	-	8.3.6.E	
Gravel Pit	SE	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	8.3.6.F	
<b>INFRASTRUCTURE USES</b>																										
Solar Energy System (Small-Scale)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	8.3.7.A	
Solar Energy System (Medium-Scale)	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	8.3.7.B	



**TABLE 8-1: PERMITTED PRINCIPAL USES BY ZONING DISTRICT**

	R	RP	LD	LD-1	MD	HD	HD-1	DT-C	DT-G	DT-E	DT-L	DT-T	DT-I	COM	CL	BGR	NB	O	CP	I	IP	HC	A	C	Use Standards Section	
Solar Energy System (Large-Scale)	CUP	-	-	-	-	-	-	-	-	-	-	-	-	-	-	CUP	-	-	CUP	CUP	CUP	-	CUP	-	8.3.7.C	
Public Utility Facilities	-	-	-	-	-	-	-	-	-	-	-	-	-	-	SE	-	-	-	SE	P	-	-	-	-	8.3.7.D	
Telecommunications Facilities	P1	P1	P1	P1	P1	P1	P1	P1	P1	P1	P1	P1	P1	P1	P1	P1	P1	P1	P1	P1	P1	P1	P1	-	8.3.7.E	
<b>TRANSPORTATION USES</b>																										
Parking Lot (Principal Use)	-	-	-	-	-	-	-	-	SE	-	-	-	P	P	P	-	-	-	P	-	-	P	-	-	8.3.8.A	
Parking – Structured Facility (Principal Use)	-	-	-	-	-	-	-	P	P	P	P	-	P	P	P	-	-	-	P	-	-	P	-	-	8.3.8.B	

# ARTICLE 9. PARKING & DRIVEWAYS

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- 9.2 ON-SITE PARKING REQUIREMENTS .....9-2
- 9.3 DRIVEWAY DESIGN STANDARDS .....9-7
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- 9.5 PARKING STRUCTURE DESIGN  
STANDARDS ..... 9-13

## 9.1 GENERAL

### 9.1.1 Purpose

The intent of these parking and driveway standards is to address the following objectives.

1. Ensure the provision of on-site vehicle parking for individual sites that supports the needs of existing and future uses.
2. Promote safe and efficient circulation of pedestrians, motorists, and bicyclists into, within, and out of parking areas.
3. Allow flexibility in addressing vehicle parking, loading and access issues, recognizing that both too little and too much parking can create negative impacts.
4. Ensure appropriate site location and design features that mitigate the impact of parking on other land uses and surrounding neighborhoods.
5. Promote parking designs that minimize runoff and incorporate infiltration of stormwater into the ground.

### 9.1.2 Applicability

- A. **General.** The standards in this Article shall apply to any changes or modifications that affect the need for, calculation of, or changes to a parking area or lot. No application for a permit for the erection of a new structure, development of a land use, change or expansion in use, or expansion of a structure shall be approved unless the requirements of this Article are met.
- B. **Expansion of Existing Structure.** When the floor area of an existing structure is increased, additional parking spaces shall be provided on-site as required by **Table 9-1** for the additional floor area.
- C. **Renovations or Repairs.** An existing building or site may be maintained, repaired, or renovated without providing additional parking, provided there is no increase in gross floor area, improved site area or additional parking demand.

D. **Change in Use.** When the existing use of a structure or land is changed to a new use, parking spaces shall be provided as required in **Table 9-1** for the new use, unless the use requires the same or lesser parking demand than the previous use.

### E. Expansion of existing parking

1. When any existing parking area is expanded, the design standards in **Section 9.4** shall apply to the new parking.
2. Where the proposed expansion is more than 100% of the existing number of parking spaces, the design standards in **Section 9.4** shall apply to the entire lot.

## 9.2 ON-SITE PARKING REQUIREMENTS

### 9.2.1 Minimum Parking Requirements

- A. The minimum number of on-site vehicle parking spaces to be provided for each primary use located on a lot is listed in Table 9-1.
- B. A reduction in the minimum parking requirements in **Table 9-1** may be sought in accordance with **Section 9.2.6 Alternative Parking Requirements.**
- C. Additional parking requirements for specific zoning districts or specific uses may apply in addition to the requirements of **Table 9-1.**
- D. In determining the required number of parking spaces, fractional spaces are rounded to the nearest whole number with one-half or greater counted as an additional space.
- E. Space(s) designated for off-street loading may not be used to satisfy the requirement for any on-site parking space or access aisle or portion thereof.
- F. Spaces reserved for accessible parking, car-share facilities, and/or electric vehicle charging may count toward the minimum parking requirements.

**TABLE 9-1: MINIMUM ON-SITE PARKING REQUIREMENTS**

USE CATEGORY	MIN ON-SITE PARKING REQUIREMENT
<b>RESIDENTIAL USES</b>	
Dwelling, Above Ground Floor	2 spaces / unit (1 space / unit in DT-C, DT-G, DT-L)
Dwelling, Manufactured Housing	2 spaces / unit
Dwelling, Multifamily	2 spaces / unit (1 space / unit in DT-C, DT-G, DT-L)
Dwelling, Single-Family	2 spaces / unit (1 space / unit in DT-L)
Dwelling, Two-Family / Duplex	2 spaces / unit (1 space / unit in DT-L)
<b>COMMERCIAL USES</b>	
Agricultural-Related Educational & Recreational Activity as a Business	4 spaces / 1,000 sf GFA
Animal Care Facility	3 spaces / 1,000 sf GFA
Art Gallery	3 spaces / 1,000 sf GFA
Art or Fitness Studio	4 spaces / 1,000 sf GFA
Banking or Lending Institution	4 spaces / 1,000 sf GFA
Bar	1 space / 5 seats
Bed and Breakfast	1 space / guest room + 2 spaces / dwelling unit
Car Wash	1 space / car wash bay
Clinic	5 spaces / 1,000 sf GFA
Day Care Center	4 spaces / 1,000 sf GFA
Event Venue	5 spaces / 1,000 sf GFA
Funeral Home	5 spaces / 1,000 sf GFA
Greenhouse / Nursery	4 spaces / 1,000 sf GFA
Health Center / Gym	4 spaces / 1,000 sf GFA
Heavy Rental & Service Establishment	3 spaces / 1,000 sf GFA
Hotel/Motel	1 space / guest room
Kennel	2 spaces / 1,000 sf GFA
Micro-Brewery/Micro-Distillery/Micro-Winery	2 spaces / 1,000 sf GFA of production area + 1 space / 4 seats
Motor Vehicle Dealership	4 spaces / 1,000 sf GFA of indoor sales and display area + 4 spaces / service bay
Neighborhood Grocery Store	3 spaces / 1,000 sf GFA
Office	4 spaces / 1,000 sf GFA
Personal Service Establishment	4 spaces / 1,000 sf GFA
Private Club / Lodge	4 spaces / 1,000 sf GFA or 1 space / 4 seats, whichever is greater
Recreation/Entertainment Facility - Indoor	4 spaces / 1,000 sf GFA or 1 space / 4 seats
Recreation/Entertainment Facility - Outdoor	2 spaces / 1,000 sf outdoor use area
Research and Development	4 spaces / 1,000 sf GFA
Restaurant	1 space / 4 seats
Retail Establishment, Heavy	4 spaces / 1,000 sf GFA
Retail Establishment, Light	4 spaces / 1,000 sf GFA
Self Storage Facility - Indoor	1 space / 10 units
Self Storage Facility - Outdoor	1 space / 10 units (may be located on paved area in front of unit)
Sexually Oriented Business	4 spaces / 1,000 sf GFA
Specialty Food Service	4 spaces / 1,000 sf GFA

**TABLE 9-1: MINIMUM ON-SITE PARKING REQUIREMENTS**

USE CATEGORY	MIN ON-SITE PARKING REQUIREMENT
Vehicle Fueling Station (with or without retail store)	4 spaces / 1,000 sf GFA (excluding fueling stations)
Vehicle Rental Service	4 spaces / 1,000 sf GFA
Vehicle Repair Facility – Major	6 spaces / 1,000 GFA
Vehicle Repair Facility – Minor	5 spaces / 1,000 GFA
<b>INSTITUTIONAL USES</b>	
Community Center	4 spaces / 1,000 sf GFA
Cultural Facility	4 spaces / 1,000 sf GFA
Hospital	1.5 spaces / 1,000 sf GFA
Place of Worship	1 space / 4 seats in principal assembly room
Senior Center	4 spaces / 1,000 sf GFA
Private School	2 spaces / classroom
<b>CONGREGATE LIVING / SOCIAL SERVICE USES</b>	
Domestic Violence Shelter	4 spaces / 1,000 sf GFA of office space
Drug Treatment Clinic	4 spaces / 1,000 sf GFA
Fraternity/Sorority	0.5 spaces / bed
Food Pantry	2 spaces / 1,000 sf GFA
Group Home	0.5 spaces / bed
Group Resource Center	4 spaces / 1,000 sf GFA
Homeless Shelter	4 spaces / 1,000 sf GFA of office space
Lodginghouse	1 space / bed
Residential Care Facility	0.5 spaces / bed
Residential Drug/Alcohol Treatment Facility	0.5 spaces / bed
<b>INDUSTRIAL USES</b>	
Artisanal Production	2 spaces / 1,000 sf GFA
Bulk storage & distribution of goods, excluding or including flammable material	0.5 space / 1,000 sf GFA (excluding office space) + 4 spaces / 1,000 sf GFA of office space
Data Center	0.5 space / 1,000 sf GFA (excluding office space) + 4 spaces / 1,000 sf GFA of office space
Industrial, Heavy	0.5 space / 1,000 sf GFA (excluding office space) + 4 spaces / 1,000 sf GFA of office space
Industrial, Light	0.5 space / 1,000 sf GFA (excluding office space) + 4 spaces / 1,000 sf GFA of office space
Outdoor Storage Yard	No minimum
Solar Energy System (Small, Medium, Large)	1 space / solar energy system
Warehouse & Distribution	0.5 space / 1,000 sf GFA (excluding office space) + 4 spaces / 1,000 sf GFA of office space
Wholesale	0.5 space / 1,000 sf GFA (excluding office space) + 4 spaces / 1,000 sf GFA of office space
<b>OPEN SPACE USES</b>	
Cemetery	0.5 spaces / 1 acre of grave space if no internal road is present
Community Garden	No minimum
Conservation Area	No minimum
Farming	No minimum

**TABLE 9-1: MINIMUM ON-SITE PARKING REQUIREMENTS**

USE CATEGORY	MIN ON-SITE PARKING REQUIREMENT
Golf Course	2 spaces / tee + 4 spaces / 1,000 sf GFA
Gravel Pit	4 spaces / 1,000 sf GFA of office space
<b>INFRASTRUCTURE USES</b>	
Public Utility Facilities	4 spaces / 1,000 sf GFA of office space
Telecommunications Facilities	1 space / standalone facility
<b>TRANSPORTATION USES</b>	
Parking Lot (Principal Use)	No minimum
Parking – Structured Facility (Principal Use)	No minimum

**9.2.2 Use Determination**

A. Where the classification of use is not determinable from **Table 9-1**, the Zoning Administrator shall determine the minimum on-site parking requirements by considering all factors entering into the parking demand for the use, including the most current version of the ITE Parking Generation Manual. Such determination shall be documented in writing and kept on file with the Community Development Department.

**9.2.3 Mixed Uses**

Where multiple primary uses occupy the same structure or lot, the required minimum parking is the sum of the requirements for each use computed separately.

**9.2.4 Accessible Parking**

- A. The number of required accessible parking spaces shall be calculated based on the minimum number of parking spaces required in **Table 9-1** not including any reduction, and shall comply with the requirements of the State Building Code.
- B. In no circumstance, shall the number of required accessible parking spaces be reduced.

**9.2.5 Zoning District Specific Requirements**

A. No on-site parking is required for uses in the Downtown Core, Downtown Growth, and Downtown Limited Districts, with the exception of residential uses as stated in **Table 9-1**.

- 1. One parking space per dwelling unit shall be the minimum parking required for residential uses in the Downtown Core, Downtown Growth, and Downtown Limited Districts.
- B. When parking is provided in zoning districts that do not require on-site parking, all design standards and specific limitations in this Article shall apply.

**9.2.6 Alternate Parking Requirements**

Recognizing that the parking requirements provided in **Table 9-1** may not be adequate for all uses or sites, the number of parking spaces required may be reduced in accordance with **Sections 9.2.7, 9.2.8 and 9.2.9**.

**9.2.7 Reduction of Required Parking**

- A. **Administrative Reduction.** The Zoning Administrator may grant up to a 10% reduction in the number of required on-site parking spaces for the principal use or mixture of principal uses on a lot when the following can be demonstrated.
  - 1. A specific use or site has such characteristics that the number of required parking spaces is too restrictive.
  - 2. The requested reduction will not cause long term parking issues for adjacent properties or anticipated future uses
  - 3. One or more of the following site conditions are applicable or present on the lot where the principal use(s) is located.

- a. **Reserve Area.** An area of land suitable for the development of a parking facility and equal in size to the area of land needed to provide the parking spaces for which a reduction is granted will be reserved as undeveloped open space on the lot.
- b. **Proximity to Alternative Modes of Transportation.** The main entrance to the building of the proposed use is located within a 1,000-ft walking distance to an operating transit route or there is direct access from the lot to a multi-use bicycle pathway.
- c. **Shared Parking.** The required parking is for a use that shares a parking lot with other uses, which have different peak parking demands or operating hours (e.g. a movie theatre and a bank).
- d. **Proximity to On Street Parking.** Located contiguous to the lot there is on-street public parking that meets all the requirements for on-street parking in accordance with the City Code of Ordinances.

**B. Administrative Reduction Request Procedure**

- 1. A request for an administrative parking reduction shall be filed with the Zoning Administrator and shall include, at a minimum, the following information. The Zoning Administrator may request additional information and/or technical studies at the applicant's expense.
  - a. The size and type of the proposed use(s).
  - b. The anticipated rate of parking turnover.
  - c. The anticipated peak parking and traffic loads for all uses.
  - d. A description of how the site and/or use meets the criteria in **Section 9.2.7.A.**

- e. Additional information and/or technical studies deemed reasonably necessary by the Zoning Administrator, at the expense of the applicant.
- 2. The Zoning Administrator shall issue a written decision on requests for administrative reduction of required parking in accordance with the procedures for a written interpretation in **Section 24.7.**

**C. Major Reduction**

- 1. Requests for reductions in required parking that exceed 10% and are less than 50% shall be considered by the Zoning Board of Adjustment through the Special Exception process.
- 2. In determining whether to grant a Special Exception, the Zoning Board of Adjustment shall make the following findings in addition to those required for a Special Exception.
  - a. The specific use or site has such characteristics that the number of required parking spaces is too restrictive.
  - b. The requested reduction will not cause long term parking issues for adjacent properties or anticipated future uses.
- 3. The applicant for a Special Exception shall submit a parking study conducted by a NH licensed engineer that clearly demonstrates the need for a reduction in required parking. The parking study shall address the following.
  - a. A description of the proposed use(s)
  - b. Days and hours of operation of the use(s)
  - c. Anticipated number of employees and number of daily customers or clients
  - d. The anticipated rate of turnover for proposed spaces
  - e. The availability of nearby on-street parking or alternative modes of

transportation (e.g. public transit, multi-use pathways)

- f. The anticipated peak parking and traffic loads for each of the uses on the site
- g. Total vehicle movements for the parking facility as a whole

### 9.2.8 Parking Credit

Any existing parking deficiencies of the required parking for the previous use may be credited to the new use at the discretion of the Zoning Administrator, provided that the previous use was legally established and the number of spaces has not decreased.

### 9.2.9 Remote Parking

If the required number of parking spaces for any land use cannot be reasonably provided on the same lot on which the principal use is located, the Zoning Administrator may permit all or part of the required parking to be located on a separate lot, provided it complies with the following standards.

- A. The remote parking spaces shall be within a 1,000-ft walking distance of the property on which the principal use is located. This distance is measured from the nearest point of the remote parking area to the primary entrance of the use served. The path of travel from the remote parking to the principal use shall have adequate pedestrian facilities (e.g. crosswalks and sidewalks) for pedestrians to safely travel between the two sites.
- B. Remote parking spaces shall not be allowed in any residential zoning district.
- C. All required accessible parking spaces shall be provided on-site.
- D. Where remote parking spaces are under separate ownership from the principal lot, a written and duly executed parking agreement between the record owners, which guarantees the use and operation of remote parking areas for the life of the principal use, shall be submitted to the Zoning Administrator for

recording in the County Registry of Deeds. Change of ownership or use of either parcel shall require a renewal of the agreement.

- E. The remote parking spaces shall not be counted toward the minimum parking requirements for the primary use(s) of the lot where the remote parking is located.

## 9.3 DRIVEWAY DESIGN STANDARDS

### 9.3.1 Street Access Permit

Prior to installing a new or modifying an existing curbcut or driveway, a Street Access Permit shall be obtained according to the standards and processes outlined in **Article 23**.

### 9.3.2 Driveway Placement

- A. For single- and two-family dwellings, there shall be no one more than 1 driveway for each lot, unless an exception has been approved by the City Engineer per **Article 23**.
- B. No more than 2 single-family dwellings can share a common driveway.
- C. New driveways shall be placed so as not to conflict with existing driveways.
- D. Driveways on opposite sides of the street shall be aligned or offset sufficiently, so as to avoid turning conflicts.

### 9.3.3 Driveway Dimensions

- A. **Residential Driveways.** The following standards shall apply to driveways for single- and two-family dwellings.
  - 1. Driveways shall be a maximum of 20-ft wide at the property line and 30-ft wide at the curbline.
  - 2. Each vehicle parking area shall be a minimum dimension of 8-ft by 18-ft and shall be located to the rear of either the front setback or front building line.
  - 3. The driveway and associated parking area shall be a minimum of 3-ft from the side property line.



**B. Commercial Driveways.** The following standards shall apply to driveways for non-residential lots, multi-family dwellings, and temporary driveways.

1. The driveway shall be a minimum of 12-ft wide and a maximum of 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 a NH licensed engineer.

#### 9.3.4 Surface Material

The surface of the driveway and associated parking area shall be of concrete, paving, **crushed stone (installed at a minimum thickness of 4-in on top of a compacted subgrade), or other suitable material to prevent erosion, dust, and rutting. Driveways that have a slope of 5% or greater (towards the right of way) shall be made of a solid surface.**

#### 9.3.5 Grading & Drainage

- A. Driveway and associated parking areas shall be graded to prevent drainage across sidewalks, curb cuts, streets or onto adjacent property, except that the portion of a driveway within the public right-of-way may drain towards the street.
- B. Driveways and associated parking areas shall not block the flow of drainage in gutters or drainage ditches or pipes.
- C. Driveways and associated parking areas shall not have a slope greater than 15%.

#### 9.3.6 Long Driveways

Driveways longer than 300-ft shall meet the following standards.

- A. Shall be limited in width to 10-ft, in order to minimize site disruptions.
- B. Every 300-ft there shall be an improved turnout, which is 8-ft wide and 15-ft long.
- C. Shall include at its terminus a vehicular turnaround as described for dead-end streets in **Article 23.**

- D. If the driveway slope is greater than 10%, the first 20-ft from the public road shall be at a slope of 5% or less.

#### 9.4.7 Driveways Crossing Steep Slopes

For driveways located in or crossing prohibitive and precautionary slopes, as defined in **Article 12 Hillside Protection Overlay District**, the following standards shall apply.

- A. Driveway route shall follow the natural contours of the existing slope to minimize disturbance of vegetation and soils.
- B. Cutting and filling of slopes to construct a driveway shall comply with applicable grading standards of **Article 12.**
- C. Shared driveways shall be used to avoid entering into or crossing precautionary slope areas and to reduce grading, paving and site disturbance.

#### 9.3.8 Removal of Trees or Stone Walls

When the installation of a driveway 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 shall be obtained, in accordance with Chapter 82 of the City Code of Ordinances, NH RSA 472:6, or other applicable laws.

#### 9.3.9 Temporary Driveways

Temporary driveways used for earth-disturbing activities or events shall be constructed with a temporary construction exit complying with the requirements of the New Hampshire Stormwater Manual, Volume 3, as may be amended, and shall be restored to original condition at the conclusion of the activity or event for which they are installed.

## 9.4 PARKING LOT DESIGN STANDARDS

### 9.4.1 Dimensions & Siting

- A. Setbacks.** Unless otherwise specified in **Table 9-4** or elsewhere in this LDC, the setbacks for paved and unpaved parking lots and travel surfaces associated with all uses other than single-family and two-family dwellings are listed in **Table 9-2**.

**Table 9-2: Travel & Parking Surface Setbacks**

Parking Lot Size	Min Setback	
	Front	Side/Rear
≥10,000 sf	8 ft	8 ft
>10,000 to ≤30,000 sf	10 ft	8 ft
>30,000 sf to ≤2 acres	15 ft	10 ft
>2 acres	20 ft	15 ft

- B. Parking Spaces.** Parking spaces shall not be less than 8-ft by 18-ft, unless they primarily serve retail establishments, in which case they shall either be a minimum of 9-ft by 18-ft or provide a 1-ft separation between adjacent spaces.
- C. Travel Lanes.** The width of travel lanes within the interior of a parking lot shall be as listed **Table 9-3**.

**Table 9-3: Travel Lane Dimensions**

Parking Space Angle	Travel Lane Width
90 degree	22 ft
60 degree	18 ft
45 degree	11 ft
30 degree	10 ft

Placeholder for graphic of parking space angles / travel aisles

### D. Location

1. All required parking spaces shall be located on the site, unless approval for remote parking has been obtained by the Zoning Administrator per **Section 9.2.9**.
2. The location of on-site parking for nonresidential and multi-family uses in the following zoning districts is regulated by **Table 9-4 Parking Location and Access**.
  - a. Downtown Core
  - b. Downtown Growth
  - c. Downtown Limited
  - d. Downtown Edge
  - e. Downtown Transition
  - f. Downtown Institutional Campus

Table 9-4: Parking Location and Access

District and Street Type	Permitted Parking Location	Parking Access
<p><b>Type A - Interior Lot</b></p>	<p>Surface parking is prohibited within the first 24-ft, measured perpendicularly from the lot line abutting the Type A Street frontage.</p>	<p>Not permitted along a Type A Street frontage, unless no other means of access is available. Access lanes may be no wider than 12-ft for one-way traffic, or 24-ft for two-way traffic.</p>
<p><b>Type A and Type B - Corner Lot</b>                      Corner lots with frontage along both a Type A and Type B Street.</p>	<p><b>Type A Frontage:</b>                      Surface parking is prohibited within the first 24-ft, measured perpendicularly from the lot line abutting the Type A Street frontage.</p> <p><b>Type B Frontage:</b>                      Surface parking is prohibited within the first 24-ft, measured perpendicularly from the lot line abutting the Type B Street frontage for the first 60% of the lot width along such frontage, measured from the corner. Parking is prohibited between the front building façade line and the front lot line, and between the corner side building façade line and corner side lot line.</p>	<p>Access is not permitted from a Type A Street frontage.</p> <p>From a Type B frontage, no access is permitted within the first 60% of lot width, measured from the corner. Access lanes may be no wider than 12-ft for one-way traffic, or 24-ft for two-way traffic.</p>
<p style="writing-mode: vertical-rl; transform: rotate(180deg);"><b>DT-C and DT-G Districts</b></p> <p><b>Type A Interior Lot &amp; Type A and Type B Corner Lot Parking Location Diagram</b>                      Prohibited parking locations (as specified above) are depicted with a diagonal hatched pattern. Required perimeter landscape (Sec. 9.4.3) is shown in solid dark green. Permitted parking locations are depicted in light gray, subject to all other standards of this ordinance.</p>	<p style="text-align: center;"><b>Type A</b></p>	
	<p><b>Type B - Interior Lot</b></p>	<p>Surface parking is prohibited between the front lot line and the front building façade line.</p>
<p><b>Type B - Corner Lot</b>                      Corner Lots with frontage along two Type B Streets.</p>	<p>Surface parking is prohibited within the first 24-ft, measured perpendicularly from the lot line abutting either Type B frontage for the first 60% of the lot width, measured from the corner. Surface parking is prohibited between the front building façade line and the front lot line, and between the corner side building façade line and corner side lot line.</p>	<p>No access is permitted within the first 60% of lot width, measured from the corner. Access lanes may be no wider than 12-ft for one-way traffic, or 24-ft for two-way traffic.</p>

Table 9-4: Parking Location and Access

<b>DT-C and DT-G Districts</b>	<p><b>Type B Interior Lot &amp; Type B Corner Lot Parking Location Diagram</b>          Prohibited parking locations (as specified above) are depicted with a diagonal hatched pattern. Required perimeter landscape (Sec. 9.4.3) is shown in solid dark green. Permitted parking locations are depicted in light gray, subject to all other standards of this ordinance.</p>	
<b>All Other Districts</b>	<p><b>Interior Lot</b></p> <p>Surface parking is prohibited between the front building façade line and the front lot line, with the exception of the DT-I District. <sup>1</sup></p>	<p>Access lanes may be no wider than 12-ft for one-way traffic, or 24-ft for two-way traffic.</p>
<p><b>Corner Lot</b></p> <p>Surface parking is prohibited between the front building façade line and the front lot line, and between the corner side building façade line and corner side lot line, with the exception of the DT-I District. <sup>2</sup></p>	<p>No access is permitted within the first 40% of lot width, measured from the corner. Access lanes may be no wider than 12-ft for one-way traffic, or 24-ft for two-way traffic.</p>	
<p><b>Interior and Corner Lot Parking Location Diagram</b>          Prohibited parking locations (as specified above) are depicted with a diagonal hatched pattern. Required perimeter landscape (Sec. 9.4.3) is shown in solid dark green. Permitted parking locations are depicted in light gray, subject to all other standards of this ordinance.</p>		

1 In the DT-I District, surface parking may be located between the front building façade line and the front lot line, but may not be located within the first 15-ft, measured perpendicularly from the front lot line.

2 In the DT-I District, surface parking may be located between the front building façade line and front lot line, and between the corner side building façade line and corner side lot line, but may not be located within the first 15-ft, measured perpendicularly from the lot line.

### 9.4.2 Surface Material and Grade

The surface of parking lots shall be designed as follows.

- A. Shall have a surface of concrete, paving or other suitable materials to prevent erosion and raising of dust.
- A. Shall be striped to delineate parking spaces.
- B. Shall be graded to prevent drainage across sidewalks and curb cuts or onto adjacent property.
- C. Shall have a substantial curb or wheel stop of concrete, masonry, steel or heavy timber placed at or near the end of each parking space to prevent vehicles from damaging nearby buildings, lawns, trees or shrubs, or from creating a hazard to pedestrians on any sidewalk or walkway.

### 9.4.3 Screening

On-site parking shall not be visible from the public right-of-way unless the following standards are met.

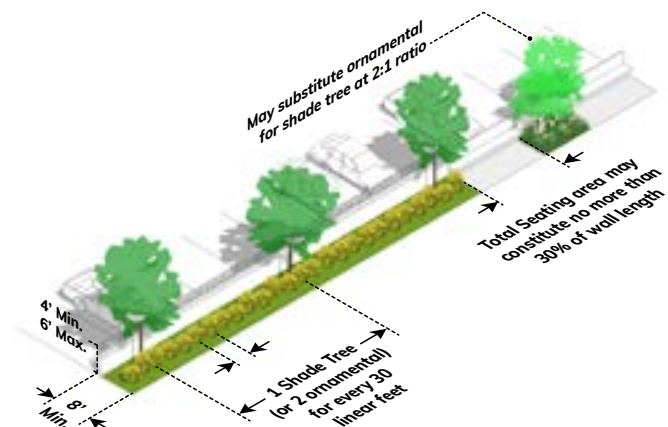
**A. Perimeter Landscape Area.** If an on-site parking area is visible from the public right-of-way and/or is located adjacent to a residential zoning district, a perimeter landscape area shall be established along the full length of the edge(s) of the parking lot that are adjacent to the public right(s)-of-way and to parcels located in a residential zoning district, with the exception of areas designed for pedestrian and vehicular access. This perimeter parking lot landscape area shall be improved as follows.

- 1. The perimeter parking lot landscape area shall be at least 8-ft in depth, measured from the edge of the parking area.
- 2. A minimum of 1 shade tree shall be provided for every 30-lf of perimeter parking lot landscape area.
  - i. Ornamental trees may be substituted for shade trees at a 2:1 ratio, for no more than 50% of the required shade trees

- ii. Trees may be spaced linearly on-center, or grouped to complement an overall design concept.

3. The remainder of the perimeter parking lot landscape area shall be landscaped and designed as one or more of the following installations.

- a. One evergreen shrub shall be planted for every 3-lf of perimeter area length. Shrubs may be varied in placement, rather than linearly spaced, but the total number of shrubs planted must equal 1 shrub per 3-lf. Shrubs must be at least 3-ft in height at maturity, and have a minimum spread of 2-ft. Shrubs are not required to be planted within 4-ft of a tree.
- b. A mixture of shrubs, perennials, grasses, and other planting types that provide screening to a minimum of 3-ft in height at maturity, which shall encompass at least 60% of the perimeter landscape area.
- c. A solid wall (shall not be concrete block or vinyl) that is a minimum of 4-ft to a maximum of 6-ft in height, located at the furthest point of the landscape area from the public right-of-way. Any portion of the wall higher than 4-ft shall be semi-transparent or transparent.
  - i. A mixture of shrubs, perennials,



grasses, and other native planting types is required in the area in front of such wall for the entirety of its length.

- ii. Up to 30% of the total length of such wall may be designed as a seating wall. If seating areas are included, the minimum wall height does not apply and plantings are not required in front of those portions of the wall used for seating.
4. If the area of the parking lot abutting a residential zoning district is an existing woodland, a 25-ft woodland buffer may be left in lieu of a perimeter landscape area.

#### 9.4.4 Interior Parking Lot Landscaping

- A. **Parking lots of 10+ spaces.** For parking lots of 10 or more parking spaces, either 1 tree at least 3-in diameter as measured 24-in from the ground after planting, or groupings of 3 or more trees at least 6-ft tall or 2-in diameter as measured 12-in above grade after planting, shall be required at the ratio of 1 tree per 10 parking spaces.
- B. **Parking lots of 50+ spaces.** For parking lots of 50 spaces or more the following landscaping standards apply in addition to any landscaping required for screening.
  1. The interior of the parking lot shall include landscaping covering not less than 10% of the total area of parking spaces.
  2. More than half of the required parking lot landscaping shall be either in continuous landscape strips or in large planting islands located entirely within the paved area of the parking lot, in order to break up the visual expansiveness of the lot.
  3. More than half of the planting areas shall be at least 8-ft wide.
  4. Curbs, setbacks or other protection must be provided to prevent damage to trees and shrubs from vehicles.

**Placeholder graphic for image of interior parking lot landscaping**

## 9.5 PARKING STRUCTURE DESIGN STANDARDS

### 9.5.1 Screening of Parking Structures

- A. **Ground Floor.** On portions of the ground floor façade of a parking structure that are visible from the public right-of-way and are not wrapped by tenantable space or used as ingress/egress points, screening shall be installed to a minimum height of 4-ft, and must consist of a solid wall or a decorative/semi-opaque fence or screen in combination with landscaping.
- B. **Above Ground Floor.** On portions of the façade above the ground floor that are visible from the public right-of-way and are not wrapped by tenantable space, vehicles shall be screened from view by solid wall or panel a minimum of 4-ft in height. Any remaining openings must be vertically proportioned.
- C. **Rooftop Open-air Parking.** Parking structures with rooftop open-air parking visible from the public right-of-way shall provide screening in the form of a parapet wall a minimum of 4-ft in height.

### 9.5.2 Clear Sight Zone

A vehicular clear sight zone shall be provided at all vehicle exit areas as follows. A vehicular clear sight zone is defined by drawing a line from the edge of the vehicular exit area to the main building façade line.

1. The façade of vehicular exit areas shall be set back a minimum of 10-ft for that portion of the façade that includes the vehicle exit area, and an additional 10-ft on each side of the exit opening.
2. In the vehicular clear sight zone, landscape or a decorative wall shall be used to separate the vehicle exit aisle and the pedestrian walkway. Such landscape and/or decorative wall may not exceed 30-in in combined overall height, to ensure driver sightlines are maintained.
3. Upper stories of the parking structure may overhang the vehicular clear sight zone.

### 9.5.3 Type A Street Frontage

Parking structures fronting on Type A Streets in the Downtown Core District and Downtown Growth District shall provide tenantable space along a minimum of 80% of the total building length along the Type A Street, from the ground floor to the full height of the structure.

### 9.5.4 Type B Street Frontage

Parking structures fronting on Type B Streets in the Downtown Core and Downtown Growth Districts shall provide tenantable space along a minimum of 60% of the total building length along the Type B Street, on the ground floor.

# ARTICLE 10. SIGNS

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**10.1 GENERAL**

**10.1.1 Purpose**

This article is intended to establish a legal framework for a comprehensive and balanced system of signs in order to achieve the following objectives.

1. Help to allow the free flow of traffic and protect the safety of pedestrians, bicyclists and motorists, which may impacted by cluttered, distracting or illegible signage.
2. Avoid excessive levels of visual clutter or distraction that are potentially harmful to property values, business opportunities and community appearance.
3. Promote the use of signs that are aesthetically pleasing, of appropriate scale, and integrated with the surrounding buildings and landscape.

**10.1.2 Applicability**

Unless otherwise provided in this article, it shall be unlawful for any person to construct, erect, replace, alter, attach, or relocate within the city, any sign or sign structure, as defined herein, without first obtaining a sign permit in accordance with **Section 24.14** from the Community Development Department and demonstrating compliance with the provisions of this Article.

**10.1.3 Substitution**

The owner of any sign which is otherwise allowed under this Article may substitute any sign copy in lieu of any other sign copy, without any additional approval or permitting. This provision prevails over any more specific provision to the contrary. This provision does not create a right to increase the total amount of sign area permitted on a lot.

**10.2 EXEMPT SIGNS**

The signs listed in **Table 10-1** shall not require a sign permit, unless otherwise provided in this Article. A building permit may be required to erect such signs, even if a sign permit is not required.

**Table 10-1: Exempt Signs**

Exempt Sign Types	Conditions
Signs Required by Law	-
Signs in the Public Right-of-Way	Subject to Chapter 46 of City Code of Ordinances.
Government Signs or Flags	-
Interior Merchandise Display	-
Bulletin Boards (<20 sf)	Shall be on the premises of a noncommercial organization.
Informational / Directional Sign (< 4 sf)	-
Memorial Signs & Plaques	Shall be attached to or cut into a building or masonry surface, or a plaque constructed of bronze or other incombustible material.
Political Sign	Subject to NH RSA 664:17
Restrictive Sign	As authorized by NH RSA 635:4
Sign Face Replacement	Shall be in a permitted sign cabinet. Sign Permit is required if in DT-C district
Business Sign (< 4 sf)	Shall be attached or affixed to the business frontage in a covered common walkway of a shopping center.
Fuel Price Sign (< 10 sf)	Shall be located at vehicle fueling stations, and shall only display the grade of fuel and price per unit for said fuel.
Window Sign (< 20 sf)	When affixed outside of a window, the total sign area shall be subtracted from the max area permitted for parallel signs.

## 10.3 PROHIBITED

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 on 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.

- B. Wall-Mounted Sign Area.** The total wall-mounted sign area for a building is derived by calculating the sum of sign areas for each wall mounted sign on the building.
- C. Freestanding Sign Area.** The total freestanding sign area for a lot is derived by calculating the

sum of sign areas for each freestanding sign on a site.

- D. Rules of Measurement.** The rules of measurement described in **Table 10-5** shall apply to all signs.

**Table 10-3: Wall-Mounted Sign - Max Sign Face Area Per Linear Foot of Building/Tenancy Frontage**

	Zoning District					
	DT-T, NB, O, <i>Legal non-conforming commercial property in any district</i>	BGR, COM, CL, DT-E	I, IP, CP	DT-I, HC	C, A	DT-C, DT-G, DT-L
Primary Frontage	1 sf	2 sf	2 sf	2 sf	1 sf	1.5 sf
Secondary Frontage:	0.5 sf	1 sf	1 sf	1 sf	0.5 sf	0.75 sf
Parking Lot Frontage:	0.25 sf	0.5 sf	0.5 sf	0.5 sf	0.25 sf	0.5 sf

**Table 10-4: Freestanding Sign - Max Number & Sign Face Area**

	Zoning District					
	DT-T, NB, O, <i>Legal non-conforming commercial property in any district</i>	BGR, COM, CL, DT-E	I, IP, CP	DT-I, HC	C, A	DT-C, DT-G, DT-L
Max number of signs per frontage:	1	1	1	1		
Max number of Signs per lot:	2	2	2	2	1	2
Max sign area:	1 sf per 5 lf of building frontage (not to exceed 20 sf)	1 sf per 1 lf of frontage (not to exceed 100 sf or 200 sf in COM if frontage is >300-lf)	0.5 sf per 1 lf site frontage (not to exceed 40 sf)	0.5 sf per 1 lf site frontage (not to exceed 40 sf)	32 sf	1 sf per 2 lf of lot or site frontage, or a total of 20 sf, whichever is smaller

**Table 10-5: Rules of Sign Measurement**

Measurement	Calculation
Sign Face Area	<p>Free-standing Sign:</p> <ul style="list-style-type: none"> <li>The sign structure area (excluding the portion of the structure base that contains no sign copy or related display) shall be included in the measurement of sign face area. <ul style="list-style-type: none"> <li>Rectangular Sign Face Area = Length x Width</li> <li>Round Sign Face Area = Pi (3.14159265) x radius<sup>2</sup></li> </ul> </li> <li>Signs with multiple sign faces oriented in the same direction shall have all sign faces counted together as one.</li> <li>Only 1 side of a double-sided sign face is counted.</li> <li>Ratio of sign area to sign face is equal to 3:1 for monument signs and 2:1 for all others.</li> </ul> <p>Wall Sign:</p> <ul style="list-style-type: none"> <li>Sign face area = Perimeter around the sign copy</li> <li>When sign copy is constructed of individual components attached to a building wall, sign face area shall be the perimeter around each component.</li> <li>When signs are incorporated into canopies or awnings, the entire panel containing the sign copy is counted as the sign face area.</li> </ul>
Sign Height	Measured from the grade directly below the sign to the highest point of the sign or sign structure.
Sign Clearance	Measured from the grade directly below the sign to the bottom of the sign structure enclosing the sign face.

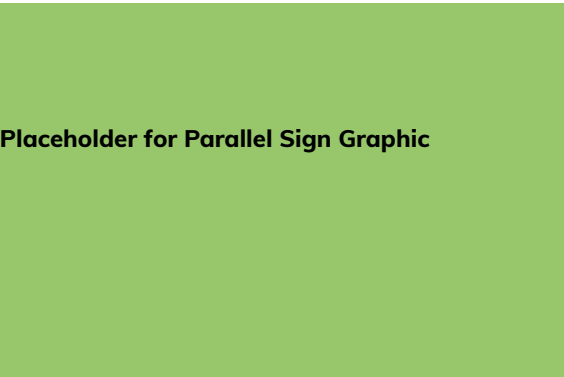
## 10.5 PARALLEL SIGN STANDARDS

### 10.5.1 Defined

A sign attached, painted, or otherwise mounted or affixed parallel to a building wall or other vertical building surface.

### 10.5.2 Standards

Parallel Signs shall not be externally illuminated before the start of business or 8:00 am, whichever is later, and after the end of the business day or 9:00 pm, whichever is later.



**Table 10-6: Parallel Sign Dimensional Requirements**

	Zoning District					
	DT-T, NB, O, <i>Legal non-conforming commercial property in any district</i>	BGR, COM, CL, DT-E	I, IP, CP	DT-I, HC	C, A	DT-C, DT-G, DT-L
Sign Area Not to Exceed:	12 sf per business <i>(max of 36 sf per building)</i>	200-sf	See Table 10-3	See Table 10-3	See Table 10-3	See Table 10-3
Max Height:	Shall not extend above the bottom windowsills of the 2nd building story above grade	-	7 ft	7 ft	-	For 1st story businesses: signs shall not extend above the bottom windowsills of the 2nd building story <i>(above grade)</i> ;  No sign shall extend higher than the window header for each story, except window signs
Min Clearance:	7 ft	7 ft	7 ft	7 ft	-	7 ft
Max Projection from Wall:	1 ft	1 ft	1 ft	1 ft	1 ft	1 ft

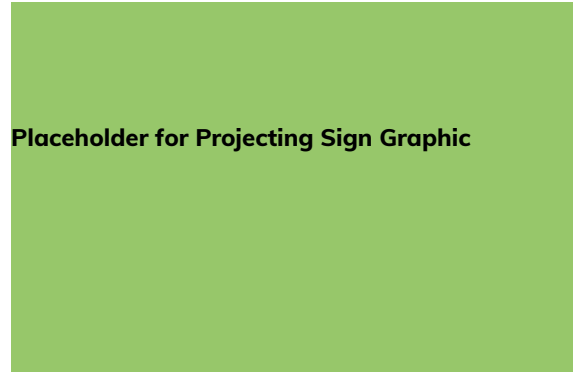
## 10.6 PROJECTING SIGN STANDARDS

### 10.6.1 Defined

A sign other than a parallel sign that is attached to or projects more than 18-in from a building face, wall, or structure whose primary purpose is other than the support of said sign.

### 10.6.2 Standards

If a projecting sign is used in the Downtown Transition, Neighborhood Business or Office Districts or on legally non-conforming commercial property in any district, no freestanding sign shall be allowed.



**Table 10-7: Projecting Sign Dimensional Requirements**

	Zoning District					
	DT-T, NB, O, <i>Legal non-conforming commercial property in any district</i>	BGR, COM, CL, DT-E	I, IP, CP	DT-I, HC	C, A	DT-C, DT-G, DT-L
Sign Area Not to Exceed:	10 sf	20 sf	Not Allowed	Not Allowed	Not Allowed	20 sf
Max Number:	1 per primary frontage	1 per tenancy frontage	Not Allowed	Not Allowed	Not Allowed	1 per frontage
Max Height:	Shall not be placed or extend above the 1st story ( <i>above grade</i> )		Not Allowed	Not Allowed	Not Allowed	18 ft
Min Clearance:	8 ft	8 ft	Not Allowed	Not Allowed	Not Allowed	8 ft
Max Projection from Wall:	4 ft	4 ft	Not Allowed	Not Allowed	Not Allowed	4 ft
Sign Copy Height:	Min of 1-in / Max of 1 ft	-	Not Allowed	Not Allowed	Not Allowed	-

## 10.7 MARQUEE, AWNING, OR CANOPY SIGNS

### 10.7.1 Defined

- A. Marquee.** A Marquee Sign is attached to or made part of a permanent roof-like structure projecting beyond a building wall at an entrance to a building or extending along and projecting beyond the building's wall.
- B. Awning/Canopy.** An Awning or Canopy Sign is a sign painted or attached to a roof-like covering affixed to a building and extending over a walkway or sidewalk. This covering may consist of vinyl, canvas, or similar material. This sign type may also be attached to a freestanding multi-sided structure supported by columns.
- C. Vehicle Fueling Station Marquee.** A sign at a vehicle fueling station attached to a permanent roof-like structure, including the structural support system, generally designed and constructed at a vehicle fueling station to provide protection against the weather.

Placeholder for Marquee, Awning Sign Graphic

### 10.7.2 Standards

- A.** Surface and/or soffits of a freestanding canopy may be illuminated by means of internal or external sources of light.
- B.** The sign face area of Vehicle Fueling Station Marquee signs shall be subtracted from the max allowable freestanding sign area of the district in which the sign is located.

**Table 10-8: Marquee, Awning or Canopy Sign Dimensional Requirements**

All Zoning Districts & Legally Non-Conforming Commercial Property	
Max Sign Area:	See Table 10-3
Min Clearance:	8 ft
Min Setback from Curblin:	1 ft
Location of Sign Area:	<ul style="list-style-type: none"> <li>• May have signage on the front, side, or ends of the marquee, awning, or canopy, and/or any combination thereof.</li> <li>• All such signage shall be considered as 1 sign, and may contain the same message or logo.</li> </ul>
Messages or Logos:	If any sign front, side, or end is greater than 10 ft in length, a message or logo may be repeated up to 3 times, provided each is 5 ft in length.

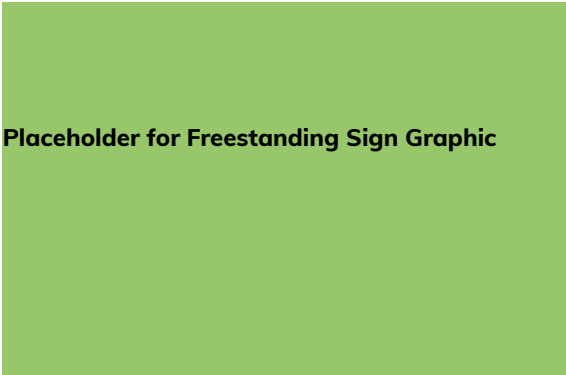
## 10.8 FREESTANDING SIGN

### 10.8.1 Defined

A sign principally supported by a structure affixed to the ground, and not supported by a building, including signs supported by one or more columns, poles or braces placed in or upon the ground.

### 10.8.2 Standards

Shall not be externally illuminated before the start of business or 8:00 am, whichever is later, and after the end of the business day or 9:00 pm, whichever is later.



**Table 10-9: Freestanding Sign Dimensional Requirements**

	Zoning District					
	DT-T, NB, O, <i>Legal non-conforming commercial property in any district</i>	BGR, COM, CL, DT-E	I, IP, CP	DT-I, HC	C, A	DT-C, DT-G, DT-L
Sign Number and Sign Area:	See Table 10-4	See Table 10-4	See Table 10-4	See Table 10-4	See Table 10-4	See Table 10-4
Max Height:	8 ft for sign structure and 6 ft for sign when placed within ½ of the district’s front setback, 14 ft for sign structure and 12 ft for sign when placed behind this line.	14 ft when placed within ½ of district’s front setback; 18 ft when placed behind this line	8 ft for sign structure and 6 ft for sign when placed within ½ of district’s front setback; not to exceed 15 ft when placed behind this line	8 ft for sign structure and 6 ft for sign when placed within ½ of district’s front setback; not to exceed 15 ft when placed behind this line	12 ft	10 ft
Min Setback from Property Line:	5 ft	5 ft	5 ft	5 ft	5 ft	0 ft
Min Distance from Building Entrance / Exits:	10 ft	10 ft	10 ft	10 ft	10 ft	10 ft

**10.9 DEVELOPMENT SIGN**

**10.9.1 Defined**

A free-standing sign located at the entrance to a site or parcel approved by the Planning Board that is planned, developed, operated, and maintained, according to the site or subdivision plan as a single entity, under a single project name, and containing 1 or more structures with appurtenant common areas.

**10.9.2 Standards**

- A. Shall only be externally illuminated.
- B. If there is more than 1 access road to a development, the signs shall be a minimum of 300-ft apart.

- C. Shall be located on the side of the road or in an island if the road is divided.
- D. Shall be located either on public land or private land owned by the developer. If located on private land, said land must be owned by and a part of the development. If located within a city right-of-way, City Council permission shall be required prior to the erection and construction of said sign.
- E. No temporary sign shall be attached to or otherwise hung from a development sign or any part thereof, including the sign structure.
- F. If a development is owned by more than 1 person, the application for a sign permit shall be signed by all persons that represent more than 80% of the land of the development.

**Table 10-10: Development Sign Dimensional Requirements**

	Zoning District					
	<b>DT-T, NB, O,</b> <i>Legal non-conforming commercial property in any district</i>	<b>BGR, COM, CL, DT-E</b>	<b>I, IP, CP</b>	<b>DT-I, HC</b>	<b>C, A</b>	<b>DT-C, DT-G, DT-L</b>
Number of Signs Per Access Road to Development:	1	1	1	1	Not Allowed	1
Max Sign Area	50 sf	50 sf	50 sf	50 sf	Not Allowed	50 sf
Max Height:	10 ft	10 ft	10 ft	10 ft	Not Allowed	10 ft
Sign Copy Height:	Min of 8" / Max of 18"	Min of 8" / Max of 18"	Min of 8" / Max of 18"	Min of 8" / Max of 18"	Not Allowed	Min of 8" / Max of 18"



## 10.10 MENU BOARD & CHANGEABLE COPY SIGN

### 10.10.1 Defined

- A. Menu Board.** Menu Board is either a freestanding, wall or window sign displaying the price, products, and/or any specials being offered by a business.
- B. Changeable Copy.** A Changeable Copy Sign is a sign whereon provision is made for letters, characters, or other copy to be placed in or upon the surface area to provide a message that is capable of being changed.

Placeholder for Menu Board Sign Graphic

**Table 10-11: Menu Board & Changeable Copy Sign Dimensional Requirements**

	Zoning District					
	DT-T, NB, O, <i>Legal non-conforming commercial property in any district</i>	BGR, COM, CL, DT-E	I, IP, CP	DT-I, HC	C, A	DT-C, DT-G, DT-L
Max Sign Area:	Not Allowed	16 sf per sign; max of 1 changeable copy sign per lot or building frontage	Not Allowed	Not Allowed	Not Allowed	
Max Number:	Not Allowed	2 per lot or building frontage	Not Allowed	Not Allowed	Not Allowed	2 per lot or building frontage
Max Height:	Not Allowed	6 ft for menu board; 12 ft for changeable copy	Not Allowed	Not Allowed	Not Allowed	6 ft
Max Projection from Wall:	Not Allowed	1 ft	Not Allowed	Not Allowed	Not Allowed	1 ft
Setback:	Not Allowed	Shall not be in front setback	Not Allowed	Not Allowed	Not Allowed	

## 10.11 PORTABLE SIGN

### 10.11.1 Defined

Any sign not permanently attached to the ground or to a building or building surface (e.g. sandwich board or vertical sign).

### 10.11.2 Standards

- A. Shall be subject to requirements of Chapter 46 of City Code of Ordinances.
- B. Shall be stored indoors during storms and after business hours by the sign owner.

Placeholder for Portable Sign Graphic

**Table 10-12: Portable Sign Dimensional Requirements**

	Zoning District					
	DT-T, NB, O, <i>Legal non-conforming commercial property in any district</i>	BGR, COM, CL, DT-E	I, IP, CP	DT-I, HC	C, A	DT-C, DT-G, DT-L
Max Sign Area (counted in addition to the area calculated for free-standing signs):	Not Allowed	10 sf for sandwich board; 3 sf for vertical sign	Not Allowed	Not Allowed	Not Allowed	10 sf for sandwich board; 3 sf for vertical sign
Max Number:	Not Allowed	1 sandwich board; 1 vertical sign	Not Allowed	Not Allowed	Not Allowed	1 sandwich board; 1 vertical sign
Max Height:	Not Allowed	6 ft for sandwich board; 3½ ft for vertical sign	Not Allowed	Not Allowed	Not Allowed	6 ft for sandwich board; 3½ ft for vertical sign

## 10.12 ADDITIONAL STANDARDS FOR DOWNTOWN SIGNS

The following standards shall apply to signs in the Downtown Core, Downtown Growth, and Downtown Limited Districts, in addition to all other applicable standards in this Article.

### 10.12.1 Sign Placement

- A. Signs shall not cover significant architectural features of the building or facade.
- B. Signs shall not override the architectural limits set by the building's facade, window spacing, lintel depth, or pediment size.
- C. If a natural spacing is provided for on the facade the sign shall be placed within it.

### 10.12.2 Sign Colors

- A. Any 1 sign shall be limited to no more than 5 principal colors on the sign.
  - 1. If natural wood is used in the sign, it shall count as 1 of the 5 principal colors.
  - 2. An additional color may be used for a border, piping, and/or shadow, but it shall not exceed 10% of the square footage of the sign.
- B. Any number of colors may be used in an emblem/logo/picture that does not exceed 20% of the square footage of the sign.
- C. The background color of signs shall be limited to dark crimson, dark green, dark brown, dark blue, black, dark gray, dark purple, dark gold, or shades of white.

### 10.12.3 Sign Area for Multi-Story Buildings

- A. The 2nd building story above grade plane shall only be allowed to have a sign(s) that is 50% of the calculated first story ground floor area.
- B. All other stories higher than the 2nd story above grade shall only be allowed to have a sign(s) that is 30% of the calculated first story ground floor area.

- C. Signage for the entire building facade shall not exceed the maximum allowable sign area calculated for the 1st story above grade.

### 10.12.4 Business Directory Signs

- A. Only 1 business directory sign per tenant frontage is permitted.
- B. The maximum dimensions of a business directory sign shall be 2-ft wide by 4-ft high.
- C. Each panel within the main business directory sign frame shall be no more than 6-in high.

### 10.12.5 Internally Illuminated Signs

- A. Internally illuminated signs shall only be installed inside the glass.
- B. The total sign area of all internally illuminated signs shall be no more than 5-sf per tenancy frontage.

## 10.13 TEMPORARY SIGNS

### 10.13.1 Temporary Sign Permit

A sign permit shall be required prior to the erection, construction, relocation, alteration or maintenance of temporary signs, unless specifically excepted from the permit requirement as set forth in **Table 10-13.**

### 10.13.2 Duration of Temporary Sign Permit

- A. Permits for temporary signs shall be valid for 14 days, after which time the temporary sign shall be removed.
- B. In any 1 calendar year, a subsequent temporary sign permit may be issued, only after the previous temporary sign permit has expired and the sign has been removed for at least 30-days.
- C. Only 4 temporary sign permits shall be issued in any 1 calendar year to the same property owner or applicant.
- D. A single permit for a temporary sign shall include all such temporary signs on the premises.

E. Temporary signs shall be in conformance with the provisions of this Article, as well as all other applicable codes and regulations.

**10.13.3 Exceptions**

The temporary signs listed in **Table 10-13** shall be exempted from the requirement for a sign permit, unless otherwise noted in this Article.

**10.14 REMOVAL OF SIGNS**

The owner of property upon which any sign or sign structure is found by the Community Development Department to be unsafe or unsecure as defined in the state building code and any adopted amendments, or which has been erected, constructed, repaired, altered, relocated, or maintained in violation of the provisions of this Article, shall be notified in writing to correct the unsafe, or unsecure condition or violation.

If said condition or violation is not corrected in a timely manner, the Community Development Department may then order the removal of said sign or sign structure and/or revoke the permit therefore.

**Table 10-13: Temporary Signs Exempt from Permit Requirements**

Temporary Sign Type	Condition for Permit Exemption
Signs with sign face area < 6-sf	<ul style="list-style-type: none"> <li>Specific to the following districts: <b>A; C; R; LD; LD-1; MD; HD; HD-1; O; NB; DT-C; RP.</b></li> <li>Only 1 sign allowed per lot</li> </ul>
Sign with sign face area < 32-sf	<ul style="list-style-type: none"> <li>Specific to the following districts: <b>BGR; COM; CP; DT-E; DT-I; HC; I; IP</b></li> <li>Only 1 sign allowed per lot</li> </ul>
Mobile Vendor Signs	<ul style="list-style-type: none"> <li>Vendors shall be licensed and selling merchandise on the property.</li> <li>The total sign area of all signs on a lot shall not exceed 12-sf</li> </ul>
<b>Business Relocation Signs</b>	<ul style="list-style-type: none"> <li>Sign face area shall not exceed 24-sf.</li> <li>Shall be removed within 45-days after the business has been relocated.</li> </ul>
<b>Construction Sign</b>	<ul style="list-style-type: none"> <li>Shall be limited to 1 sign per lot for any development when building permits have been issued.</li> <li>Total sign face area shall not exceed 48-sf.</li> <li>Shall be removed within 20-days after the last structure has been initially occupied or upon expiration of the building permit, whichever is sooner.</li> </ul>
Temporary Event Signs	<ul style="list-style-type: none"> <li>Only allowed in the COM and DT-G Districts.</li> <li>Signs shall not exceed 4-ft by 8-ft</li> <li>Shall not be placed in or within 10-ft of any travel lane or driveway.</li> <li>May be displayed 2-weeks prior to the event, plus the duration of the event.</li> <li>Shall be removed within 24-hrs after the event concludes.</li> <li>Shall not be internally or externally illuminated</li> <li>Shall be separated from other sites containing other actively permitted periodic event signs by a 1,000-ft separation as measured from property line to property line.</li> <li>May be subject to Chapter 46 of City Code of Ordinances</li> </ul>
Posters, bulletins, banners, notices displayed inside windows	Total sign area shall not exceed 10% of total window area of any building elevation and shall not exceed 10-sf on each building elevation
<b>Off-site Open House Signs</b>	Shall be removed at the end of the day of the open house.
Temporary Signs on Public Property	Subject to requirements of Chapter 46 of the City Code of Ordinances

# ARTICLE 11. SURFACE WATER PROTECTION OVERLAY DISTRICT

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11.2 APPLICABILITY.....	11-2
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## 11.1 PURPOSE

The purpose of the Surface Water Protection Overlay District is to:

1. Protect the functions and values of surface waters and, in particular, the buffers associated with these resources, which reduce the rate and volume of runoff;
2. Prevent the loss or degradation of natural stormwater storage, infiltration and conveyance capacity within the city;
3. Prevent water quality deterioration associated with stormwater runoff;
4. Maintain the health and holding capacity of natural surface and ground waters; and,
5. Protect the quality and connectivity of wildlife habitat and corridors.

## 11.2 APPLICABILITY

### 11.2.1 Generally

All land within the Surface Water Protection Overlay District, as defined in **Section 11.3**, is subject to the standards set forth in this Article, unless otherwise noted.

### 11.2.2 Conditional Use Permit

A Conditional Use Permit issued by the Planning Board may be required as specified in **Section 11.6** of this Article for certain uses to occur or structures be constructed, enlarged, relocated, or altered within the Surface Water Protection Overlay District.

### 11.2.3 Renovations & Repairs

The provisions of this Article shall not apply to renovations or repairs of existing structures that do not result in an expansion of the structure's footprint into or within the Surface Water Protection Overlay District.

### 11.2.4 Exemptions

The following surface waters shall not be subject to this Article.

- A. Manmade ditches, swales, sedimentation/detention/retention basins or ponds legally constructed to collect, convey, treat or control stormwater runoff
- B. Manmade agricultural/irrigation ponds
- C. Fire ponds and cisterns

## 11.3 DISTRICT DEFINED

### 11.3.1 District Definition

- A. **District Boundary.** The Surface Water Protection Overlay District is an area of land buffering all surface waters, which include perennial and seasonal streams, lakes, ponds, wetlands and wetland complexes, vernal pools, fens and sloughs.
- B. **Surface Water Buffer.** The Surface Water Protection Overlay District buffer area is measured on a horizontal plane from either the top of the bank of a stream, or the ordinary high water mark of a river, or the reference line of a lake or pond, or the delineated edge of a wetland or change in soil type.
  1. In the Rural, Agriculture, and Conservation Zoning Districts, the Surface Water Protection District is a 75-ft wide buffer.
  2. In all other zoning districts, the Surface Water Protection District buffer is 30-ft wide.
- C. **Buffer Reduction.** In specific cases, the Surface Water Protection District buffer area may be reduced to 30-ft in zoning districts requiring a 75-ft buffer and to 10-ft in zoning districts requiring a 30-ft buffer, at the discretion of the Planning Board, and if the applicant for a Conditional Use Permit provides extraordinary mitigation, replication, and/or restoration of surface waters and wetlands, and/or open space preservation measures.

### 11.3.2 Determination of Surface Water Boundaries

- A.** The location, area, and limits of all surface waters shall be field determined and delineated by a NH Certified Wetland Scientist.
  - 1.** Any surface water delineation completed without clear evidence of vegetation, from the current or prior growing season, shall be verified during the subsequent growing season at the owner's expense.
    - a.** If, upon future investigation, the surface water boundaries vary from the initial delineation, a revised plan shall be submitted to the Community Development Department. Any development shown on the revised plan shall be in compliance with this Article.
- B.** In determining the size of a surface water body, any portion of the surface water that may be located on an adjacent parcel or in an adjacent municipality shall be included based on best available information.
- C.** Roads, drainage culverts, or other man-made features shall not constitute an interruption in the delineation of the size of the surface water.
- D.** Where an area is not designated on a plan as a surface water and the Planning Board, after consultation with the Community Development Department and the Conservation Commission, believes it to be a surface water, the Planning Board may require the applicant to supply the findings of a NH Certified Wetland Scientist as to the character of the area, at the expense of the applicant.

### 11.4 PROHIBITED USES

The following are expressly prohibited from the Surface Water Protection Overlay District.

- A.** Subsurface wastewater disposal systems
- B.** Salt storage including the storage of road salt or sand treated with road salt
- C.** Automobile junk yards, salvage yards, service or repair shops
- D.** Hazardous waste facilities
- E.** Bulk storage of chemicals, petroleum products or hazardous materials, in amounts greater than those for household or agricultural use
- F.** Earth excavation operations as defined in **Article 13**
- G.** Off-site dumping or disposal of snow and ice collected from roadways or parking areas, not including snow-plowing of existing roadways
- H.** Storage or disposal of solid waste, liquid or leachate waste, animal wastes or by-products
- I.** Landfills, solid waste transfer stations, recycling facilities, incinerators, or composting facilities.
- J.** Animal feedlot operations

### 11.5 PERMITTED USES

The following are permitted in the Surface Water Protection Overlay District without a Conditional Use Permit, subject to any provisions specified in this Article.

- A.** Maintenance and vegetative control of the buffer area
- B.** Agricultural activities and operations as defined in NH RSA 21-34-a and governed by NH RSA 430, subject to Best Management Practices (BMPs) for agriculture and compliance with all related state and local laws. Agriculture BMPs shall be as stated in the following manuals, as they may be amended.

1. Best Management Wetlands Practices for Agriculture in NH (NH Department of Agriculture, July 1993)
  2. The Manual of Best Management Practices for Agriculture in NH (NH Department of Agriculture, July 2008)
- C. Forestry, tree farming, and logging operations, subject to Best Management Practices for forestry, and compliance with all related state and local laws. Forestry BMPs shall be as stated in the following manuals, as they may be amended.
1. Best Management Practices for Erosion Control on Timber Harvesting Operations in NH (NH Department of Resources and Development, 2004)
  2. Best Management Practices for Forestry: Protecting NH's Water Quality (UNH Cooperative Extension, 2006)
- D. Water impoundments when required state or federal permits have been issued
- E. Ground water withdrawal well for a single-family dwelling or two-family dwelling, and wells for the City of Keene drinking water supply
- F. Geothermal heating and cooling systems (e.g. groundwater wells and subsurface heat exchange installations)
- G. Trails constructed and maintained in accordance with best management practices for trails as stated in the manual, Best Management Practices for Erosion Control During Trail Maintenance and Construction (NH Bureau of Trails, 2004), as may be amended.
- H. Wildlife or fisheries management activities.
- I. Educational activities and scientific research consistent with the purpose and intent of this Article.
- J. New driveways for single- and two-family dwellings subject to the following provisions.
1. The driveway serves to access uplands on a lot(s) of record that existed at the time this Overlay District was first adopted.
  2. The driveway provides access for no more than 2 existing lots on a shared driveway.
  3. There is no reasonable alternative location for development on the lot that would avoid the disturbance of lands within the Surface Water Protection Overlay District.
  4. The driveway is designed to minimize any disruption to lands within the Surface Water Protection Overlay District.
  5. All applicable NH Wetlands Bureau permits have been acquired for any proposed disturbance of surface waters regulated by the State.
  6. All surface water resources and applicable buffer areas have been delineated by a NH Certified Wetland Scientist and are shown as part of a driveway permit application.
- K. All normal maintenance of existing roadways and utilities, including winter maintenance
- L. Repair, repaving, replacement, and reconstruction of existing roads, bridges, culverts and drainage systems and utilities
- M. Construction of compensatory flood storage under **Article 24** as long as no part of the compensatory flood storage excavation is within a wetland and subject to the issuance of a Floodplain Development Permit according to **Section 25.13.**
- N. Construction of new or expansion of existing single-family and two-family residential structures and associated accessory structures on lots that legally existed before the adoption of this Article, provided that the following criteria are met. The Zoning Administrator shall be responsible for determining whether these criteria are met.
1. It is not feasible to place the structure on a portion of the lot that is located outside of the Surface Water Protection Overlay District.
  2. The structure is set back as far as



reasonably possible from the edge of the surface water.

3. Applicable erosion control measures are in place prior to and during construction.
4. Any disturbance to the surrounding buffer area is repaired and restored upon completion of construction.
5. A minimum 30-ft buffer is maintained from surface waters in lots in the Rural, Conservation, and Agriculture Zoning Districts, and a 10-ft buffer is maintained from surface waters in all other zoning districts.
6. Any alteration to a surface water is made in accordance with all applicable state and federal laws, administrative rules, and regulations.

## 11.6 CONDITIONAL USE PERMIT

### 11.6.1 Activities Subject to Conditional Use Permit

- A. A Conditional Use Permit issued by the Planning Board shall be required for the following uses or structures when proposed to be located within the Surface Water Overlay Protection District.
  1. Construction of a new structure or expansion of an existing structure, with the exception of those structures specified in **Section 11.5**, which expands the footprint of such structure within the Surface Water Protection Overlay District
  2. Creation of new lots by subdivision that would require the disturbance or crossing of lands within the Surface Water Protection Overlay District.
  3. Construction of new roads, driveways (excluding single- and two-family driveways), and parking lots.
  4. Construction of new stormwater management facilities and structures or improvements, including but not limited to, sedimentation/detention/retention ponds, drainage swales, and erosion control

devices.

5. Construction of compensatory flood storage excavation under **Article 24** that requires the issuance of a wetland permit.
- B. A conditional use permit shall not be required for impacts to areas within the Surface Water Protection Overlay District that are under the jurisdiction of the NH Department of Environmental Services and when the state has issued a Wetlands Permit or Shoreland Permit.

### 11.6.2 Conditional Use Permit Standards

The Planning Board shall issue a Conditional Use Permit for the activities described in **Section 11.6.1**, if it finds that all of the following criteria have been met.

- A. The proposed use and/or activity cannot be located in a manner to avoid encroachment into the Surface Water Protection Overlay District.
- B. Encroachment into the buffer area has been minimized to the maximum extent possible, including reasonable modification of the scale or design of the proposed use.
- C. The nature, design, siting, and scale of the proposed use and the characteristics of the site, including but not limited to topography, soils, vegetation, and habitat, are such that when taken as a whole, will avoid the potential for adverse impacts to the surface water resource.
- D. The surface water buffer area shall be left in a natural state to the maximum extent possible.
  1. The Planning Board may establish conditions of approval regarding the preservation of the buffer, including the extent to which trees, saplings and ground cover shall be preserved.
  2. Dead, diseased, unsafe, fallen or invasive trees, saplings, shrubs, or ground cover may be removed from the surface water buffer area.
  3. Tree stumps and their root systems shall

be left intact in the ground, unless removal is specifically approved in conjunction with a Conditional Use Permit granted by the Planning Board. The stumps and root balls of exotic, invasive species may be removed by hand digging and/or hand cutting.

4. Preservation of dead and living trees that provide dens and nesting places for wildlife is encouraged. Planting of native species of trees, shrubs, or ground cover that are beneficial to wildlife is encouraged.
  5. Where there has been disturbance or alteration of the surface water buffer during construction, re-vegetation with native species may be required by the Planning Board.
- E. The Planning Board may consider the following to determine whether allowing the proposed encroachment will result in an adverse impact on the surface water resource.
1. The size, character, and quality of the surface water and the surface water buffer being encroached upon.
  2. The location and connectivity of the surface water in relation to other surface waters in the surrounding watershed.
  3. The nature of the ecological and hydrological functions served by the surface water.
  4. The nature of the topography, slopes, soils, and vegetation in the surface water buffer.
  5. The role of the surface water buffer in mitigating soil erosion, sediment and nutrient transport, groundwater recharge, flood storage, and flow dispersion.
  6. The extent to which the surface water buffer serves as wildlife habitat or travel corridor.
  7. The rate, timing and volume of stormwater runoff and its potential to influence water quality associated with the affected surface water or any associated downstream surface waters.
  8. The sensitivity of the surface water and

the surface water buffer to disruption from changes in the grade or plant and animal habitat in the buffer zone.

### 11.6.3 Conditional Use Permit Application Procedure

All applications for a conditional use permit under this Article shall be made to the Planning Board and submitted to the Community Development Department following the procedures set forth in **Article 25** for conditional use permits, as they may be amended, and those listed below.

#### A. Referral to the Conservation Commission

1. Upon receipt by the Community Development Department, all applications for a Conditional Use Permit shall be forwarded to the Conservation Commission a minimum of 5-business days prior to the Commission's next regularly scheduled meeting.
2. Upon receipt of a Conditional Use Permit application, the Conservation Commission may conduct an evaluation of the application based on the criteria set forth in **Section 11.6.2**, and provide advisory comments to the Planning Board.

#### B. Submission requirements

In addition to the materials required in **Section 25.11**, an applicant for a Surface Water Protection Conditional Use Permit shall submit the following items as part of their application.

1. A written explanation of how the proposal complies with the criteria set forth in **Section 11.6.2**.
1. A proposed conditions plan and an existing conditions plan, which include the following information.
  - a. A plan prepared by a NH certified wetlands scientist that delineates the location, area, and limits of surface waters on the site, along with the associated Surface Water Protection Buffer as specified in this Article.
  - b. Details showing the proposed

encroachment into the Surface Water Protection Overlay District.

2. Any information necessary to demonstrate that the proposed encroachment will not cause adverse impacts to the surface water resource, or design details that demonstrate that proposed mitigation will prevent adverse impacts to the surface water resource.

**C. Boundary Markers**

The boundaries of the Surface Water Protection District buffer areas, and the associated surface water, shall be marked as such on the site with stakes and flagging or permanent markers along the buffer perimeter. Such demarcation shall remain in place until any construction is complete or following approval from the Community Development Department.

# ARTICLE 12. HILLSIDE PROTECTION OVERLAY DISTRICT

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## 12.1 PURPOSE

The purpose of the Hillside Protection Overlay District is to protect the City's ecological and scenic resources from undue adverse impacts resulting from development of steep slopes, ridgelines, and visually sensitive lands, and to guide development of those hillside areas where it can be safely accomplished.

## 12.2 APPLICABILITY

### 12.2.1 District Defined

- A. The standards set forth in this Article shall apply to all land area with prohibitive and/or precautionary slopes as defined below.
  - 1. **Prohibitive Slopes.** Prohibitive slopes are slopes of greater than 25% where any land area has an elevation gain of greater than 10-ft over a horizontal distance of 40-ft or less.
  - 2. **Precautionary Slopes.** Precautionary slopes are slopes of 15% and up to 25% where any land area has an elevation gain of 10-ft over a horizontal distance between 66-ft and 40-ft.
- B. Slopes in excess of 15% that were constructed during the lawful development of a site in accordance with this Article shall not count toward the future delineation of steep slopes.

Placeholder for precautionary and prohibitive slope measurement graphic

- C. All new construction or improvements on land areas within the Hillside Protection Overlay District shall comply with the applicable standards set forth in this Article, in addition to any other applicable regulations in this LDC or the City Code of Ordinances.
  - 1. An evaluation for compliance with this Division shall be performed by the City Engineer at the time of application for any subdivision, site plan, building permit, street access permit, or conditional use permit. The City Engineer may require special studies or information in order to make this determination. Upon completion of their review, the City Engineer shall advise the appropriate review and decision making authority regarding compliance of the application with the standards of this Article.
  - 2. The City Engineer shall refer all street access permit applications with driveway layouts that affect land areas subject to this Article to the Planning Board for approval.

### 12.2.2 Conditional Use Permit

A Conditional Use Permit from the Planning Board shall be required if a total area of precautionary slopes greater than 20,000-sf on an individual lot is proposed to be altered by the removal of vegetation, grading of slopes, erection of buildings, addition of impermeable surfaces, installation of sewage disposal systems, and/or removal of native soil.

### 12.2.4 Interpretation of Boundaries

- A. Where an interpretation is needed as to the boundary location of prohibitive or precautionary slopes in relation to a given lot, a determination shall be made by the City Engineer based on a field survey prepared by a NH licensed surveyor, at the expense of the applicant, of contour intervals of 2-ft or less; or, in the absence of a field survey, based on contour intervals of 2-ft or less determined by aerial photogrammetric methods.

- B. Any party aggrieved by any such determination may appeal to the Zoning Board of Adjustment.

## 12.3 DESIGN & USE STANDARDS

### 12.3.1 Generally

- A. Development, including clearing, grading and construction, on all land areas in the Hillside Protection Overlay District shall be designed, sited, or carried out in a manner that does not cause undue adverse impact to the physical environment and shall provide for the retention of native soil, stabilization of slopes, and prevention of erosion or sedimentation of streams and watercourses.
- B. Existing natural and topographic features, including vegetative cover, shall be retained on lands subject to this Article, except where removal of vegetation and grading are expressly permitted in accordance with the standards set forth herein.
- C. Structures, where permitted, shall be designed and sited in a manner that limits the removal of vegetation and grading, and avoids natural features such as prominent knolls, ridgelines, ravines, and natural drainage courses.
- D. Erosion and sediment control measures, soil stabilization measures and stormwater management systems shall be designed and installed in accordance with best management practices, contained in the most recent version of "Erosion and Sediment Control Design Handbook for Developing Areas of New Hampshire" and shall be adequate to mitigate potential adverse impacts associated with the disturbance of steep slopes, during and after construction.

### 12.3.2 Prohibitive Slope Standards

- A. The following shall not be permitted within prohibitive slope areas except as expressly indicated in **Section 12.3.2.B.**
  - 1. Removal of vegetation
  - 2. Grading of slopes

- 3. Erection of buildings
- 4. Addition of impermeable surfaces
- 5. Installation of sewage disposal systems, new streets
- 6. Removal of native soil

- B. The following shall be permitted in prohibitive slope areas subject to the standards set forth in this Article.

- 1. Construction of a new driveway across a prohibitive slope area to access a new single-family dwelling on a lot that existed at the time this Article was adopted, provided that there is no alternative driveway location that would avoid the prohibitive slope.
- 2. Expansion of a building that existed either wholly or partially within the prohibitive slope area at the time this Article was adopted, provided that:
  - a. The area of the expanded footprint within the prohibitive slope area does not exceed 25% of the portion of the original footprint located in the prohibitive slope area; and
  - b. No additional future expansion within the prohibited slope area shall be permitted.
- 3. Installation of public or private utility lines (e.g. power, phone, cable, gas, water, sewer, and storm drainage) when it can be demonstrated that there is no other alternative for siting the utility line.
- 4. Earth excavation operations subject to standards set forth in **Article 13.**
- 5. Forestry, logging or woodcutting activities allowable under state law, and permitted and performed in accordance with any state requirements and Best Management Practices.
- 6. Construction of trails, ski lift towers and lift service roads associated with commercial alpine or cross-country ski activities.

### 12.3.3 Precautionary Slope Standards

- A. The following shall be permitted in precautionary slope areas subject to the standards set forth in this Article.
1. Installation of public or private utility lines (e.g. power, phone, cable, gas, water, sewer, and storm drainage) when it can be demonstrated that there is no other alternative for siting the utility line.
  2. Earth excavation operations subject to standards set forth in Section X of this LDC.
  3. Forestry, logging and/or woodcutting activities allowable under state law and permitted and/or performed in accordance with any state requirements and Best Management Practices.
  4. Construction of trails, ski lift towers and lift service roads associated with commercial alpine or cross-country ski activities.
  5. Agricultural activities with the exception of any structures.
- B. The following shall be permitted if removal of vegetation, grading of slopes, erection of buildings, addition of impermeable surfaces, installation of sewage disposal systems, and/or removal of native soil does not exceed a total of 20,000-sf of precautionary slope area on an individual lot. This limit of 20,000-sf may be increased subject to the issuance of a Conditional Use Permit issued by the Planning Board.
1. Construction of a single-family dwelling or accessory structures normally associated with residential uses (e.g. garage, shed, barn)
  2. Construction of a driveway or shared driveway
    - a. For shared driveways, the area of removal of vegetation, grading of slopes, addition of impermeable surfaces, or removal of native soil within the shared portion of the combined driveway shall not count

toward the limit of 20,000-sf.

3. Construction of a city street or private road.

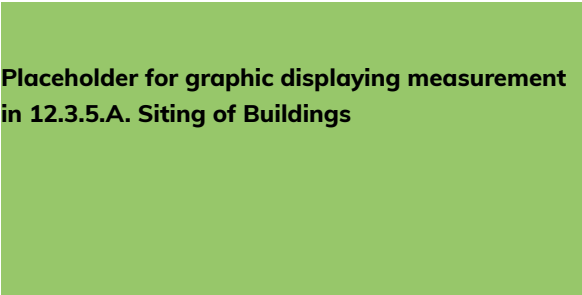
### 12.2.4 Standards for Commercial Alpine or Cross Country Ski Trails, Ski Lift Operations & Service Roads

- A. Trails located on prohibitive or precautionary slopes that are associated with commercial outdoor recreation uses shall:
1. Meet Best Management Practices for trail design and stormwater management;
  2. Be sited to follow natural contours of the slope; and,
  3. Retain and reuse old farm roads or old logging roads to limit clearing and disruption of the landscape.
- B. Service roads located on prohibitive or precautionary slopes that are associated with commercial outdoor recreation uses shall:
4. Not exceed a 15% slope at any point along the grade of the service road;
  5. Not exceed a 16-ft travel lane width and 1-ft shoulder width on either side; and,
  6. Follow the natural contours of the slope to minimize disturbance of vegetation and soils.
- C. Cutting and filling of slopes to accommodate ski trails or service roads crossing prohibitive and precautionary slope areas shall be limited and shall comply with applicable grading standards set forth in **Section 12.3.5.**

### 12.3.5 Site Preparation, Grading, & Construction Standards

- A. **Siting of buildings.** The highest point of a structure that requires any permit shall be located at least 50 vertical feet below and 50 horizontal feet from the top of a ridgeline or hilltop, measured at approximate right angles to the ridgeline or the hilltop. Ridgeline shall be defined as a narrow elevation of land or similar range of hills or mountains representing the highest elevation of such landforms which also include prohibitive or precautionary slopes.

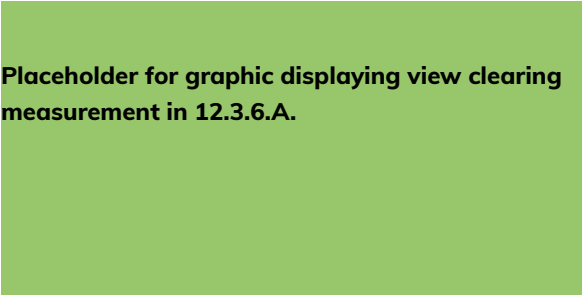
Structures built on prohibitive or precautionary slopes shall be set into topography using partial earth sheltering.



**B. Grading.** Graded areas on prohibitive or precautionary slopes shall not be larger than the area necessary to construct all buildings, accessory buildings or structures, plus the area needed to accommodate access, parking, and turnaround areas.

**12.3.6 View Clearing**

- A.** Trees on prohibitive or precautionary slopes may be removed beyond the building area for a width of clear cutting not to exceed 25-ft and extending outward from the edge of clearing within the building area at an angle of 45 degrees or less on both sides, to a point down-slope where the tops of the trees are at the same elevation as the ground floor of the building. The 25-ft opening may be at any point along the down-slope boundary.
- B.** A plan detailing any proposed clearing for views on prohibitive or precautionary slopes shall be submitted with applications for subdivisions, site plan review, or building permits.



**12.3.7 Drainage & Stormwater Management**

- A.** A drainage management system designed to accommodate the stormwater volumes associated with a 50-yr, 24-hr storm event shall be required to manage stormwater runoff from all new impervious surfaces located on land areas subject to this Article.
- B.** Runoff shall be dispersed within the subject lot.
- C.** Natural drainage courses shall not be disturbed and shall be incorporated as an integral part of the drainage and stormwater design.

**12.4 CONDITIONAL USE PERMIT REQUIREMENTS**

- A.** All applications for a conditional use permit under this Article shall be made to the Planning Board and submitted to the Community Development Department following the procedures set forth in **Article 25 for conditional use permits**, as they may be amended.
- B. Submission requirements.** In addition to the application materials required for a Conditional Use Permit in **Section 25.11**, applicants for a Hillside Protection Conditional Use Permit shall submit the following materials.
  - 1.** A proposed conditions plan and an existing conditions plan certified by a NH licensed engineer or surveyor, which include the following information.
    - a.** The boundaries of the existing parcel and any proposed parcel(s).
    - b.** A depiction of topographic features based on a field survey or aerial photogrammetry with contour intervals of 2-ft or less.
    - c.** A delineation of all prohibitive and precautionary slope areas on the lot(s), the size of each area identified, and a calculation of the total area of prohibitive and precautionary slopes on the parcel.



- d.** The limits and area calculations of proposed land areas within the precautionary slope areas that will be subject to clearing of vegetation and grading.
- e.** The location of all existing and proposed:
  - i.** Structures, including the area of any proposed expansions to an existing structure
  - ii.** Driveways and parking areas and a profile showing the slope of any proposed driveway that will cross a precautionary or prohibitive slope area
  - iii.** On-site wells and septic systems and any test pits
  - iv.** Roads and trails
  - v.** Public or private utility lines
  - vi.** Earth excavation operations
  - vii.** Ski trails, ski lift towers, and lift service roads
- f.** Any other information necessary to demonstrate compliance with this Article.

# ARTICLE 13. EARTH EXCAVATION OVERLAY DISTRICT

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## 13.1 GENERAL

### 13.1.1 Purpose

The purpose of the Earth Excavation Overlay District is to:

1. Provide reasonable opportunities for the excavation of earth materials from land situated within the City;
2. Minimize safety hazards created by excavation activities;
3. Safeguard the public health and welfare;
4. Preserve and protect natural resources and the aesthetic quality of areas located near excavation sites;
5. Prevent land, air, and water pollution; and,
6. Promote soil stabilization.

### 13.1.2 Applicability

- A. The Earth Excavation Overlay District applies to excavation activity, excavation operations, processing activities, and all other activities associated with the commercial taking of earth, production and processing of construction aggregate, transportation of earth and site restoration. Associated excavation and processing activities also include, but are not limited to, digging, drilling, blasting, bulldozing, crushing, washing, screening, sorting, scaling, weighing, stockpiling, loading, and transporting earth.
- B. The Earth Excavation Overlay District applies only to portions of land located in the Industrial, Industrial Park, Corporate Park, Agriculture, and Rural zoning districts. Earth excavation activities shall not be permitted within any other zoning districts.
- C. This Earth Excavation Overlay District shall not include any portion of land located within, over, or covering the areas identified as "Excluded Area" on Map 12 - Excluded Areas and Access Routes of the City of Keene Earth Excavation Master Plan (2003). These excluded areas include:

1. Lands identified as overlaying a stratified drift aquifer in the City.
  2. Delineated primary and secondary wellhead protection areas in the City as well as existing and proposed maintained municipal well sites
  3. Land areas identified as primary or secondary viewshed areas under the Telecommunication Overlay District (**Article 14**), unless the applicant can demonstrate to the satisfaction of the Planning Board that the proposed operation will not be visible from vistas and public rights-of-way in the City.
- D. For the purposes of this Article, the term existing excavation shall mean any excavation which lawfully existed as of August 24, 1979, and from which earth material greater than 1,000 cubic yards has been removed during the 2-yr period before August 24, 1979. Said excavation shall not have expanded, without a permit issued pursuant to the City's Code of Ordinances, beyond the limits of the City in the area which, on August 24, 1979, and at all times subsequent thereto, has been contiguous to and in common ownership with the excavation site as of that date. Moreover, said excavation shall have been appraised and inventoried for property tax purposes as a part of the same tract as the excavation site as of that date. The excavation site is any area of contiguous land in common ownership upon which excavation takes place.

### 13.1.3 Earth Excavation Permit

- A. No property owner shall permit any excavation of earth on their property without first obtaining an Earth Excavation Permit from the Planning Board in accordance with **Section 25.15**, unless said excavation is expressly excepted from the permit requirement as set forth in **Section 13.1.4**, or in accordance with NH RSA 155-E.

### 13.1.4 Exceptions

In addition to the exceptions expressly set forth in NH RSA 155-E:2, the following types of excavations shall be excepted from the permit requirements of this Article. Such exceptions must still comply with the express operational standards of NH RSA 155-E:4-a, and the express reclamation standards of NH RSA 155-E:5.

- A.** Any excavation where no more than 1,000 cubic yards of earth material are removed every 2-years, and is exclusively incidental to the lawful construction or alteration of a building or structure, and parking lot or way, including a driveway on a portion of the premises where the removal of earth materials occurs. Removal of earth shall not commence until all required state and local permits have been issued by the authority having jurisdiction.
- B.** Excavation incidental to agricultural or silvacultural activities, normal landscaping, and minor topographical adjustments.
  - 1.** For purposes of this Article, “normal landscaping” shall mean the planting of vegetation over a reasonably short period of time, with the sole purpose of enhancing or beautifying an existing developed condition, and not for the purpose of engaging in the commercial distribution of earth.
  - 2.** For purposes of this Article, “minor topographical adjustments” shall mean the sculpting of topography over a reasonably short period of time to directly support the intended function or effect of the agricultural, silvacultural or landscaping activity, and not for the purpose of engaging in the commercial distribution of earth.
- C.** Excavation from a granite quarry for the purpose of producing dimension stone, if such excavation requires a permit under RSA 12-E.
- D.** Any person owning land directly abutting a site that was taken by eminent domain or by any other governmental taking, upon which

construction is taking place, may stockpile earth taken from the construction site. Said abutter may remove the earth at a later date without a permit after such person provides written notification to the Community Development Department.

### 13.2 PROHIBITED PROJECTS

The Planning Board shall not grant approval for an earth excavation permit in the following instances.

- A.** When the excavation is not permitted by zoning or other applicable ordinance, code, regulation, or state or federal law.
- B.** When all necessary local, state or federal permits have not been obtained.
- C.** When the issuance of a permit would present a potential hazard to human health, safety and welfare, or to the environment caused by adverse impacts associated with an excavation project. Examples of such hazards include adverse impacts caused by noise, traffic, dust or fumes; adverse visual impacts; premature degradation of roadways; erosion, soil instability, and/or sedimentation; adverse impacts to surface and ground waters; loss of fragmentation of important habitat; air quality degradation; pollution of soils; or diminution of the value of abutter properties.
- D.** When the excavation would violate the operational standards set forth in this Article and in NH RSA 155-E:4-a; or, when the applicant cannot comply with the reclamation standards set forth in this Article and in NH RSA 155-E:5 and NH RSA 155-E:5-a.
- E.** When the existing visual barriers in the areas specified in NH RSA 155-E:3, III, would be removed, except to provide access to the excavation.
- F.** When the excavation is proposed to be within 50-ft of the boundary of a disapproving abutter, or within 10-ft of the boundary of an approving abutter, unless requested by said approving abutter from the Planning Board.

- G. When the excavation would substantially damage any known aquifers or existing or potential well sites or surface water supplies, so designated by the City of Keene Water Supply Master Plan, the City of Keene GIS database, or the U.S. Geological Survey.

## 12.3 OPERATIONAL STANDARDS OF EXCAVATION SITE

All excavation projects requiring an earth excavation permit shall comply with the operating standards set forth in this section, and the minimum and express operational standards of RSA 155-E:4-a.

### 12.3.1 Hours of operation

- A. Excavation activities shall only occur between the hours of 7:00 am and 5:00 pm, Monday through Friday.
  - 1. The sale and loading of stockpiled materials may also occur from 8:00 am to 1:00 pm on Saturdays; however, no other excavation activities shall be permitted on this day.
- B. No excavation activities, including sale of stockpiled materials, shall be permitted on Sundays, legal holidays, or at times other than those indicated in this section, except when prior written consent to temporarily operate during other hours is provided by the Community Development Department due to a local or regional emergency.

### 12.3.2 Noise

Noise levels generated from excavation activities shall not exceed the background ambient "A" weighted sound pressure level exceeded 90% of the time during the sound level sampling period, (hereinafter 'dB(A) L(90)') by more than 10 dB(A) and in any event shall not exceed 55 dB(A) (hereinafter 'L(max)').

### 12.3.3 Travel & Access Routes

- A. All vehicles and equipment used in excavation operations, except the personal vehicles of employees, agents, and representatives of the applicant or operator, shall travel upon streets and highways designated for such use and shown on a plan approved by the Planning Board during the permitting process.
- B. Access to an excavation site shall be accomplished directly from a state numbered highway.
  - 1. Access from a city street intersecting a state numbered highway shall also be permitted as long as the driveway to the excavation site is located on the city street, so that no residential dwellings are passed to access the state numbered highway from the excavation site.
  - 2. The excavation access road shall be no closer than 200' feet to the property boundary of the first residential dwelling on the city street intersecting with the state numbered highway.
- C. No excavation shall occur below any road level within 50-ft of any highway right-of-way, unless such excavation is for the purpose of constructing or maintaining the highway at that location.

### 12.3.4 Scenic Impact

- A. Excavations proposed to be located within View Area 1 or View Area 2 of the View Preservation Overlay as defined in the Telecommunication Overlay District in **Article 14**, shall not be permitted unless the applicant demonstrates that the excavation operation will not be visible from any public right-of-way, abutting property, or prominent overlook not located on the excavation site.
- B. For the purposes of this Article, a prominent overlook shall mean any tract of land or portion of a tract of land other than the excavation site, with an elevation higher than the excavation area, with an established view point or clearing, and a view-shed that includes

the excavation perimeter and would allow direct viewing of excavation operations within the excavation perimeter from said view point or clearing.

1. An established view point is a cleared or naturally created vantage point, either publicly or privately owned, that can be demonstrated as having been customarily used as a view point.

### 12.3.5 Traffic

- A. Traffic associated with a proposed excavation operation shall not diminish the safety or capacity of city streets, bridges, or intersections.
- B. If an applicant proposes to generate 100 or more vehicle trips per day, the applicant shall be required to provide technical studies to demonstrate compliance with this operational standard.
- C. The applicant shall propose a maximum number of trips per day for trucks used to transport earth materials and shall demonstrate that this number and the respective weight loads do not diminish the safety or capacity of city streets, bridges, or intersections.
- D. The excavation operation shall not exceed the proposed number of trips per day for trucks used to transport earth materials without first seeking to amend the earth excavation permit, unless prior written consent to temporarily exceed the number of trips is provided by the Community Development Department due to a local or regional emergency.

### 12.3.6 Roadway Degradation

No excavation shall cause premature degradation of a city roadway. Premature degradation of a roadway shall be determined based on a review of the roadway's existing condition at the time the permit application is received and a review of the applicant's proposed traffic volume and load weights.

### 12.3.7 Explosive Management

- A. Applicants using explosives in an earth excavation operation shall obtain all necessary state and local permits.
- B. No explosive materials shall be stored on an excavation site.

## 12.4 RECLAMATION STANDARDS

All excavation projects requiring an excavation permit shall comply with the minimum and express reclamation standards set forth in NH RSA 155-E:5.

### 12.4.1 Incremental Reclamation

- A. Except for excavation sites of operating stationary manufacturing plants, any excavated area of 5 contiguous acres or more that is depleted of commercial earth materials (excluding bedrock), or any excavation from which earth materials greater than 1,000 cubic yards have not been removed for a 2-yr period, shall be reclaimed in accordance with this Article and pursuant to NH RSA 155-E:5 within 12-months following such depletion or non-use, regardless of whether other excavation is occurring on adjacent land in contiguous ownership.
  1. Failure of the City to notify the owner of an existing operation shall not exempt an existing operation from its obligation to comply with the reclamation provisions of this article.
- A. Pursuant to state law, existing operations in use as of the effective date of this Article shall complete reclamation in compliance with NH RSA 155-E:5 within 1-yr following the cessation of the excavation or any completed section thereof.

## 12.5 APPEAL

- A. Following the approval or disapproval of an earth excavation permit, or the approval or disapproval of an amended or renewed permit, or the suspension or revocation of an

earth excavation permit, or the approval or disapproval of a waiver or exception to 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.

## **12.6 ENFORCEMENT**

- A.** After a duly noticed public hearing, the Planning Board may suspend or revoke the earth excavation permit of any person who has violated any provision of the permit, this article, NH RSA 155-E, or of any person who made a material misstatement in the application upon which their permit was granted. Such suspension or revocation shall be subject to a motion for rehearing thereon and appeal in accordance with this article and RSA 677.
- B.** Any violation of the requirements of these regulations shall also be subject to the enforcement procedures detailed in NH RSA-676.

# ARTICLE 14. TELECOMMUNICATIONS OVERLAY DISTRICT

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## 14.1 GENERAL

### 14.1 Purpose

The purpose of the Telecommunications Overlay District is to establish general guidelines for the siting of telecommunications towers and antennas, and the removal or upgrade of abandoned or outdated facilities, in order to reduce adverse impacts such facilities may create, including impacts on aesthetics, environmentally sensitive areas, flight corridors, historically significant areas, health and safety of persons and property, and economic prosperity through protection of property values.

#### 14.1.2 Applicability

- A. This Article shall apply to all telecommunications facilities within the City, with the exception of those facilities listed in **Section 14.1.3**.
- B. The Telecommunications Overlay District includes Zone 1, Zone 2, and Zone 3, which are displayed on Telecommunications Overlay Map dated March 2019. This map is adopted as an overlay to the official Zoning Map, as may be amended.
- C. Telecommunications facilities shall not be considered infrastructure, essential services, or public utilities as defined or used elsewhere in this LDC or the City's ordinances and regulations.

#### 14.1.3 Exemptions

The following shall be exempt from the requirements of the Telecommunications Overlay District.

- A. Concealed or camouflaged facilities located on property owned, leased, or otherwise controlled by the City, not including the public right-of-way. This infrastructure shall only be permitted in locations of the City delineated in **Figure 14-1 View Preservation Overlay Map**. For this exemption to apply, a license or lease approved by City Council authorizing such antenna or tower shall be required.

- B. Private use residential satellite dishes, antennas for wireless Internet access, private wireless ham communication antennas, or the installation of any tower or antenna less than 70' in height that is owned and operated by a federally licensed amateur radio station operator.
- C. Telecommunications facilities placed on existing mounts, building or structures, or modifications to existing telecommunications facilities provided that the proposed facility or facilities do not meet the definition of substantial modification **per NH RSA 12-K**.
- D. Concealed Facilities that are located inside a building or structure and are concealed entirely from view.

#### 14.1.4 Conformity

- A. All telecommunications facilities, shall be constructed, installed, and maintained in compliance with local building codes, city ordinances, as well as all applicable state and federal regulations, including the Federal Aviation Administration (FAA) and Federal Communications Commission (FCC), and any other agency of the federal government with the authority to regulate towers and antennas.
- B. If federal standards regulations applying to towers and antennas are amended, the owners of the towers and antennas governed by this Article shall bring such towers and antennas into compliance with the revised standards and regulations within 6-months of their effective date, unless a more stringent compliance schedule is mandated by the controlling federal agency.
  - 1. Failure to bring towers and antennas into compliance with revised federal regulations shall constitute grounds for their removal at the owner's expense through execution of the posted security.

Figure 14-1 View Preservation Overlay Map



## 14.2 USE REGULATIONS

The telecommunication facilities listed in this section are deemed to be permitted uses subject to the requirements of this Article and shall require a building permit, a conditional use permit, and/or site plan review.

### 14.2.1 Telecommunications Facilities within the Public Right-of-Way

Telecommunication facilities in the public-right-of-way may be subject to the issuance of a Small Wireless Facilities License from the Public Works Director or their designee and the requirements of Chapter 82 of the City Code of Ordinances.

### 14.2.2 Collocation of facilities

The placement or installation of new telecommunications facilities on existing towers or mounts may occur in any zoning district within the City provided it does not meet the definition of substantial modification as defined in **NH RSA 12-K**, and is subject to the issuance of a building permit only.

### 14.2.3 Modification of Existing Facilities

The replacement or alteration of an existing telecommunications facility within a previously approved equipment compound or upon a previously approved mount is allowed in all zoning districts provided it does not meet the definition

of substantial modification as defined in **NH RSA 12-K**, and is subject to the issuance of a building permit only.

#### 14.2.4 Concealed Facilities

The installation of a facility that is located inside a building or structure and is concealed entirely from view is allowed in all zoning districts and is subject to the issuance of a building permit only.

#### 14.2.5 Camouflaged telecommunication facilities

The installation of new ground-mounted towers and antennas if camouflaged, or a substantial modification to an existing tower or mount that would maintain its camouflage, may occur within Zone 2 or Zone 3. All camouflaged facilities shall require the issuance of a building permit, conditional use permit, and site plan review.

#### 14.2.6 Ground-Mounted Towers & Antennas

The installation of new ground-mounted towers and antennas which are not camouflaged, or a substantial modification to an existing tower or mount that is not camouflaged, is not allowed in Zone 1 or Zone 2 of the Telecommunications Overlay District, or in a designated historic district and shall require the issuance of a building permit, conditional use permit, and site plan review.

### 14.3 DIMENSIONAL REQUIREMENTS

The dimensional requirements for telecommunications facilities subject to this Article shall be as stated in **Table 14-2**.

### 14.4 DESIGN STANDARDS

#### 14.4.1 Aesthetic Standards

With the exception of those that are concealed entirely from public view, telecommunication facilities shall not stand out in terms of color and materials, scale, height, mass or proportion against a contrasting background. Specifically, telecommunication facilities shall comply with the following.

- A. The relative height, mass or proportion of telecommunications facilities shall be compatible with the building or structure it is located on or the immediate surroundings.
- B. If installed on a historic structure, telecommunications facilities shall not alter character defining features, distinctive construction methods, or original historic materials of the structure and shall be fully reversible.

**Table 14-1: Permitted Telecommunications Facility Types**

Facility Type		Zone 1	Zone 2	Zone 3	Historic District
Structure Mounted <i>(Mounted on an existing building or structure other than a tower)</i>	Collocation/Modification	P	P	P	P
	Fully Concealed	P	P	P	P
	Substantial Modification	CUP + SPR	CUP + SPR	CUP + SPR	CUP + SPR
New Ground Mounted <i>(Mounted to the ground or a tower constructed primarily for the purpose of supporting telecommunications facilities)</i>	Collocation/Modification	P	P	P	P
	Camouflaged	-	CUP + SPR	CUP + SPR	-
	Non-Camouflaged	-	-	CUP + SPR	-

"P" = Permitted, subject to building permit  
 "CUP" = Requires Conditional Use Permit

" - " = Facility Not Permitted  
 "SPR" = Requires Site Plan Review

**Table 14-2: Telecommunications Facilities Dimensional Requirements**

**Structure-Mounted Facilities (Excluding Public Right-of-Way):**

**Height<sup>1</sup>** Shall not increase the height of an existing building or structure, including utility poles, guyed towers, lattice towers, and masts, by more than 10% or more than 20-ft, whichever is greater.

Shall not be placed on any structure less than 30-ft in height.

**Setbacks** Shall comply with setbacks in the underlying zoning district where the facility is installed.

Shall not increase any nonconformity with respect to setbacks.

**New Ground-Mounted Facilities (Excluding Public Right-of-Way):**

**Height** Shall not project higher than 20-ft above the average tree crown height within a 150-ft radius of the mount, security barrier, or designated clear area for access to equipment, whichever is greater. A licensed landscape architect, certified arborist or forester shall determine the average tree crown height.

**Setbacks** Shall comply with setbacks in the underlying zoning district where the facility is installed. These setbacks apply to the facility as well as all accessory equipment, structures, and/or fences greater than 6-ft high associated with the facility.

Shall be set back a distance equal to 125% of the tower height from any off-site residential structure or public right-of-way.

**Fall Zone<sup>2</sup>** Shall maintain a minimum distance, which is equal to or greater than the fall zone, from the base of the facility to any property line, public road, residential dwelling, business use, institutional use, or public recreation area.

Fall zones may cross property lines if an easement is obtained from affected property owners.

<sup>1</sup>The height of towers shall be determined by measuring the vertical distance from the tower or telecommunication facility's lowest point of contact with the ground to the highest point of the tower, including all antennas or other attachments. Antennas on top of the tower may be added provided the total height of the tower and antennas does not project higher than 20-ft above the average crown height.

<sup>2</sup>Fall zone is defined as the area within which there is a potential hazard from falling debris, such as ice, which encompasses a circle with a diameter equal to twice the height of the telecommunication facility as measured on the ground from the base of the facility.

- C.** Telecommunications facilities either maintain a non-reflective finish (subject to any applicable FAA standards), be painted a neutral color, or be painted a color that is closely compatible with or identical to the color and finish of the surrounding environment, buildings, structures, etc.
- D.** If mounted on an existing structure, telecommunications facilities shall be painted a color that is identical to or closely resembles that of the supporting structure.
- E.** Structure-mounted facilities shall blend or match the design features and materials of the existing structure as closely as possible.
- F.** Antennas shall be narrow in profile.
- G.** New ground-mounted towers and antennas or reconstructed towers and antennas shall be of a lattice, guyed, or mast type mount, unless an alternative design is approved by the Planning Board.
- H.** Monopoles are prohibited.

#### 14.4.2 Screening

- A. Telecommunication facilities mounted on the roof of a building shall be concealed behind existing architectural features of the building or shall be located so that it is not visible from public rights-of-way.
- B. All mechanical and electrical equipment associated with any facility located inside a structure or building, shall be concealed inside the structure or building or shall be shielded from view from public rights-of-way.
- C. All equipment for a camouflaged facility shall be in an underground vault.
- D. All equipment for new ground mounted towers and antennas shall be in an underground vault or equipment shelter that is designed to be of an appearance and design consistent with the buildings in the area of the facility or camouflaged behind an effective year-round landscape buffer equal to the height of the proposed building.

#### 14.4.3 Security Fencing

New ground-mounted facilities shall be enclosed by security fencing not less than 6-ft high or equipped with an appropriate anticlimbing device, if applicable. The Planning Board may determine whether security fencing or a barrier is required for other facility types.

#### 14.4.4 Driveways

- A. Existing entrances and driveways shall be utilized, unless the applicant can demonstrate that a new entrance and driveway will result in less visual, traffic and environmental impact.
- B. New driveways shall not exceed 12-ft in width and shall comply with all applicable driveway or street access regulations in this LDC.

#### 14.4.5 Lighting

- A. Telecommunication Facilities shall not be illuminated by artificial means with the exception of aviation caution lights shielded from sight from the ground or lights required by the FAA or other federal or state authority.

- B. Lighting of equipment structures and any other facilities on-site shall be fully shielded.
- C. Footcandle measurements at the property line shall be 0-fc.

#### 14.4.6 Signage

No signs are allowed except for warning or equipment signs in compliance with **Article 10**.

### 14.5 CONDITIONAL USE PERMIT

#### 14.5.1 General

All applicants for conditional use permits and site plan review for proposed telecommunications facilities, as required under this Article, shall apply to the Planning Board following the procedures in **Article 25**. In addition to the application requirements set forth in **Article 25**, applicants shall also be required to submit the following information.

#### 14.5.2 Burden of Proof Policy

- A. Only after demonstrating to the Planning Board that it is not feasible to conceal telecommunication facilities inside an existing structure or building; collocate facilities at existing ground-mounted telecommunication towers or antennas; install or mount telecommunication facilities onto existing structures or buildings; or construct camouflaged telecommunication facilities, may an applicant consider or propose a new ground-mounted telecommunications facility that is not camouflaged.
- B. When considering a new ground-mounted facility, the applicant shall have the burden of proving to the Planning Board that none of the options listed above are possible, and shall take all of the following actions.
  - 1. Submit to the Planning Board a list of all contacts made with owners of potential sites regarding the availability of potential space for a telecommunication facility. If the Planning Board informs the applicant that additional existing

structures or buildings may be satisfactory, the applicant shall contact the property owners of those structures or buildings.

2. Shall provide to the Planning Board copies of all letters of inquiry made to owners of existing structures or buildings and letters of rejection. If letters of rejection are not provided, at a minimum, unanswered return receipt requested forms from the U.S. Post Office shall be provided for each owner of the existing structure or building that was contacted.
3. If the applicant claims that a structure or building is not capable of physically supporting a telecommunication facility, a NH licensed engineer shall certify this claim to the Planning Board. The certification shall, at a minimum, explain the structural issues and demonstrate that the structure cannot be modified to support the telecommunication facility without unreasonable costs.

#### 14.5.3 Review Criteria

In the review of conditional use permit applications, the applicant and the Planning Board shall address all applicable design standards as provided for in **Section 14.4**, the Site Development Standards in **Article 21**, and the following additional factors:

- A. Visual impacts of the proposed facility on viewsheds, ridgelines, and other impacts by means of tower location, tree and foliage clearing and placement of incidental structures.
- B. Availability of alternative facility types and sites.
- C. Height of proposed tower or other structures. The Planning Board shall have the final authority to increase the allowable height of all new, altered, or reconstructed telecommunications facilities and towers based on site conditions in non-residential areas, provided the following conditions are met.
  1. If the structure is readily visible to residential properties, the facility/structure does not exceed a height of 75-ft.

2. If the structure is not readily visible to residential properties, the facility/structure does not exceed a height of 125-ft.

#### 14.5.4 Conditional Use Permit Application Materials

- A. Each applicant requesting a conditional use permit under this Article shall submit all submission requirements for major site plan review, as outlined in **Article 25**, as well as a scaled elevation view, topography, existing vegetation and tree crown coverage, radio frequency coverage (RFC), height requirements, setbacks, drives, parking, fencing, landscaping, adjacent uses up to 200-ft away from the property line, and any other information deemed necessary by the Planning Board to establish compliance with this Article.
- B. Applications for new ground-mounted towers or antennas shall submit the following additional information as part of the conditional use permit request:
  1. An inventory and map of all existing ground-mounted towers and antennas that are located within the City's jurisdiction and those within 2-miles of the border thereof, including specific information about the location, height, as well as economic and technological feasibility for collocation on the inventoried towers and/or antennas.
  2. The applicant shall submit written evidence demonstrating that no existing ground-mounted tower or antenna can accommodate the applicant's proposed telecommunication facilities. This evidence can consist of substantial evidence that:
    - a. No existing ground-mounted towers or antennas are located within the geographic area required to meet the applicant's engineering requirements, provided that a description of the geographic area required is also submitted.
    - b. Existing ground-mounted towers or antennas are not of sufficient height



## 14.6 MAINTENANCE, MONITORING, & SECURITY

### 14.6.1 Maintenance

The owner of an approved telecommunication facility shall maintain the facility in good condition. Such maintenance shall include but shall not be limited to painting, structural integrity of the mount and security fencing, and maintenance of the buffer areas and landscaping.

### 14.6.2 Monitoring

As part of the issuance of a building permit or conditional use permit, the property owner agrees that the City may enter the subject property to inspect the telecommunication facility or obtain Radio Frequency Radiation (RFR) or noise measurements at the expense of the owner of the facility. The City shall provide reasonable written notice to the property owner and the owner of the facility and provide an opportunity for them to accompany city representatives when the inspection and/or measurements are conducted.

### 14.6.3 Security for Removal

- A. Recognizing the extremely hazardous situation presented by abandoned and unmonitored telecommunication facilities, the Planning Board shall set the form and amount of security that represents the cost for removal and disposal of abandoned telecommunication facilities, if a facility is abandoned and the facility owner is unwilling or unable to remove the facility in accordance with **Section 14.7.**
- B. The amount of the security shall be based upon the removal cost, plus 20%, provided by the applicant and certified by a NH licensed engineer. Furthermore, the owner shall submit as part of the issuance of a building permit proof of adequate insurance covering accident or damage.

## 14.7 ABANDONMENT

### 14.7.1 Notification

At such time that an owner or carrier plans to abandon or discontinue operation of a telecommunication facility, such owner or carrier shall notify the City Manager by Certified Mail of the proposed date of abandonment or discontinuation of operations. Such notice shall be given no less than 30-days prior to abandonment or discontinuation of operations. If an owner or carrier fails to give such notice, the telecommunication facility shall be considered abandoned upon such discontinuation of operations.

### 14.7.2 Removal

- A. Upon abandonment or discontinuation of use, the owner of the facility shall physically remove the facility within 90-days from the date of abandonment or discontinuation of use. The term "physically remove" shall include but not be limited to the following:
  1. Removal of antennas, mount, equipment shelters and security fencing as applicable from the subject property.
  2. Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations.
  3. Restoring the location of the facility to its natural condition, except that any landscaping and grading shall remain as finished.

### 14.7.3 Failure to Remove

- A. If the owner of the facility does not remove the facility upon order of the Building and Health Official, then said official shall, after holding a public hearing with notice to the owner and abutters, issue a declaration of abandonment.
- B. The owner of the facility shall dismantle and remove the facility within 90-days of receipt of the declaration of abandonment. If the abandoned facility is not removed within 90-days, the City may execute the security to pay for removal.



- C. If there are 2 or more users of a single tower or antenna, this subsection shall not become effective until all users cease using the tower or antenna.

# ARTICLE 15. SEED INCENTIVE DISTRICT

**NOTE: THIS SECTION IS TO BE DEVELOPED**

With the proposed transition to Downtown Form Based Districts, which increase flexibility with respect to density and dimensional requirements in certain areas of the SEED District, as well as with the limited development that has taken advantage of this incentive district since its adoption in 2010, City staff are reevaluating how this District should take shape into the future. More time is needed to complete this draft, which City staff will share with the public and Joint Committee for review and comment prior to submission of this LDC for adoption.

# ARTICLE 16. CONGREGATE LIVING & SOCIAL SERVICE CONDITIONAL USE PERMIT

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16.3 APPLICATION & REVIEW PROCEDURE ... 16-2

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## 16.1 APPLICABILITY

Any change of use or new occupancy of any building or portion thereof to the following congregate living or social service uses shall require a conditional use permit issued by the Planning Board in accordance with this Article. These uses are defined in **Section 8.3.4**.

1. Drug Treatment Clinic
2. Group Home
3. Fraternity/Sorority
4. Homeless Shelter
5. Lodginghouse
6. Residential Care Facility
7. Residential Drug/Alcohol Treatment Facility
8. Group Resource Center

## 16.2 REVIEW CRITERIA

**A.** In addition to the Site Development Standards in **Article 21** and the specific use standards in **Section 8.3.4**, the Planning Board shall consider the following criteria when deciding whether to grant a congregate living and social service conditional use permit.

1. The proposed use is compatible with the character of the surrounding area in terms of operational characteristics including the following.
  - a. Proposed hours of operations.
  - b. Outdoor lighting, which shall comply with the Planning Board's Lighting Standard.
  - c. Proposed noise levels
  - d. Anticipated traffic generation
2. The proposed use is located in proximity to pedestrian facilities (e.g. multiuse trails and sidewalks) and public transportation.
3. All development, redevelopment, additions, and renovations in a residential zoning district shall maintain the look and feel of a

residential zone or area.

4. No parking and/or paving, except driveways, is permitted in the front setback or the area from the front lot line to the building front, whichever is greater. All parking areas shall be adequately screened from adjacent properties and public rights of way.
  5. When a use is located directly adjacent to a residential zoning district there shall be a building setback of 50-ft from property line(s) directly abutting residential zoning districts, unless an alternative solution is approved by the Planning Board.
- B.** The Planning Board may impose conditions to the extent the Board concludes such conditions are necessary to minimize any adverse effect of the proposed use on adjoining properties, and to preserve the intent of the standards in this LDC.

## 16.3 APPLICATION & REVIEW PROCEDURE

### 16.3.1 Application Requirements

All applications for a congregate living and social service conditional use permit shall be made to the Planning Board in accordance with the submission and procedural requirements for conditional use permits as set forth in **Article 25**, as they may be amended.

### 16.3.2 On-Site Posting of Public Hearing

An applicant for a congregate living and social service conditional use permit shall, not less than 10-calendar days prior to the date before the public hearing on the application, post a sign obtained from the Community Development Department providing notice of the use applied for and the date and time of the public hearing in a location of the premises visible to the public.

This sign shall be removed by the applicant no later than 10-calendar days after completion of the public hearing and returned to the Community Development Department.

### **16.3 ENFORCEMENT**

- A.** Enforcement of this article shall be by the City of Keene under the provisions set forth in RSA 676, as they may be amended.
- B.** A congregate living and social service conditional use permit issued under the provisions of this LDC shall only be valid if a Congregate Living and Social Service License is received and maintained in accordance with Chapter 46 of the City Code of Ordinances.

# ARTICLE 17. SOLAR ENERGY SYSTEM CONDITIONAL USE PERMIT

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17.3 DECOMMISSIONING & SITE RESTORATION.....  
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## 17.1 APPLICABILITY

The installation or operation of any medium-scale or large-scale ground-mounted solar energy system, as defined in **Section 8.3.7**, shall require a solar energy system conditional use permit issued by the Planning Board.

## 17.2 REVIEW CRITERIA

In addition to the Site Development Standards in **Article 21** and the specific use standards in **Section 8.3.7**, the Planning Board shall consider the following criteria when deciding whether to grant a solar energy system conditional use permit.

### 17.2.1 Siting

- A. Large-scale ground-mounted systems shall be located on parcels no less than 5 acres in size
- B. The solar footprint of ground-mounted solar energy systems shall not exceed 20 contiguous acres.

### 17.2.2 Height

Ground-mounted solar energy systems shall not exceed 15', as measured from the ground to the highest point of the system, when oriented at maximum design tilt.

### 17.2.3 Setbacks

A minimum setback distance of 50-ft from all exterior property lines of the system and existing public rights-of-way shall be required for medium-scale and large-scale ground-mounted systems.

### 17.2.4 Lot Coverage

The solar land coverage of medium-scale and large-scale ground mounted solar energy systems shall not exceed **70%** of the lot upon which they are installed.

### 17.2.5 Visual Buffer

- A. Medium-scale and large-scale ground-mounted solar energy systems shall be sited in a manner to reasonably minimize the view of the system

from surrounding properties and public rights of way.

- B. The visual impact of medium-scale and large-scale ground-mounted solar energy systems, associated equipment, and any extensive or imposing perimeter fencing on adjacent parcels and public rights-of-way shall be mitigated through the preservation of existing vegetation and/or through the installation of a visual buffer.
- C. If landscaping is used to provide a visual buffer, it shall:
  - 1. Provide year-round screening of the ground-mounted solar energy system and associated equipment;
  - 2. Be composed of native plant species; and,
  - 3. Be maintained for the full term that the ground-mounted solar energy system is located on the site.

### 17.2.6 Environmental

- A. Clearing of existing trees and vegetation shall be limited to what is necessary for the installation and operation of the ground-mounted solar energy system.
- B. The design of ground-mounted solar energy systems shall include sufficient distance, which, at a minimum, will be the width of a single solar collector panel, between rows of solar collector panels to allow for capture of rainfall and growth of vegetation.

### 17.2.7 Noise & Glare

- A. The solar energy system shall be designed and/or sited to minimize the adverse impacts of glint or glare on adjacent properties or roadways.
- B. Inverters shall be fully enclosed.

### 17.2.8 Security

- A. Perimeter and/or security fencing shall have a maximum height of 8-ft.
- B. On-site lighting shall be installed for security

and safety requirements only. All lighting shall comply with the Lighting Site Development Standard in **Article 21.**

### 17.2.9 Utility interconnection

All on-site power and communication lines within the solar footprint of the ground-mounted solar energy system shall be buried underground, unless the owner/operator is able to demonstrate the presence of technical or physical constraints (e.g. shallow bedrock, watercourses, etc.) that may interfere with the ability to bury lines in certain areas.

## 17.3 DECOMMISSIONING & SITE RESTORATION

- A. The owner or operator of large-scale ground-mounted solar energy system shall submit a decommissioning plan to the Community Development Department as part of their application for a conditional use permit to ensure the proper removal of the system and associated equipment upon the end of the project life or after their useful life.
- B. The owner or operator shall decommission the solar panels in the event they are not in use for 12 consecutive months. The plan shall include provisions for the removal of all structures, foundations, and electrical transmission components (including below grade components), and the restoration of soil and vegetation within 6-months of abandonment.
- C. The Planning Board may require that the owner or operator post a bond, letter of credit, or establish an escrow account, including an inflationary escalator, in an amount deemed acceptable by the Community Development Director, to ensure proper decommissioning.

## 17.4 CONDITIONAL USE PERMIT

### 17.4.1 Application Materials

All applications for a solar energy system conditional use permit shall be made to the Planning Board in accordance with the submission and procedural requirements for conditional use permits set forth in **Article 25**, as they may be amended, and shall also include the following materials and information.

- A. A detailed plan set certified by a NH licensed engineer that depicts the following information.
  - 1. Existing site conditions and features including but not limited to: topography, surface waters, woodland areas, 100-year floodplain, steep slopes, soils, property boundaries, zoning district boundaries and setbacks, existing structures and roads, historical features, etc.
  - 2. Proposed site conditions including but not limited to: the footprint of solar energy system equipment and components, as well as any affiliated installations and structures, access points, drive/access aisles, security features, and fencing.
  - 3. The limits of any land clearing and/or grading required for the installation and operation of the solar energy system, as well as any erosion and sediment control measures to be installed during or after construction.
  - 4. A landscape plan that includes the location of existing vegetation to be preserved; details on the location, dimensions, and composition of any visual buffers on site; and information on the proposed location, number, type and size (at planting and maturity) of any replacement or proposed vegetation and ground cover on the site.
- B. Elevation drawings, drawn to scale, of the ground-mounted solar energy system.
- C. A drainage report certified by a NH licensed engineer.



- D. Manufacturer's specifications for all proposed equipment.
- E. A statement detailing potential significant glare onto abutting structures and roadways estimating the interaction of sun to panel angle, time of year and visibility locations.
- F. Estimates of any equipment noise on the site based on equipment specification materials.

#### **17.4.2 On-Site Posting of Public Hearing**

An applicant for a Solar Energy System CUP shall, not less than 10-calendar days prior to the date before the public hearing on the application, post a sign obtained from the Community Development Department providing notice of the use applied for and the date and time of the public hearing in a location on the premises visible to the public. This sign shall be removed by the applicant no later than 10-calendar days after completion of the public hearing and returned to the Community Development Department.

#### **17.4.3 Conditions of Approval**

The Planning Board may impose conditions to the extent the Board concludes such conditions are necessary to minimize any adverse effect of the proposed use on adjoining properties, and to preserve the intent of the standards in this LDC.

# ARTICLE 18. ANTI-NUISANCE STANDARDS

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## 18.1 APPLICABILITY

All uses hereafter established in all zoning districts shall comply with the anti-nuisance standards of this Article. Violations of these standards in such manner or quantity as to be detrimental to or endanger the public health, safety, comfort or welfare is hereby declared to be a public nuisance and shall be unlawful.

## 18.2 ANTI-NUISANCE STANDARDS

### 18.2.1 Erosion & Drainage

- A. No person shall perform any act or use of land in a manner that would cause substantial or avoidable erosion or alter existing patterns of natural water flow onto any adjacent property.
- B. No increased ground surface drainage runoff shall be permitted to occur as a result of any development, in a manner that permits such increased runoff to pass beyond the property lines of the parcel upon which such development occurs, unless such runoff is within an approved public storm drainage system or extension thereof.
- C. No disruption of the natural vegetation or ground cover, as a result of excavation, grading or opening of roads, may take place prior to approval of any necessary development permit (e.g. site plan review, subdivision, building permit, conditional use permit), with the exception of test borings or soil tests. During and after all construction, reasonable measures must be taken to stabilize exposed soil to prevent erosion.

### 18.2.2 Glare

- A. No use shall have lighting that create glare, which would impair or obstruct the vision of a driver of any motor vehicle.
- B. Exterior lights shall be shielded so as not to shine directly onto any adjacent property.

### 18.2.3 Noise & Vibration

- A. **Noise Limits.** All uses shall comply with the maximum permissible sound level limits in Table 18-1 Compliance with such sound level limits is to be maintained at the boundary of the property.
  - 1. Sound levels shall be measured at the boundary line of the property within which the offending noise source is located, or as close thereto as feasible, at a height of at least 4-ft above the immediate surrounding surface.
  - 2. All sound level measurements shall be made with an A-weighted sound level meter as specified under the American National Standard Institute (ANSI) standards.

**Table 18-1: Max Sound Level Limits**

	Daytime (7 am - 10pm)	Nighttime (10 pm - 7 am)
Residential zoning districts	60 dB(A)	50 dB(A)
All other zoning districts	70 dB(A)	55 dB(A)

- B. **Vibration.** No inherent or recurrently generated vibration shall be allowed to create a nuisance or hazard that is perceptible, without the use of instruments, at the property line.

### 18.2.4 Noxious Gases

No use shall emit any noxious gases (e.g. fumes, smoke, odors) that may endanger the health, comfort, safety, or welfare of any person, or which may have a tendency to cause injury or damage to property or vegetation.

### 18.2.5 Outdoor Storage

Any outside storage of dismantled vehicles or vehicle parts, where permitted, shall be screened from view by an impervious fence, hedge, berm or equivalent buffer not less than 6-ft in height.

# ARTICLE 19. NONCONFORMITIES

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## 19.1 GENERAL

### 19.1.1 Authority to Continue

- A. Any use, structure, or lot that legally existed as a nonconformity prior to or that has become nonconforming as of the effective date of the Zoning Regulations, or any subsequent amendments, may continue as long as the nonconformity remains otherwise lawful and complies with the provisions of this Article.
- B. Any rights conferred upon a nonconformity run with the property and are not affected by changes in tenancy or ownership.
- C. Any use, structure, or lot that was illegal prior to the effective date of these Zoning Regulations remains illegal if it does not conform to the provisions of the Zoning Regulations.

### 19.1.2 Proof of Nonconformity

- A. The property owner or the operator of the use has the burden of proving the existence of a legally existing non-conformity.
- B. When applying for any permit or approval related to a nonconformity, the applicant shall be required to submit evidence of a prior permit or other documentation showing that the nonconformity legally existed prior to the date on which it became nonconforming.

### 19.1.3 Determinations of Nonconformity

If there is a question as to whether a nonconformity exists, the matter shall be decided by the Zoning Administrator with a written interpretation in accordance with **Article 25**.

### 19.1.4 Relationship to Other Regulations

All nonconforming uses, structures, and lots shall not be exempt from complying with applicable federal, state and local requirements, including, but not limited to, licensing, health, safety, and building and fire code requirements.

## 19.2 NONCONFORMING USES

### 19.2.1 Description

A nonconforming use is the use of a structure or land that at one time was an allowed use within a zoning district but as a result of subsequent amendments to the Zoning Regulations, is no longer allowed.

### 19.2.2 Enlargement or Expansion

- A. A nonconforming use of a structure or land may be expanded and enlarged, provided such enlargement and expansion does not violate any of the basic zone dimensional requirements of the zoning district in which it is located, and the owner or operator of the use has obtained approval from the Zoning Board of Adjustment in accordance with **Article 25**.
- B. In determining whether to grant approval for an expansion of a nonconforming use, the Zoning Board of Adjustment shall find that the following conditions have been met.
  - 1. Such enlargement would not reduce the value of any property within the zoning district, nor otherwise be injurious, obnoxious or offensive to the neighborhood.
  - 1. There will be no nuisance or serious hazard to vehicles or pedestrians.
  - 1. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.

### 19.2.3 Alteration

The structure containing the nonconforming use may be altered only if the alterations constitute ordinary repairs or maintenance or are designed to eliminate a nonconformity, provided it will not create any new nonconformity or increase the area or intensity of a nonconforming use.

### 19.2.4 Change of Use

A legally nonconforming use shall not be changed to another nonconforming use unless approval is granted by the Zoning Board of Adjustment in accordance with the procedures in **Article 25**, and

upon a finding by the Board that such changed use is more in conformity with the spirit and intent of the Zoning Regulations than the prior use and is not more injurious, obnoxious or offensive to the neighborhood than the existing use.

**19.2.5 Discontinuation or Abandonment**

- A. If a nonconforming use is discontinued, or the structure it occupies becomes vacant and remains unoccupied for a continuous period of 1-year, the nonconforming use is presumed abandoned and cannot be reestablished or resumed regardless of intent.
- B. Any subsequent use or occupancy of such land or structure shall comply with all the regulations of the zoning district in which the structure or land is located.
- C. A period of discontinuance caused by acts of God or other events without contributing fault by the user are not included in calculating the length of discontinuance for this section.
  - 1. It is also not considered a period of discontinuance when a use is closed for renovations in conjunction with a lawfully issued building permit.

**19.2.6 Damage or Destruction**

- A. When a structure containing a nonconforming use is damaged or destroyed, and the cause of damage was not by any means within the control of the owner, the nonconforming use may be reestablished provided that no new nonconformities are created and the degree of the previous nonconformity is not increased.
- B. If the structure containing the nonconforming use is a nonconforming structure, such structure shall be rebuilt, restored, repaired, or reconstructed in accordance with **Section 19.3.4**. However, if a building permit is not obtained within 1-year of the date of damage or destruction, then the nonconforming use may not be reestablished, unless it conforms to all regulations of the zoning district. The Zoning Board of Adjustment may grant a 1-year extension of this period.

**19.3 NONCONFORMING STRUCTURES**

**19.3.1 Description**

A nonconforming structure is a principal or accessory structure that was lawfully erected but because of subsequent amendments to the Zoning Regulations has been made nonconforming.

**19.3.2 Alteration or expansion**

Alteration or expansion of a structure that is nonconforming solely because of zone dimensional requirements is permitted provided that the following conditions are met.

- A. The present use, a changed use, or an additional use is permitted in the zoning district in which it is located.
- B. The alteration or expansion will not further violate setback dimensional requirements.
  - 1. Any new encroachment cannot come closer to the property line than the encroachment into the normal setback area made by the existing structure.
  - 2. The area of such new encroachment cannot exceed 50% of the total square footage of the area of the portion of the existing structure that originally encroached on the minimum required setback.

**19.3.3 Relocation**

A nonconforming structure may not be relocated, in whole or part, to any other location on the same lot, unless such relocation would make the structure conforming.

**19.3.4 Restoration of Damaged Structures**

- A. In the event that any nonconforming structure is damaged or destroyed without any contributing fault by the property owner or tenant, it may be repaired or rebuilt to the same size and dimension as previously existed, provided that a building permit is obtained within 1-year following the damage or destruction, unless an additional 1-year

extension is granted by the Zoning Board of Adjustment.

- B.** In the event that a nonconforming structure is damaged or destroyed by the fault of the property owner or tenant, the structure as restored or repaired shall be rebuilt to comply with all requirements of the Zoning Regulations.
- C.** When a nonconforming structure is damaged or destroyed to the extent of less than 50% of its replacement value, it may be repaired and rebuilt to its previous condition, so long as the cause of damage was not by any means within the control of the owner, the nonconformity is not expanded, and no new nonconformity is created.
  - 1.** A building permit for repairs or reconstruction shall be granted within 1-year of the date of damage or destruction, unless an additional 1-year extension is granted by the Zoning Board of Appeals, and the building, as restored, shall not be greater in number of stories, footprint, or floor space than the original nonconforming structure.
- D.** If a building which is nonconforming solely because of dimensional requirements is damaged or destroyed to the extent of 50% or more of its replacement value, the structure may be repaired or rebuilt provided that following conditions are met.
  - 1.** The replacement will not be greater in number of stories, footprint, or floor space than the original structure.
  - 2.** A building permit for repairs or reconstruction is granted within 1-year of the date of damage or destruction, unless an additional 1-year extension is granted by the Zoning Board of Appeals.
  - 3.** The replacement will not violate dimensional requirements of the zoning district in which it is located any more than the original violation(s).

- E.** The replacement value of the structure shall be based on the following.
  - 1.** The sale of that structure within the previous year; or, if that is not available,
  - 2.** An appraisal within the last 2-years; or, if that is not available,
  - 3.** The amount for which the structure was insured prior to the date of the damage or destruction; or, if that is not available,
  - 4.** An alternative method determined acceptable by the Zoning Administrator.
- F.** In the event that a building permit is not obtained within 1-year of the date of damage or destruction, and no extension has been applied for or granted by the Zoning Board of Adjustment, the structure may be repaired or rebuilt only if it conforms to the provisions of the Zoning Regulations.

## 19.4 NONCONFORMING LOTS

### 19.4.1 Description

A nonconforming lot is an existing lot of record that at one time conformed to the lot dimension requirements (e.g. lot area, lot width) of the zoning district in which it is located but because of subsequent amendments to the Zoning Regulations is made nonconforming.

### 19.4.2 Alteration

No nonconforming lot may be subdivided in such a way that increases the nonconformity.

### 19.4.3 Permitted Development

Development of a nonconforming lot shall meet all applicable dimensional requirements of the zoning district it is located with the exception of any lot dimensional requirement that renders it nonconforming.

# 19.5 NONCONFORMING BUILDING ADDITIONS & RETROFITS IN DOWNTOWN DISTRICTS

## 19.5.1 Purpose

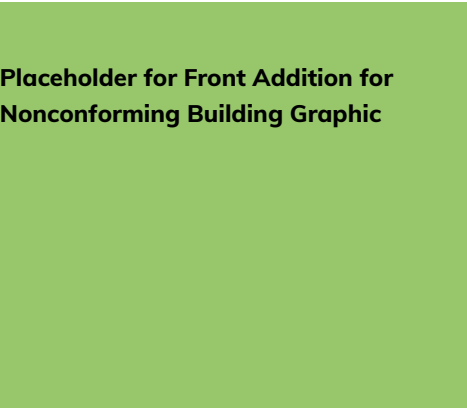
A. A building in the following downtown zoning districts that existed prior to the effective date of this LDC may be expanded or altered without complying with all of the dimensional and siting standards required of that zoning district in **Article 4**, but shall comply with the minimum standards in this section.

- 1. Downtown Core
- 2. Downtown Growth
- 3. Downtown Limited
- 4. Downtown Edge

B. Where the provisions of this section conflict with other provisions of this Article, this section shall apply.

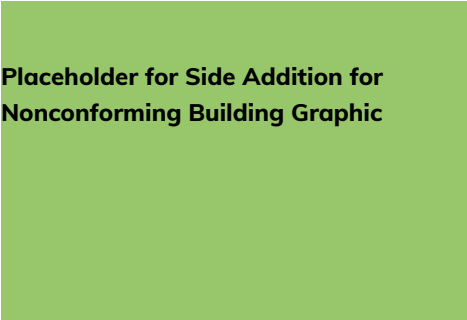
## 19.5.2 Front Addition

Any addition to the front of a legally nonconforming building is allowed up to the minimum setback of the required Build-to Zone in the district.



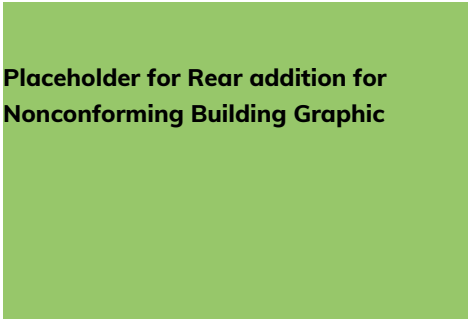
## 19.5.3 Side Addition

Side additions are allowed up to the minimum interior or corner side setback, or the minimum setback of the Build-to Zone required in the district.



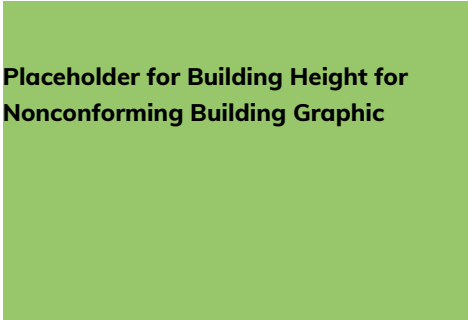
## 19.5.4 Rear Addition

Rear additions are allowed up to the minimum rear setback required in the district.



## 19.5.5 Building Height

Story additions are allowed up to the maximum story and building height required in the district.



## 19.5.6 Building Length

Additions to a building shall not exceed the maximum building length, if required in the district.



**Placeholder for Building Length for  
Nonconforming Building Graphic**

**19.6.7 Buildout**

Additions to the front of a building or side of building adjacent to a street shall not exceed the build-to percentage required in the district.

**Placeholder for Build-To % for  
Nonconforming Building Graphic**

# ARTICLE 20. SUBDIVISION REGULATIONS

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20.2 STANDARDS FOR REVIEW ..... 20-3

20.3 CONSERVATION RESIDENTIAL DEVELOPMENT SUBDIVISIONS..... 20-4

## 20.1 GENERAL PROVISIONS

### 20.1.1 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.

### 20.1.2 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.

### 20.1.3 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**.

- 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 preexisting approved or subdivided lots owned by the same property owner.
- D. Conservation Residential Development.** A conservation residential development is 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. 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.

### 20.1.4 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.

Placeholder for graphic of Subdivision

Placeholder for graphic of Voluntary Merger

Placeholder for graphic of Boundary Line Adjustment

**20.2 STANDARDS FOR REVIEW**

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

**20.2.1 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.

**20.2.2 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.

**20.2.3 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.

**20.2.4 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.

**20.2.5 Monumentation**

The owner or developer shall provide permanent reference monuments in accordance with **Article 23.**

**20.2.6 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.

**20.2.7 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 City 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-unit residential developments, 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 City Fire Department.
  - 2. For single-family residential development: 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 City Fire Department hydrant specifications.

3. Individual residential sprinkler systems meeting the standards of NFPA 1142 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.

### 20.2.8 Utilities

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 City 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 23**.

1. All lots smaller than 1-acre in size shall be connected to City sewer service, unless otherwise expressly allowed in this LDC.

## 20.3 CONSERVATION RESIDENTIAL DEVELOPMENT SUBDIVISIONS

### 20.3.1 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 developments than would be possible using conventional zoning and subdivision practices.

This purpose is accomplished by allowing for clustering of residential 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.

### 20.3.2 Dimensional Standards

#### A. Minimum Dimensional Requirements.

All conservation residential development subdivisions shall meet the minimum dimensional requirements specified in **Table 20-1**. If not specified in **Table 20-1** 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 20-1**. 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 20-2** below.

#### 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.
3. Any land designated for roads within the open space may not be used in the calculation of the open space area.

**Table 20-1: 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	70 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%	

**Table 20-2: 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%



### 20.3.3 Permitted Uses

**A. Residential uses.** Table 20-3 identifies the uses allowed on building lots in a conservation residential development subdivision.

**Table 20-3: 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 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 these designated open space areas may be further restricted by the owners of the open space.

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

### 20.3.4 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 this Division 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 Historical 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 view-sheds as seen from public
11. Highest condition habitat areas as defined by the NH Wildlife Action Plan
12. Drinking water supply areas.

20.3.5 Design Criteria

A. **General Criteria.** In addition to the standards for review listed in **Section 20.2** 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 street standards in **Article 23**, 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 an entity such as a Homeowner’s Association, a non-profit organization, or some other entity as approved by the Planning Board or its designee.
  - b. 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 21. SITE DEVELOPMENT STANDARDS

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## 21.1 GENERAL

### 21.1.1 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**.

### 21.1.2 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
9. Ensure that development serves to maintain and enhance quality of life, while not imposing unreasonable costs upon the City

### 21.1.3 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 require site plan review and approval from the Planning Board or its designee.
- 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 primary 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).

## 21.2 DRAINAGE & STORMWATER MANAGEMENT

### 21.2.1 Runoff Volume & 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.

### 21.2.2 Low Impact Design

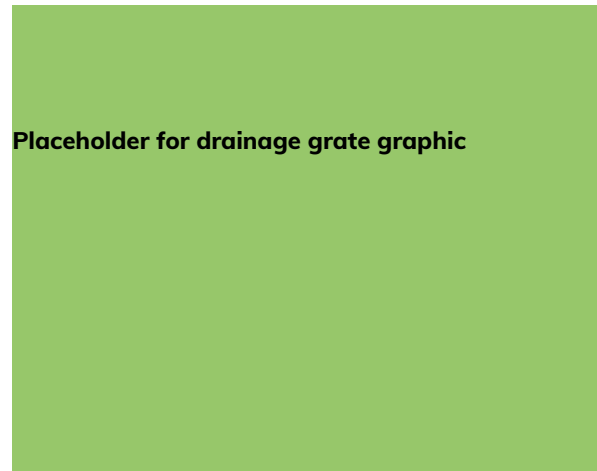
- A. Site design and drainage systems constructed to comply with **Section 21.2.1** shall incorporate Low Impact Development (LID). Examples include, but are not limited to the following.
  - 1. Bio-retention
  - 2. Porous pavement
  - 3. Vegetated swales
  - 4. Infiltration trenches
  - 5. Rooftop disconnection
  - 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.

### 21.2.3 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).

### 21.2.4 Bike Friendly

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



## 21.3 SEDIMENT & EROSION CONTROL

### 21.3.1 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 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.

### 21.3.2 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.

## 21.4 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.

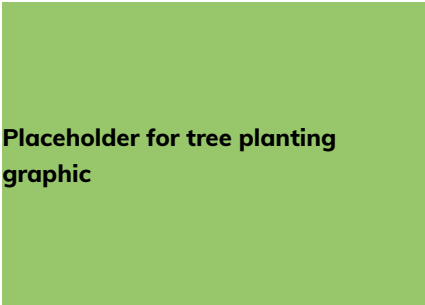
**21.5 LANDSCAPING**

**21.5.1 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.

**21.5.2 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.

**21.5.3 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.

**21.5.4 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.

**21.5.5 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 that:

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

## 21.6 SCREENING

### 21.6.1 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, trash 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.

### 21.6.2 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.

## 21.7 LIGHTING

### 21.7.1 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**.

### 21.7.2 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.

### 21.7.3 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 heights in **Table 21-1**.

**Table 21-1: 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.

**21.7.4 Use Specific Standards**

In addition to the General Standards in **Section 21.7.3**, the following standards shall apply to the categories of uses listed below.

**A. Commercial Parking Areas**

Outdoor lighting of commercial parking and related circulation areas, including 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 area lighting regulations as set forth in Section.

### 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.

## 21.8 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

## 21.9 TRAFFIC & ACCESS MANAGEMENT

### 21.9.1 Traffic

- A. Any commercial, office or industrial project involving 100 or more vehicle trips per day, or residential projects involving 15 or more units, as determined by the most recent published version of the 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.

### 21.9.2 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 curb cuts 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 **Section 9.3**.
- E. A State driveway permit is required for any new driveway on a State Road outside of the Urban Compact.

### 21.9.3 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.

### 21.9.4 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.

## 21.10 FILLING & EXCAVATION

- A. All development involving the commercial taking of earth shall comply with **the Earth Excavation Regulations in Article 13**.
- B. Any project, which involves the placement of fill within the floodplain, shall comply with **the Floodplain Regulations in Article 24**.
- C. If the placement of fill or excavation impacts wetlands, the applicant shall comply with federal and state wetlands regulations and procedures.
- D. The City will give particular attention to excavation or fill proposed within or adjacent to wellfield protection areas, surface waters, and hillsides.
- E. 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.

## 21.11 SURFACE WATERS & WETLANDS

All development shall comply with all federal and state wetland and surface water regulations, Article 11 - Surface Water Protection Overlay District, as well as any other applicable city regulations.

## 21.12 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 of Keene 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 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.

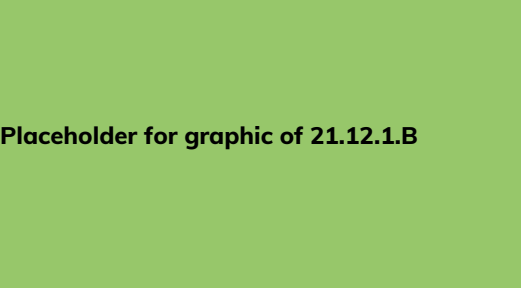
## 21.13 NOISE

- 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 18**, and shall be sited or designed to minimize sound or noise impacts with consideration for surrounding land uses.
- B. 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 18-1** of this LDC. Compliance with the sound level limits is to be maintained at the boundary of the property.
- C. Once a proposed use or development begins routine operation, the Planning Board 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.

## 21.14 ARCHITECTURE & VISUAL APPEARANCE

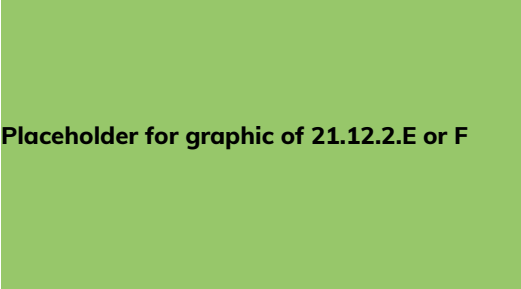
The following standards shall govern the visual and architectural character of development in the City to ensure that new and redeveloped buildings and structures blend aesthetically with the City's historic character, are consistent with the prevailing scale, orientation, and design of the City, and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

### 21.14.1 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 14)**.
- 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, and pilasters), or a change in building setback through recesses or projections. Such modules shall be no wider than 50-ft.  


**Placeholder for graphic of 21.12.1.B**
- C. Commercial storefronts shall include traditional pedestrian-oriented elements (e.g. display windows, bulkheads, transoms, pilasters, cornices).
- D. Additions to existing structures shall be compatible in size and scale with the main building.

### 21.14.2 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, and/or large windows framed with architecturally consistent trim) 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  


**Placeholder for graphic of 21.12.2.E or F**

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.

#### 21.14.3 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.

**Placeholder for graphic of 21.12.3.A**

- B. Orientation of structures on a site shall conform to a parallel or orthogonal pattern in relation to the City street pattern.

**Placeholder for graphic of 21.12.3.B**

- 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. Off-street parking and traffic flow shall not detract from the aesthetic character of a development or redevelopment.
- F. 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.
- G. 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 22. DOWNTOWN HISTORIC DISTRICT REGULATIONS

22.1 GENERAL..... 22-2

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22.3 STREETScape & SITE DESIGN STANDARDS .  
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## 22.1 GENERAL

### 22.1.1 Purpose

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

### 22.1.2 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 is incorporated as part of this LDC, as may be amended.

### 22.1.3 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.

### 22.1.4 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.**

- 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 one 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 of a bulk container, a waste storage container, a container pad, and/or screening of a container 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

### 22.1.5 Exemptions

The activities listed below shall not require a Certificate of Appropriateness from the Historic District Commission.

- A. Buildings or structures built outside of the Period of Significance, 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, park 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 HDC
  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) 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 the caps that are less than 16 square inches.

## 22.2 PROJECT CLASSIFICATION

An applicant proposing any activity in **Section 22.1.4** shall meet with the Community Development Director or their designee prior to commencing work and/or submitting an application for a Certificate of Appropriateness.

### 22.2.1 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 22-1**.
- 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 Board informed of administratively approved projects annually.

### 22.2.2 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 22-2**.
- 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 such a project does not warrant review and approval by the Historic District Commission.



**Table 22-1: 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 less 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” for Primary/Contributing Resources shall also be considered “Minor” for Non-Contributing/Incompatible</li> <li>• Resources Removal, relocation or demolition of an existing building or structure</li> <li>• Removal, relocation or demolition of an existing building or structure</li> <li>• Installation of prefabricated accessory buildings or structures with a 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 22-2: 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” for Non-Contributing/ Incompatible Resources shall also be considered “Major” 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 22-1</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>

**22.3 STREETScape & SITE DESIGN STANDARDS**

**22.3.1 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.
- 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.

**22.3.2 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.

**22.3.3 Walkways, Driveways, Alleys, & 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.

**22.3.4 Utility, Service & Mechanical Equipment**

- A.** Mechanical equipment (e.g. HVAC units, transformers), 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 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 vent openings larger than 70-square inches. Vent caps shall not be larger than 200-square inches.

### 22.3.5 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 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) in a location that is least visible from the public right-of-way.

3. On newer additions to the primary structure in a location that is least visible from the public right-of-way.
  4. On the flat roof of the primary 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 primary 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 they are associated with.
- 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.

**22.4 BUILDING REHABILITATION STANDARDS**

**22.4.1 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 22.4.1.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. Waterproof coatings are prohibited.

#### 22.4.2 Specific Standards for Non-Contributing & 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. Materials commonly referred to as “vinyl siding” are inappropriate contemporary materials and are therefore 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.

#### 22.4.3 Specific Standards for Primary & 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 & 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 shall take into consideration 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; and
- c. Whether the proportion of the new siding faithfully duplicates the historic material.

**C. Roofs & 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.
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 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 & 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) 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.

## 22.5 DEMOLITION

### 22.5.1 Primary & 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 registered 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.

### 22.5.2 Non-Contributing & 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.

### 22.5.3 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 is available from the Community Development Department and shall be returned prior to an issuance of a Demolition Permit.



## 22.6 CONSTRUCTION OF NEW ADDITIONS

### 22.6.1 Primary & Contributing Resources

- A.** 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..
- B.** Additions shall not radically change, obscure, damage or destroy character-defining features.
- C.** 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.
- D.** Additions shall be compatible in size and scale with the main building.
- E.** 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.
- F.** Whenever possible, additions shall be located at the rear or on an inconspicuous side of the building.
- G.** Additions shall take into account the historic relationships of existing buildings and site features on the site.
- H.** Materials used for siding on additions shall be compatible with existing materials on the building and shall be those that are common in the district. Acceptable materials include brick, stone, terra cotta, wood, metal and cement clapboard.
- I.** 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 district shall be used.

### 22.6.2 Non-Contributing & Incompatible Resources

- A.** 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.
- B.** Additions shall reflect the context of surrounding historic buildings or structures and not detract from the overall character of the historic district.
- C.** Materials used for siding on additions shall be compatible with existing materials on the building and shall be those that are common in the district. Acceptable materials include brick, stone, terra cotta, wood, metal and cement clapboard.
- D.** 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 23. STREET & ACCESS STANDARDS

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## 23.1 GENERAL

### 23.1.1 Purpose

- A. The purpose of this Article is to describe minimum standards required in the City for the development of new streets and City-owned utilities.
- B. This Article shall also address the replacement or improvement of existing streets and City-owned utilities to support proposed land development, if such improvements are deemed necessary by the Public Works Director.

### 23.1.2 Authority

- A. The 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 materials, products and details of construction for public improvements are to be approved by the Public Works Director prior to the start of construction.
- C. The Public Works Director is authorized to collect security to ensure the timely completion of proposed public improvements prior to the start of construction. Upon completion of the work, they shall also collect security to ensure corrections or repairs necessary during the warranty period.
  - 1. Security shall be in a form and amount the Director deems appropriate and from a financial institution the City Finance Director deems acceptable.
- D. The Public Works Director is hereby authorized to perform engineering 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 items.

- 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 regulated utilities (e.g. gas, electric, telecommunications) located within the City right-of-way
  - 7. Any other infrastructure to become the property of the City or located within the City right-of-way or on City property
- E. The Public Works Director is authorized to levy and collect fees for the engineering inspections of public improvements. The rate to be paid by the legally liable person for engineering 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 in accordance with this Article.

### 23.1.3 Engineering 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 through a written agreement on a monthly basis by the Public Works Department.

#### 23.1.4 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 private street access shall also be private.
- B. Private water mains shall be allowed when their need is demonstrated to the satisfaction of the Public Works Director.
  - 1. Private water mains shall be 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. All private 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. The City shall have no responsibility to operate, maintain or repair private water mains.
- 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 department as may be amended from time to time. All 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.
  - 1. 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.
  - 2. 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.
  - 3. In the absence of a curb stop or shut-off valve, the water services shall be public from the main to the property line.
  - 4. Water services from the points defined above, to an individual building or structure shall be privately-owned.
  - 5. The owner shall be responsible for maintaining the privately-owned portion of water services in accordance with standards adopted by 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, and available at, the department as may be amended from time to time.
- F. Any infrastructure that serves two or more residential parcels shall be public. Services shall be the only lines serving individual parcels.
- G. 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.

### 23.1.5 Other Permits Required

The developer of any public improvements 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.

## 23.2 PROCESS FOR APPROVAL & ACCEPTANCE

All city streets, utilities, and/or improvements 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, these shall be accepted in conjunction with the acceptance of the street.

### 23.2.1 Submission Requirements

- A.** Any petitioner who is requesting a public street layout from the City shall furnish the following documents 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.
  - 5. Construction plan showing all utilities and improvements
  - 6. List of landowners whose property the road will cross
- B.** Any petitioner who is requesting city acceptance of public utilities and/or improvements not in a public street shall furnish the following documents to the City Council.
  - 1. Letter requesting city acceptance and describing the need for such public improvements
  - 2. Easement Deed
  - 3. Property plan acceptable for recording.
  - 4. Construction plan showing all utilities and improvements

- 5. List of landowners whose property the easement will cross
- C.** Any petitioner who proposes to replace or improve an existing public street and/or public utilities 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

### 23.2.2 Conditions of Approval

- A.** All public improvements 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 street and/or utility construction and acceptance by the Public Works Director within a 36-month period from such approval vote by the City Council.
  - 1. 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.
    - a.** Pursue discontinuance in accordance with state law.
    - b.** Call the posted security and complete construction.
    - c.** Extend the time period for completion to a new date certain. Such extension request can be made only once and must 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 23.6**.

- C. No existing private street, utility and/or improvement shall be considered for layout and acceptance by the City as a city street, utility and/or improvement until the street, utility and/or improvement has been improved to meet all standards referred to in this Article.

### 23.2.3 Conditions for Final Acceptance

- A. Prior to final acceptance by the City Council of any new public improvements, the Director shall certify in writing that all work has been completed in accordance with the standards in this Article.
- B. No public street and/or utility 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
- C. No public street and/or utility 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.

### 23.2.4 Security & Warranty

- A. Prior to the start of construction of any approved public improvements, 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 unexpiring, 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 improvements, 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 streets, drainage, utilities and other public improvements. 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 improvements (e.g. snow plowing, water main flushing). 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.

### 23.2.5 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.

### 23.2.6 Street Numbering

- 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).
- 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.

## 23.3 DESIGN & CONSTRUCTION STANDARDS

### 23.3.1 Scope

- A. All streets and utilities, except as otherwise provided in this Article, whether public or private, shall be constructed in accordance with the design and construction standards in this Article and the detailed standards developed by the Public Works Director.
- B. 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 must comply with all other applicable zoning, site plan or regulatory requirements.

### 23.3.2 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.

### 23.3.3 Street & 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 23-1** 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.

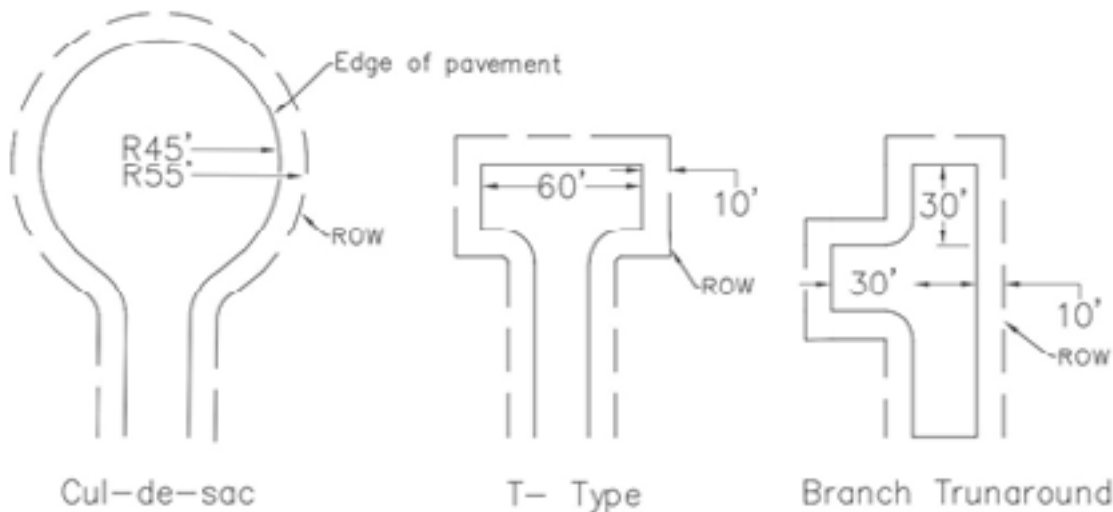
### 23.3.4 Streets

- A. Streets 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 23-1**.
- 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.

**Table 23-1: Minimum & Maximum Street Right-of-Widths**

Purpose of Right-of-Way	Complete Streets Type	Min Width	Max Width
Urban Roadway	Slow Street	50 ft	150 ft
Arterial Roadway	Gateway Street	50 ft	100 ft
Collector Roadway	Bicycle Street,	50 ft	80 ft
Local Roadway	Neighborhood, Rural Street	40 ft	60 ft
Utility easement < 6' deep	N/A	10 ft	25 ft
Utility easement 6' – 10' deep	N/A	20 ft	30 ft
Utility easement >10' deep	N/A	30 ft	3 x depth

**Figure 23-1: Dead End Street Turn Around Types**



**E.** All Streets shall be constructed with drainage features designed in accordance with this Article.

**23.3.5 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.
- 2.** No road shall exceed 7%t 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 must be from an existing city street or state highway, the grade of which cannot exceed 10% for a distance of more than 50-ft at any point.

- 1.** 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 into 4 or fewer lots



for construction of single-family dwelling shall not be considered development.

- D.** If the 10% standard in **Section 23.3.5.C** 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 will be able to safely serve such development without having to purchase new or different equipment or absorb abnormal maintenance costs.
  2. The drainage system will work without abnormal (more than would occur on a properly designed street of a grade of less than ten percent) 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 must meet the grading standards in this section.
- E.** For new streets in or crossing precautionary slopes as defined in the City of Keene Land Development Code, 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.

### 23.3.6 Curbs

- A.** Curbs shall be required in the following locations:
1. Where necessary to control erosion (road grade over 5%).
  2. Where necessary to channel traffic movements for safety reasons.
  3. 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
- C.** Asphalt curbing may be used to control erosion

when protected from damage by a suitable guard rail.

- D.** 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.
- E.** Curb cuts shall be designed and constructed so that surface runoff runs neither from private property onto the city street, nor from the city street onto private property.
- F.** Where curbs are not required, a minimum 3-ft wide gravel shoulder shall be provided. This shoulder may be loamed over.

### 23.3.7 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 minimum width of 6-ft in any **commercial or downtown zoning district** and 5-ft in all other zones.
  2. Be located at least 5-ft from the edge of street pavement, right-of-way permitting.

### 23.3.8 Street Lighting

- A.** Streetlights shall be required at intersections in all zoning districts and along the length of proposed public streets in all residential zoning districts.
- B.** In residential zoning districts, lighting fixtures shall be a maximum of 400-ft apart.
- C.** In the **Low Density, Medium Density, High**

**Density, and Residential Preservation** zoning districts, all such lighting shall be fed via underground conduit.

- D. 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).
- E. When underground street lighting feed is required, telephone, electric and cable TV shall be located underground also.
- F. Lighting fixtures shall be full cut-off light emitting diode (LED) type with a correlated color temperature between 3,000K and 4,000K.
- G. Right-of-way lighting for any proposed streets shall be designed using the methodology determined by the Public Works Director.

### 23.3.9 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.
- 3. Requests for new traffic control devices on existing streets shall be made in writing to the City Police Chief.

#### B. Signs

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

#### C. Signals

- 1. When traffic signals are installed and/or upgraded at any intersection in the City, emergency preemption controllers shall be

standard at all affected intersections.

- 2. When new development projects include off-site improvements that affect city-owned traffic signals, the developer shall pay the cost of the preemption system.
- 3. The traffic signal system design shall include a controller that is capable of coordinated signal control.
- 4. All design and installation of traffic signal systems, whether funded by a developer or the City, shall be approved by the City. The City shall require the developer affected by the traffic signal improvements to pay all costs of design and installation of the affected signal systems.

### 23.3.10 Stormwater Management

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

- A. 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.
- B. 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.
- C. Accommodation of stormwater volumes may be through any combination of detention, retention or conveyance.
- D. Discharge of stormwater into a wellhead protection area is of special concern and will require review and approval of the Public Works Director.

### 23.3.11 Water Distribution

- A. Water mains shall be looped whenever the Public Works Director, in their sole discretion, determines that it is necessary for fire protection or water quality purposes.
- 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 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.

### 23.3.12 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.

### **INSERT CAPACITY ANALYSIS**

- D. 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.

- 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

### 23.3.13 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 for public use.
- B. Such telecommunications infrastructure shall include, at a minimum:
  - 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.
  - 4. Materials and construction details for telecommunications infrastructure shall be approved by the Public Works Director.

### 23.3.14 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.

**23.3.15 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 24.**

**23.3.16 Trees**

- A.** There shall be at least one deciduous tree of a minimum 2-in caliper at planting for every 50-ft interval of each side of any new 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.

**23.4 UTILITY CONNECTION PERMITS**

- A.** A utility connection permit must 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 utility 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.

**23.5 STREET ACCESS PERMIT**

**23.5.1 Applicability**

- A.** A street access permit shall be obtained from the City prior to the construction or alteration (which 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.**

**23.5.2 Purpose**

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.

**23.5.3 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 residential properties
  - b.** Single-family shared access
  - c.** Single-family or two-family residential 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 all street access applications for multifamily, industrial, and commercial street access.
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 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 23.5.4.**

### 23.5.4 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 homes can share a common street access.

6. Street access must not block the flow of drainage in gutters or drainage ditches or pipes.
7. Street access shall not direct stormwater across sidewalks or onto city streets, except that the portion of the access within the public right-of-way may drain towards the street.
8. Street access for single-family 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 curblines.
9. Industrial, commercial, agricultural, multifamily residential or temporary street access shall not be more than 25-ft wide at the property line and 50-ft wide at the curblines, 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 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.

## 23.6 WAIVERS

### 23.6.1 Generally

- A. Requests for exceptions or 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, with the exception of waivers from the street access standards as described in Section 23.6.1.
- B. In no case shall financial hardship be used to justify the granting of the waiver.
- C. The City Council retains final jurisdiction in all such waiver decisions.

### 23.6.2 Street Access Waiver Standards

Requests for exceptions to the street access standards shall be made in writing to the appropriate permit issuing, 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.

### 23.6.3 Dead-End Street Waiver Standards

For waiver to the dead-end street standard, at least one of the following special circumstances must be met.

- A. The request for the waiver must demonstrate that the exemption is de minimis in nature.
- B. The request for the waiver must demonstrate that adequate private and/or public secondary access is provided and will be maintained year-round.
- C. The request for the waiver must demonstrate that all 3 of the following criteria are met:
  - 1. There are unique physical characteristics of the land, which present a hardship to the requestor.
  - 2. The requested waiver is consistent with the intent of this Code.
  - 3. A recommendation from the planning board that the waiver request meets the intent of the planning board site plan/subdivision regulations.

# ARTICLE 24. FLOODPLAIN REGULATIONS

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## 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 damages 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.

## 24.2 ADMINISTRATIVE PROVISIONS

### 24.2.1 Floodplain Administrator

- A.** In accordance with NH RSA 676, the Floodplain Administrator shall enforce and administer the provisions of this Article.
- B.** The Building and Health Official, or their designee, is hereby appointed to administer and implement these regulations and is referred to herein as the "Floodplain Administrator."
- C.** The duties and responsibilities of the Floodplain Administrator shall include, but are not limited to the following.
  - 1.** Ensure that permits are obtained for



proposed development in a special flood hazard area.

2. Review all permit applications for completeness and accuracy, and coordinate with the applicant for corrections or further documentation, as needed.
3. Interpret the special flood hazard area and floodway boundaries and determine whether a proposed development is located in a special flood hazard area, and if so, whether it is also located in a floodway.
4. Provide available flood zone and base flood elevation information pertinent to the proposed development.
5. Make the determination as to whether a structure will be substantially improved or has incurred substantial damage and enforce the provisions of this Article for any structure determined to be substantially improved or substantially damaged.
  - a. For the purposes of this Article, "substantial damage" shall mean damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the assessed value of the structure before the damage occurred.
6. Issue or deny a permit based on review of the permit application and any required accompanying documentation.
7. Ensure prior to any alteration or relocation of a watercourse that the required submittal and notification requirements in this Article are met.
8. Review all required as-built documentation and other documentation submitted by the applicant for completeness and accuracy, and verify that all permit conditions have been completed in compliance with this Article.
9. Notify the applicant in writing of either compliance or non-compliance with the

provisions of this Article.

10. Ensure the administrative and enforcement procedures detailed in NH RSA 676 are followed for any violations of this Article.
11. Submit to FEMA, or require applicants to submit to FEMA, data and information necessary to maintain FIRMs, including hydrologic and hydraulic engineering analyses prepared by or for the City, within 6-months after such data and information becomes available, if the analyses indicate changes in base flood elevations, special flood hazard area or floodway boundaries.
12. Maintain and permanently keep and make available for public inspection all records that are necessary for the administration of these regulations, including local permit documents; flood zone and base flood elevation determinations; substantial improvement and damage determinations; variance and enforcement documentation; and, as-built elevation and dry floodproofing data for structures subject to this Article.
13. Delegate duties and responsibilities set forth in this Article to qualified technical personnel, inspectors, or other community officials as needed.

#### 24.2.2 Determination of Flood Hazard Boundaries

- A. The Floodplain Administrator shall determine whether any portion of a proposed development is located in a special flood hazard area and, if so, whether it is also located in a floodway, using the effective FIRM.
  1. If the development is located wholly or partially in a special flood hazard area, the Floodplain Administrator shall determine the flood zone and the applicable requirements in this Article that shall apply to the development.
- B. Where it is unclear whether a site is in a special flood hazard area or in a floodway, the Floodplain Administrator may require additional information from the applicant to

determine the development's location on the effective FIRM.

- C. If any portion of a development including a structure and its attachments (e.g. deck posts, stairs) is located in multiple flood zones, the flood zone with the more restrictive requirements documented in this Article shall apply.
- D. Where a conflict exists between the floodplain limits illustrated on the FIRM and actual natural ground elevation, the base flood elevation(s) in relation to the actual natural ground elevation shall be the governing factor in locating the regulatory floodplain limits.
- E. Within a riverine special flood hazard area designated as Zone A, the Floodplain Administrator shall obtain, review, and reasonably utilize any floodway data available from federal, state, or other sources. If floodway data is available, the applicant shall meet the floodway requirements in this Article.



**Placeholder for graphic of Floodway / Floodplain Areas**

### 24.2.3 Flood Elevation Determination

The Floodplain Administrator shall determine the flood elevation for a structure as applicable for each floodplain development permit application in the following flood zones.

#### A. Zone AE

For Zone AE, the base flood elevation is determined from the data provided in the community's Flood Insurance Survey (FIS) and accompanying FIRM.

#### B. Zone A

1. For Zone A with no base flood elevation shown in the Flood Insurance Survey (FIS) or on the FIRM, the Floodplain Administrator shall obtain, review, and reasonably utilize any base flood elevation data available from any federal, state or other source, including data submitted to the community for development proposals (e.g. subdivisions, site plan approvals).
2. Where a base flood elevation is not available or not known, the base flood elevation shall be determined to be at least 2-ft above the highest adjacent grade.
3. For a development either greater than 50 lots or greater than 5-acres, the applicant shall develop a base flood elevation for the site and provide it to the Floodplain Administrator with their permit application.
4. If a structure is affected by multiple base flood elevations, the highest base flood elevation shall apply.

### 24.2.4 Floodplain Development Permit

All proposed development within a special flood hazard area shall require a floodplain development permit from the City in accordance with the application and review procedures for floodplain development permits in **Article 25**, prior to the commencement of any development activities.

## 24.3 FLOODWAY REQUIREMENTS

### 24.3.1 General

All development, including new construction or substantial improvement, within any floodway within the City shall be discouraged and shall require a Floodplain Development Permit from the Floodplain Administrator.

### 24.3.2 Floodway Defined

For the purposes of this Article, floodway is defined as the channel of a river or other watercourse and the adjacent land area that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

### 24.3.3 Standards for Development

- A.** The Floodplain Administrator shall not issue a building permit for any construction or substantial improvement within any floodway unless a Floodplain Development Permit has been granted.
- B.** A floodplain development permit shall only be issued under the following conditions.
  - 1.** New freestanding buildings are not permitted in the floodway.
  - 2.** Floodproofing is not permitted in the floodway below the 100-yr flood elevation.
  - 3.** Additions to existing buildings in the floodway are permitted, but only in the direction of the flow of water, either upstream or downstream. Additions are not permitted to project further into the floodway. See the illustration in this section entitled “Additions to Structures in the Floodway” for examples of how additions to an existing building in the floodway may be built.
  - 4.** Plans for any additions in the floodway must show the limits of the floodway and floodplain in the area of the proposed addition, and the plan must be certified by a registered hydraulic engineer that the addition will not change the floodway

or floodplain so as to affect any other properties.

- 5.** Any addition must have the lowest floor level, including basement, 1-ft above the 100-yr flood elevation.
- 6.** A certification prepared by a NH licensed engineer, along with supporting technical data and analyses, shall be submitted for any development, including fill, new construction, substantial improvements and other development or land disturbing activity that demonstrates that such development will not cause any increase in the base flood elevation at any location in the community.
  - a.** If the analyses demonstrate that the proposed activities will result in any increase in the base flood elevation, the applicant must obtain a Conditional Letter of Map Revision (CLOMR) from FEMA prior to permit issuance by the Floodplain Administrator. The Floodplain Administrator reserves the right to deny a permit for the project if concerns about the development being reasonably safe from flooding remain following issuance of the CLOMR.
  - b.** If a permit is issued and the project completed, the applicant must also obtain a Letter of Map Revision (LOMR) from FEMA. CLOMR and LOMR submittal requirements and fees shall be the responsibility of the applicant.
- 7.** Within a riverine special flood hazard area where a base flood elevation has been determined but a floodway has not been designated, for any development, including fill, new construction, substantial improvements and other development or land disturbing-activity, the applicant shall submit certification prepared by a NH licensed engineer, along with supporting technical data and analyses, that demonstrates that the cumulative

effect of the proposed development, when combined with all other existing and anticipated development, will not increase the base flood elevation more than 1-ft at any point within the community.

- a. If the analyses demonstrate that the proposed activities will result in more than a 1-ft increase in the base flood elevation, the applicant must obtain a Conditional Letter of Map Revision (CLOMR) from FEMA prior to permit issuance by the Floodplain Administrator. The Floodplain Administrator reserves the right to deny a permit for the project if concerns about the development being reasonably safe from flooding remain following issuance of the CLOMR. If a permit is issued and the project completed, the applicant must also obtain a Letter of Map Revision (LOMR) from FEMA. CLOMR and LOMR submittal requirements and fees shall be the responsibility of the applicant.
8. Applicants must provide flood storage compensation either in the floodway or floodplain using the same rules for compensation as when building in the floodplain. Flood storage compensation is allowed off-site with the property owner's permission.

## 24.4 FLOODPLAIN REQUIREMENTS

### 24.4.1 General

- A. All development, including new construction or substantial improvement, within any special flood hazard area within the City shall be discouraged and shall require a Floodplain Development Permit from the Floodplain Administrator.
  1. The Floodplain Administrator shall not issue a building permit for any construction or substantial improvement within special flood hazard areas unless such permit has

been granted.

2. For the purposes of this Article, special flood hazard area shall mean the land in the floodplain within the City subject to a 1% or greater chance of flooding in any given year. The area is designated as Zone A and AE on the flood insurance rate map.
- B. All development located in a special flood hazard area shall be:
  1. Reasonably safe from flooding.
  2. Designed and constructed with methods and practices that minimize flood damage.
  3. Designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement (including structures and above ground gas or liquid storage tanks).
  4. Constructed with flood damage-resistant materials.
  5. Constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
  6. Adequately drained to reduce exposure to flood hazards.
  7. Compliant with the applicable requirements of the State Building Code and the applicable standards in this Article, whichever is more restrictive.

### 24.4.2 Structure Requirements

- A. New construction of a residential structure, or an existing residential structure to be substantially improved or replaced, or that has incurred substantial damage, located in a special flood hazard area shall have the lowest floor elevated at least 1-ft above the base flood elevation.
- B. New construction of a non-residential structure, or an existing non-residential structure to be substantially improved or replaced, or that

has incurred substantial damage, located in a special flood hazard area shall:

1. Have the lowest floor elevated at least 1-ft above the base flood elevation; or
  2. Together with attendant utility and sanitary facilities:
    - a. Be floodproofed at least 1-ft above the base flood elevation so that below this elevation the structure is watertight with walls substantially impermeable to the passage of water;
    - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and
    - c. Be certified by a registered professional engineer or architect that the dry flood-proofing design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided to the Floodplain Administrator in the form of a completed and signed Floodproofing Certificate for Non-Residential Structures.
- C. A fully enclosed area for new construction of a structure, or an existing structure to be substantially improved or replaced, or that has incurred substantial damage located in a special flood hazard area that is below the lowest floor of a structure, below the base flood elevation, and therefore subject to flooding, shall meet the following requirements.
1. Be constructed with flood damage-resistant materials.
  2. Be used solely for the parking of vehicles, building access, or storage.
  3. Be constructed with the floor of the enclosed area at grade on at least one side of the structure.
  4. Be constructed with flood openings installed in the enclosure walls so that they

are designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must either be certified by a NH licensed engineer or architect or must meet or exceed the following minimum criteria.

- a. A minimum of 2 flood openings on different sides of each enclosed area having a total net area of not less than 1-square inch for every square foot of enclosed area subject to flooding shall be provided.
  - b. The bottom of all flood openings shall be no higher on the enclosure wall than 1-ft above either the interior or exterior grade, whichever is higher.
  - c. Flood openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- D. A fully enclosed area that has a floor that is below grade on all sides, including below-grade crawlspaces and basements, is prohibited for new structures, existing structures to be substantially improved or replaced, or that have incurred substantial damage located in a special flood hazard area.

#### 24.4.3 Detached Accessory Structures

- A. In a special flood hazard area, new construction or substantial improvement of a small, detached accessory structure of 500 sf or less does not have to meet the elevation or non-residential dry floodproofing requirements as detailed in **Section 24.4.2** if the following wet floodproofing standards are met.
1. The structure has unfinished interiors and is not used for human habitation.
  2. The structure is not located in the floodway.
  3. The structure is not used for storage of hazardous materials.

4. The structure is wet floodproofed and designed to allow for the automatic entry and exit of flood water as detailed in **Section 24.4.2.C.4.**
5. The structure shall be firmly anchored to prevent flotation, collapse and lateral movement.
6. When possible, the structure shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and be placed further from the source of flooding than the primary structure.
7. Service facilities, such as electrical, mechanical and heating equipment, shall be elevated or dry floodproofed to or above the base flood elevation.

#### 23.4.4 Manufactured Home & Recreational Vehicle Requirements

- A. A new manufactured home to be placed, or an existing manufactured home to be substantially improved or replaced, or that has incurred substantial damage, located in a special flood hazard area shall comply with the following standards.
  1. Have the lowest floor elevated at least 1-ft above the base flood elevation.
  2. Be on a permanent, reinforced foundation.
  3. Be installed using methods and practices which minimize flood damage.
  4. Be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. Methods of anchoring are authorized to include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.
  5. Comply with the requirements of **Section 24.4.2.C** in cases where fully enclosed areas are present below an elevated manufactured home, including enclosures surrounded by rigid skirting

or other material attached to the frame or foundation. Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have flood openings.

- B. A recreational vehicle located within a special flood hazard area shall meet one of the following requirements.
  1. Be on a site for fewer than 180 consecutive days.
  2. Be fully licensed, on wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions.
  3. Meet the requirements for "manufactured homes" as stated in this section.

#### 24.4.5 Water Supply & Sewage Disposal Systems

- A. The following standards shall apply to all water supply, sanitary sewage, and on-site waste disposal systems located in a special flood hazard area.
  1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
  2. New and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the systems and discharge from the system into flood waters.
  3. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

#### 24.4.6 Watercourse Alterations

- A. Prior to a permit being issued by the Floodplain Administrator for any alteration or relocation of any riverine watercourse, the applicant shall:
  1. Notify the Wetlands Bureau of the NH Department of Environmental Services and submit copies of such notification to the

Floodplain Administrator, in addition to the copies required by NH RSA 482-A: 3.

2. Submit to the Floodplain Administrator certification provided by a NH licensed engineer, assuring that the flood carrying capacity of an altered or relocated watercourse can and will be maintained.
- B.** Prior to a permit being issued for any alteration or relocation of any riverine watercourse, the Floodplain Administrator shall notify adjacent communities and the State NFIP Coordinating Agency, and submit copies of such notification to FEMA's Federal Insurance Administrator.

## 24.5 COMPENSATORY FLOOD STORAGE

No Floodplain Development Permit shall be issued unless it can be demonstrated to the satisfaction of the Floodplain Administrator that the project will result in no reduction in the net flood storage capacity of the floodplain.

### 24.5.1 Location Requirements

- A.** Compensatory storage will be allowed where it can be demonstrated that properties adjacent to the compensatory storage site and the fill site will not experience increased flooding as a result of a 25-yr storm event or as a result of drainage characteristics of the subject site(s) or adjoining properties.
1. Such storage compensation must be in close proximity to the area where flood storage capacity is being reduced and in the same hydraulic reach and the same watershed.
  2. The conclusion that adjacent properties will not experience increased flooding shall be confirmed by a report stamped by a NH licensed engineer.
- B.** Unless otherwise approved, compensatory storage must be done on a foot-by-foot basis.
- C.** Compensatory storage will not be accepted at a higher elevation, but may be provided at a lower elevation if approved by the Floodplain Administrator and if the applicant provides

written certification from a qualified hydrologist or NH licensed engineer that the proposed compensation will meet the objective of 100% compensatory storage as well as the other objectives and requirements of this Article.

1. The city may require the applicant to pay the city for an independent third-party review of any compensatory storage proposal that does not meet the foot-by-foot rule.
- D.** Any excavation required for compensatory storage shall be within the same hydraulic reach of the same water body and the same watershed. Such excavation shall have an unrestricted hydraulic connection to the same waterway or waterbody; shall avoid disruption of wetlands whenever possible; shall comply with the City's Surface Water Protection Overlay District, and obtain any required federal and state permits.
- E.** Compensatory storage that is located in an adjacent community may be permitted when any of the following is demonstrated.
1. There is an intermunicipal agreement between the City and the adjacent community pursuant to which the adjacent community has agreed to enact and enforce an ordinance which incorporates the terms and conditions of the City's compensatory storage regulations with respect to properties within its corporate boundaries. Said permit shall be issued only upon adoption of said ordinance.
  2. The owner of the property in the adjacent community imposes a covenant upon the land which is pledged to provide compensatory storage for the fill occurring in the city, which incorporates by reference the terms and conditions of the City's compensatory storage regulations and which restricts the use of said property in a manner which is consistent with and bound by the provisions of said ordinance, and which specifically confers upon the City the legal right and standing to enforce said restrictions. Said covenant and

related documents shall be subject to the reasonable approval of the Community Development Department as to form and content.

- 3.** The adjacent community has acquired the necessary property rights in the land which is pledged to mitigate the filling in the City and, pursuant to which, it has imposed sufficient restrictions to ensure that any storage capacity pledged to offset the effects of filling in the City will remain viable and in place in perpetuity, and which confers upon the City the legal right and standing to enforce said restrictions. The form and content of said restrictions and the documentation in support thereof shall be subject to the reasonable approval of the Community Development Department.
- F.** With respect to off-site compensation, whether in the City or an adjacent community, compensatory storage must be permanently reserved for that purpose.

#### 24.5.2 Storage Credit

- A.** Extra compensatory flood storage that is created on a site through construction or restoration may, on a case-by-case basis, subject to review and approval by the Floodplain Administrator, be “banked” for future credit within the same hydraulic reach of the floodplain. It should not be assumed that “extra” storage can be used at another site, and credit will not be granted if the receiving site is not in the same hydraulic reach and in close proximity to the donor site.
  - 1.** Transfer of storage credit from one site to another shall require formal written approval by the Floodplain Administrator and must provide the permanent protection specified in this section.

#### 24.5.3 Hydrologic Impact

- A.** For any proposed compensatory storage, the applicant must demonstrate that wetlands will not be disturbed. This shall require a wetlands delineation by a NH certified wetland scientist

or high intensity soil survey, unless otherwise approved.

- 1.** If wetlands will be disturbed, the applicant must demonstrate that such disturbance is unavoidable, that the disturbance has been minimized as much as possible, and that all disturbed wetland values and functions will be fully replaced on or adjacent to the site.
- B.** A high intensity soil survey must be submitted as part of any proposed compensatory excavation, and a full wetlands delineation in accordance with federal standards shall be required, if the high intensity soil survey indicates the probability of wetlands.
- C.** The applicant must identify the height of seasonal high groundwater as part of the design of any compensatory storage proposal. This shall normally require the installation of one or more observation wells, although the City may accept other sources of this information.
- D.** The bottom of a compensatory storage basin shall not come in contact with or go below the seasonal high groundwater elevation unless approved by the Floodplain Administrator.
  - 1.** Those portions of a compensatory basin which will be below seasonal high groundwater elevation may not be counted as storage, and calculations submitted by the applicant must demonstrate that this requirement has been taken into account.
  - 2.** The City may allow and in some instances will encourage compensatory basins at levels below seasonal high groundwater elevations in order to create additional wetlands. However, the applicant must demonstrate to the satisfaction of the Floodplain Administrator that compensatory basins at elevations below seasonal high groundwater levels will not result in groundwater contamination. The city may require the applicant to pay for an independent qualified third-party review to ensure that this standard is met.



3. Snow storage shall normally not be allowed in compensatory basins which come into contact with or go below seasonal high groundwater levels, and the City may require that stormwater be diverted or isolated from the bottom of such basins.
  4. If wetlands are created as part of a compensatory basin, the City encourages, and for larger basins may require, that the wetland system be designed and planted so as to ensure high wetland values and functions.
- E. The applicant must provide certification and documentation from a NH licensed engineer with training and experience in the field of hydrology that the project, in combination with proposed compensatory storage, will result in no net loss of flood storage capacity.

## 24.6 SUBSTANTIAL IMPROVEMENT & DAMAGE

### 24.6.1 Determination of Substantial Improvement or Damage

- A. For all development in a special flood hazard area that proposes to improve an existing structure, including alterations, movement, enlargement, replacement, repair, additions, rehabilitations, renovations, repairs of damage from any origin (e.g. flood, fire, wind, snow) and any other improvement of or work on such structure including within its existing footprint, the Floodplain Administrator, in coordination with any other applicable community official(s), shall be responsible for the following:

1. Review description of proposed work submitted by the applicant to determine if the proposed work would be considered to be a Substantial Improvement based on any combination of repair, reconstruction, rehabilitation, addition, or other improvement of a building or structure, taking place during a 5-year period, the cumulative cost of which equals or exceeds 50% of the market value of the building

or structure before the improvement or repair is started. If the structure has incurred substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed.

2. Use the community's current assessed value of the structure (excluding the land) to determine the market value of the structure prior to the start of the initial repair or improvement, or in the case of damage, the market value prior to the damage occurring.
    - a. If the applicant disagrees with the use of the community's assessed value of the structure, the applicant is responsible for engaging a licensed property appraiser to submit a comparable property appraisal for the total market value of only the structure.
  3. Review cost estimates of the proposed work including donated or discounted materials and owner and volunteer labor submitted by the applicant. Determine if the costs are reasonable for the proposed work, or use other acceptable methods, such as those prepared by licensed contractors or professional construction cost estimators and from building valuation tables, to estimate the costs.
  4. Determine if the proposed work constitutes substantial improvement or repair of substantial damage as defined in this Article.
  5. Notify the applicant in writing of the result of the substantial improvement or damage determination.
    - a. If the determination is that the work constitutes substantial improvement or substantial damage, the written documentation shall state that full compliance with the provisions of this Article is required.
- B. Repair, alteration, additions, rehabilitation, or other improvements of historic structures

shall not be subject to the elevation and dry floodproofing requirements of this Article, if the proposed work will not affect the structure's designation as a historic structure. The documentation of a structure's continued eligibility and designation as a historic structure shall be required by the Floodplain Administrator in approving this exemption.

#### **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.

# ARTICLE 25. APPLICATION PROCEDURES

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## 25.1 REVIEW BODIES & ADMINISTRATORS

This section describes the powers and duties of the review and decision-making authorities pursuant to this LDC.

### 25.1.1 Establishment

The review and decision-making authorities specified in this LDC are established by the City Code of Ordinances, including the City Charter.

### 25.1.2 Powers & Duties

**Table 25-1** provides a summary of which authority makes recommendations or decisions on each application type.

### 25.1.3 Designees

Certain officials within this LDC are cited as having powers that may also be administered by a designee. The ability to direct powers to a designee applies to the actions of such officials throughout this LDC.

### 25.1.4 Limit of Authority

The omission of a citation in this LDC to any authority conferred upon the officials and decision-makers under the constitution or laws of the State of NH or the City Code of Ordinances, including the City Charter, shall not be construed as limiting the actions of such officials and decision-makers taken in accordance with and in reliance upon such authority.

### 25.1.5 City Council

In addition to other general authority by state law or the City Code of Ordinances, including the City Charter, the City Council shall have the following powers pursuant to this LDC.

- A. To initiate, hear, and/or decide on proposed amendments to this LDC, including amendments to the zoning map or text.
- B. To adopt and periodically update a schedule of fees for applications and permits specific in this LDC.

- C. To hear and decide on requests for a public street layout.
- D. To hear and decide on requests for city acceptance of public utilities and/or improvements not in a public street.

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

In addition to other general authority by the City Code of Ordinances, the Joint Committee of the Planning Board and Planning, Licenses and Development Committee shall have the authority to make recommendations to the City Council on proposed amendments to this LDC, including amendments to the zoning map or text.

### 25.1.7 Zoning Board of Adjustment

In addition to other general authority by state law or the City Code of Ordinances, the Zoning Board of Adjustment shall have the following powers pursuant to this LDC.

- A. To hear applications for and authorize variances from the Zoning Regulations.
- B. To hear and decide on applications for special exceptions from the Zoning Regulations.
- C. To hear and decide on applications to enlarge, expand or change a non-conforming use or structure.
- D. Hear and decide on applications for an equitable waiver of dimensional requirements from the Zoning Regulations.
- E. To hear and decide on appeals of an administrative decision of the Zoning Administrator.
- F. To hear and decide on appeals of decisions of the Historic District Commission in granting or denying certificates of appropriateness.
- G. To hear and decide on requests for extensions to approvals for an enlargement, expansion or change of a non-conforming use or structure.

### 25.1.8 Planning Board

In addition to other general authority by state law or the City Code of Ordinances, the Planning Board shall have the following powers pursuant to this LDC.

- A. To make recommendations to the City Council on proposed amendments to this LDC, including zoning map or text amendments.
- B. To initiate, hear, and decide on proposed amendments to the Site Development Standards and Subdivision Regulations of this LDC.
- C. To hear and decide on major site plan review applications.
- D. To hear and decide on subdivision applications, including boundary line adjustment applications and conservation residential developments.
- E. To hear or decide on voluntary merger applications, or appoint a designee to hear or decide on such applications.
- F. To hear and decide on conditional use permit applications.
- G. To hear and grant waivers from the Site Development Standards and Subdivision Regulations of this LDC.
- H. To hear and decide on street access permits for commercial, industrial, and multifamily sites.
- I. To hear and decide on appeals of an administrative decision on street access permits.
- J. To hear and decide on earth excavation permit applications.
- K. To hear and decide on requests for extensions to site plan, subdivision, and conditional use permit approvals.

### 25.1.9 Site Review Committee

In addition to other general authority by state law or the City Code of Ordinances, the Site Review Committee shall have the following powers pursuant to this LDC.

- A. To hear and decide on minor site plan review applications.
- B. To review and provide comment on proposed projects for development review prior to the formal submission of an application.

### 25.1.10 Historic District Commission

In addition to other general authority by state law or the City Code of Ordinances, the Historic District Commission shall have the following powers pursuant to this LDC.

- A. To hear and decide on major project applications for a certificate of appropriateness.
- B. To hear and decide on appeals of an administrative decision of the Community Development Director, or their designee on applications for a certificate of appropriateness.
- C. To initiate, hear, and decide on proposed amendments to the Historic District Regulations in this LDC.
- D. To hear and decide on requests for extensions to certificates of appropriateness.

### 25.1.11 Conservation Commission

In addition to other general authority by state law or the City Code of Ordinances, the Conservation Commission shall have the authority to make recommendations to the Planning Board on surface water protection conditional use permit applications.

### 25.1.12 Zoning Administrator

The City of Keene Zoning Administrator, or their designee, has the following duties and powers pursuant to this LDC.

- A. To review and make decisions on voluntary merger applications.
- B. To make written interpretations of and issue administrative decisions in accordance with the Zoning Regulations of this LDC and the Zoning Map.
- C. To make recommendations to the Planning Board on major site plan, subdivision, and conditional use permit applications.
- D. To review applications for completeness for all matters decided by the Zoning Board of Adjustment.

#### 25.1.13 Community Development Director

The Community Development Director, or their designee, shall have the following duties and powers pursuant to this LDC.

- A. To review and decide on administrative review site plan applications.
- B. To review and decide on minor project applications for a certificate of appropriateness.
- C. To review and decide on voluntary merger applications, in the absence of the Zoning Administrator.
- D. To make recommendations to the Planning Board on major site plan, subdivision, and conditional use permit applications, and to the Site Review Committee on minor site plan applications.
- E. To make recommendations to the Historic District Commission on major project applications for a certificate of appropriateness.

#### 25.1.14 Building & Health Official

The Building and Health Official, or their designee, shall have the following duties and powers pursuant to this LDC.

- A. To interpret, administer, and enforce the State Building Code.

- B. To review and make decisions on floodplain development permits.
- C. To enforce provisions of this LDC with respect to property outside of the right-of-way, including the authority to issue stop-work orders and fines for violations of this LDC, in accordance with **Article 26** - Enforcement of this LDC.
- D. To make recommendations to the Planning Board on major site plan, subdivision, and conditional use permit applications.

#### 25.1.15 Public Works Director

The Public Works Director, or their designee, shall have the following duties and powers pursuant to this LDC.

- A. To develop technical standards and specifications in accordance with **Article 23**.
- A. To perform engineering inspections of roads and utilities in accordance with **Article 23**.
- A. To approve the street geometry, construction methods and materials of streets.
- B. To review and make decisions on street access permit applications for single-family and two-family dwellings, agricultural driveways or temporary driveways.
- C. To review and make recommendations to the Planning Board on street access permit applications.
- D. To review and make decisions on utility connection permits.
- E. To assign street numbers for individual structures.
- F. To make recommendations to the Planning Board on major site plan, subdivision, and conditional use permit applications, and the Site Review Committee on minor site plan applications.

**Table 25-1: Development Applications Decision Authority**

Application Type		Zoning Board of Adjustment	Planning Board	City Council	Historic District Commission	Joint Committee	Conservation Commission	Zoning Administrator	Community Development Dir.	City Engineer	Site Review Committee	Building & Health Official
Zoning	Amendments to Zoning Text / Map			D / PH		PW		R	R			
	Variance	D / PH						R				
	Special Exception	D / PH						R				
	Equitable Waiver	D / PH						R				
	Enlarge Non-Conforming Use	D / PH						R				
	Change Non-Conforming Use	D / PH						R				
	Enlarge Non-Conforming Structure	D / PH						R				
	Zoning Administrator Decision							D				
Sub-division Review	Subdivision		D / PH						R		PS	
	Conservation Residential Development		D / PH						R		PS	
	Boundary Line Adjustment		D						R			
	Voluntary Merger							D				
Site Plan Review	Administrative Review							D				
	Minor Project										D / PH	
	Major Project		D / PH					R			PS	
Conditional Use Permit (CUP)	Hillsides Protection		D / PH						R		PS	
	Surface Water Protection		D / PH				R		R		PS	
	Telecommunications		D / PH						R		PS	
	Congregate Living & Social Service		D / PH						R			
	Solar Energy System		D / PH						R			
Historic District	Minor Project							D				
	Major Project				D / PH				R		PS	
Other Permits	Floodplain Permit											D
	Sign Permit							D				
	Street Access Permit		D							D		
	Earth Excavation Permit		D / PH						R			

"R" = Review / Recommend "D" = Final Decision "PW" = Public Workshop "PH" = Public Hearing "PS" = Presubmission Meeting

## 25.2 COMMON APPLICATION & REVIEW PROCEDURES

### 25.2.1 Applicability

The following requirements are common to many of the application review procedures in this LDC. Additional or slightly varying application and/or review requirements and procedures may be specified elsewhere in this Article or LDC.

### 25.2.2 Application Requirements

#### A. Pre-Submission Meeting

Prior to formal submittal of an application, the applicant may request a pre-submission meeting with the Site Review Committee.

1. The purpose of this meeting is to review the proposed project when it is still at a conceptual stage, to identify any potential concerns with project design, and to ensure that the applicant is aware of all information that must be submitted with the application.
2. This meeting does not require a formal application or fees.

#### B. Submittal Requirements

1. All applications pursuant to this LDC shall be submitted in accordance with the requirements of this Article, and the established submittal requirements of the appropriate review or decision-making authority.
2. Applications pursuant to this LDC shall be filed with the appropriate review or decision-making authority, or their designee, on forms provided by the Community Development Department.
3. Application submission deadlines shall not be waivable, unless otherwise specified in this LDC.

#### C. Application Fees

1. Upon submittal of an application, any applicable fees shall be paid in accordance with the LDC Fee Schedule in Appendix B of the City Code of Ordinances.
2. No refund of the fee, or any part of the fee, shall be made unless the application is withdrawn prior to noticing the application for a public hearing or decision, in which case, the applicant may be eligible for a refund of the notice fee.
3. Application fees shall not be waivable, unless otherwise specified in this LDC.

#### D. Exemptions from Submittal Requirements

1. An applicant may make a request to the appropriate review authority, or their designee, to exempt their application from specific submittal requirements, when such requirements are not applicable to its evaluation of the application and are not necessary for proper documentation of the project.
2. Exemption requests shall be made at the time of application submission and shall include a brief explanation as to why the information specified for exemption is not relevant to the appropriate review authority's evaluation of the application.
3. The appropriate review authority may grant an exemption of specific submittal requirements, if it finds that the information is not applicable to its determination of whether the applicant complies with this LDC.
4. In the event the appropriate review authority determines that the information specified for exemption is necessary for it to complete its review, then it shall notify the applicant as soon as possible and table the application to give the applicant time to provide the required information.



## **E. Completeness Review**

- 1.** An application is not considered complete until all necessary forms, submittal requirements, and applicable fees are received by the appropriate review authority, or its designee.
- 2.** If the appropriate review authority, or its designee, finds that the missing application materials or information are central to its review of the application, then the application shall not be accepted and shall be returned to the applicant along with any submitted application fees.
- 3.** If the appropriate review authority, or its designee, finds that the application is missing materials or information that are necessary for proper documentation, but are not central to the review of the application, it shall provide written notice of the application's nonconformance to the applicant, and shall permit the applicant to provide the required materials or information by a specified revision deadline. If the missing materials or information are not received by this revision deadline, the appropriate review authority, or its designee, shall have the authority to reject the application.
- 4.** At the discretion of the appropriate review authority, or its designee, any substantive changes made by the applicant to the scope of the project or to materials included in a submitted application following the specified revision deadline may require resubmittal of the entire application and a new completeness review.
- 5.** Applicants wishing to appeal a determination of completeness may do so to the appropriate authority by submitting a letter indicating the request for appeal. The appeal request shall outline the basis for the incompleteness finding and shall provide specific explanation for why the applicant believes the application meets the submission requirements.

## **F. Withdrawal of Application**

An application may be withdrawn at any time prior to the final decision on the application. Requests for withdrawal shall be made in writing by the applicant to the appropriate review or decision-making authority.

## **G. Burden of Proof**

It shall be the sole responsibility of the applicant to demonstrate that their application satisfies all applicable standards of review.

### **25.2.3 Determination of Regional Impact**

- A.** All applications shall be reviewed upon receipt to determine whether or not the development, if approved, reasonably could be construed as having the potential for regional impact.
- B.** If it is determined that a proposed development has a potential regional impact, the appropriate review authority shall act in accordance with NH RSA 36:54 through RSA 36:57.

### **25.2.4 Staff Review**

- A.** Prior to consideration of an application pursuant to this LDC by a city board or commission, city staff may prepare a staff report for the application, which contains a brief summary of the proposal and a summary analysis of how the proposal relates to the applicable standards in this LDC.
  - a.** Sample motions, including any suggested findings and/or conditions, may also be provided in this report.
  - b.** Such staff report shall be shared with the board or commission in advance of the meeting, and shall be made available to the public.
- B.** Some applications pursuant to this LDC may require review and comment from other city departments, prior to a public hearing or action on the application. Comments received from departmental review shall be forwarded to the appropriate review or decision-making

authority and shall be shared in writing with the applicant as soon as they are all received.

#### 25.2.4 Public Notice

The general public notice requirements for applications and procedures subject to this LDC, including, but not limited to, notice of public body meetings and public hearings, are included in this section. **Table 25-2** indicates the type of public notice required for applications that require public notice in accordance with state law or the City Code of Ordinances.

##### A. Mailed Notice

1. When a mailed notice is required, the applicant shall submit 2 sets of mailing labels for each abutter or person entitled to such notice, in accordance with state law or the City Code of Ordinances, and a mailing fee equal to the cost of the current United States Postal Service Certified Mail rate, at the time of application submission, unless otherwise specified in this LDC.
2. The appropriate review authority, or their designee, shall be responsible for issuing the mailed notice.
3. The mailed notice shall include, at a minimum, the date, time, place, and purpose of such public hearing; the names of the applicant and property owner; and the address of the subject property. Such information shall be current to within 10-days of submittal.
4. The mailed notice shall be sent to the address used for mailing local property tax bills.
5. The required timeframe for issuing mailed notice is specified in **Table 25-2**. This timeframe shall not include the day such notice is postmarked or the day of the public hearing or public meeting at which the application is first considered.

##### B. Published Notice

1. When published notice is required, the appropriate review authority, or their designee, shall publish notice in a newspaper of general circulation within the City of Keene, and in at least 2 public places.
2. The required timeframe for issuing published notice is specified in **Table 25-2**. This timeframe shall not include the day notice is posted or the day of the public hearing or public meeting at which the application is first considered.
3. At the time of application submission, the applicant shall submit a fee to cover the cost of the published notice in accordance with the LDC Fee Schedule in Appendix B of City Code of Ordinances.
4. The published notice shall include, at a minimum, the date, time, place, and purpose of such public hearing; the names of the property owner and applicant; and the address of the subject property.

#### 25.2.5 Site Visits

- A. Submittal of an application shall be deemed as granting permission for city staff, the appropriate review or decision-making authority, or their designees, to enter onto the subject property for purposes of review.
- B. Permission to visit the property extends from the date an application is submitted until the project is formally denied or construction of an approved project is complete, a certificate of occupancy has been issued, or final security has been returned to the applicant.
- C. If an applicant wishes to place limitations upon access to the property subject to review, then the limitations should be requested in writing at the time of application. Any such request should include the reasons for the limitations, and the appropriate review authority shall use reasonable judgment in determining the extent to which the request is to be granted.

**Table 25-2: Public Notice Requirements**

Application Type	Notice Type		# Days <sup>1</sup>	
	Mailed	Published		
Zoning	Amendments to Zoning Text or Map	●	●	10
	Variance	●	●	5
	Special Exception	●	●	5
	Equitable Waiver	●	●	5
	Enlarge Non-Conforming Use	●	●	5
	Change Non-Conforming Use	●	●	5
	Enlarge Non-Conforming Structure	●	●	5
Sub-division Review	Subdivision	●	●	10
	Conservation Residential Development	●	●	10
	Boundary Line Adjustment	●		10
Site Plan Review	Minor Project	●	●	10
	Major Project	●	●	10
Conditional Use Permit	Hillsides Protection	●	●	10
	Surface Water Protection	●	●	10
	Tele-communications	●	●	10
	Congregate Living & Social Service	●	●	10
	Solar Energy System	●	●	10
Historic District	Major Project	●	●	5
Other	Earth Excavation Permit	●	●	10

<sup>1</sup> The number of days before public hearing or meeting notice is to be issued, not including the day of posting or day of public hearing/meeting

D. City boards and commissions may elect to conduct a formal site visit of a project site prior to the meeting at which a specific application pursuant to this LDC will be considered. The decision to schedule a formal site visit shall be at the discretion of the board or commission chairperson.

### 25.2.6 Public Hearing Procedures

#### A. Applications Subject to Public Hearing

**Table 25-1** summarizes which types of applications require a public hearing. If an application is not listed, this indicates that a public hearing is not required for that application.

#### B. Conduct of the Public Hearing

The public hearing will be conducted in accordance with all applicable requirements of this LDC, the City Code of Ordinances, state law, and the rules of the board or commission conducting the public hearing. During the public hearing, the following may occur.

1. The presiding officer of the decision-making authority shall call the proceedings to order and announce that the public hearing has begun.
2. The applicant or their legal counsel or representatives shall present in support of the application, and answer questions from the decision-making authority.
3. City staff may present on the application, with respect to its conformance with the regulations in this LDC, and shall share comments from other city departments that reviewed the application. City staff may also answer questions from the decision-making authority.
4. The presiding officer shall open the public hearing for public testimony.
  - a. Each person who speaks at a public hearing shall state their name and address for the record.
  - b. Any abutter or other person with a direct interest in the application may

testify in person at the public hearing or in writing either before or at the public hearing. Other persons may testify at the discretion of the decision-making authority.

5. The applicant shall be given an opportunity to respond to any testimony raised by city staff or the public and to answer any questions raised by the decision-making authority.
6. The presiding officer shall close the public hearing following public testimony, and the decision-making authority shall openly deliberate on the application before reaching a decision.
7. The decision-making authority shall evaluate the application based upon the evidence presented at the public hearing, pursuant to any applicable approval standards or regulations in this LDC.
8. Once a public hearing is closed, no further public testimony shall be taken, unless the presiding officer chooses to reopen the public hearing for additional testimony or argument.

#### **C. Decisions**

When the decision-making authority has completed its deliberation it will either approve, approve with conditions, disapprove an application. All decisions shall be delivered in writing to the applicant and shall include any conditions for approval or reasons for denial.

#### **D. Continuations**

The decision-making authority conducting the public hearing, upon a majority vote of its members, may continue a public hearing. No new notice is required to reopen the public hearing, if the hearing is continued to a date specific, provided that a public announcement of the future date, time, and place of the continued hearing is made and recorded in the minutes.

### **25.2.7 Hiring of Consultants**

- A. At any point prior to a decision on an application, the appropriate review or decision-making authority may determine that it needs additional information from the applicant to complete its review, including, but not limited to, special studies or technical analysis.
- B. The cost of any such information or consultants shall be at the applicant's expense, and failure to agree to pay for the cost of the information or consultant(s) shall be ground for denial of the application.
- C. The appropriate review or decision-making authority shall make every effort to be reasonable in its requests for information or consulting services, recognizing that such studies can add both time and cost to a project.
- D. City staff shall follow the City's purchasing procedures for hiring a consultant on behalf of the applicant.
- E. With respect to Planning Board applications, decisions regarding the selection of a consultant and the scope of the consultant's work may be made by the Planning Board Steering Committee, prior to the Board's determination of completeness on an application.

### **25.2.8 Notice of Decision**

A written notice of decision including the minutes of the public hearing at which a vote was taken to approve, conditionally approve, disapprove, or continue an application before the review or decision-making authority shall be placed on file at the Community Development Department and shall be available for public inspection within 5-calendar days of such vote.

### **25.2.9 Conditional Approval**

- A. For some conditions established as part of a conditional approval, a compliance hearing will be required.
  1. The appropriate decision-making authority,

or their designee, will inform the applicant at the time of the conditional approval if a compliance hearing will be required.

- 2.** The applicant shall pay for all abutter notification and public notice associated with a compliance hearing in accordance with the LDC Fee Schedule in Appendix B of the City Code of Ordinances.
- B.** Conditions for which approval may become final without further public hearing based upon evidence of satisfactory compliance include any of those listed below.
- 1.** Conditions which are in themselves administrative or involve minor plan changes that do not require discretionary judgment on the part of the decision-making authority.
  - 2.** Conditions with regard to the applicant's obtainment of permits or approvals granted by other boards, commissions or agencies.

#### **25.2.10 Modifications to Approved Plans**

Unless another method is expressly provided by this LDC, any request to amend or revise an approved application shall be considered a new application, which shall be decided in accordance with the procedures governing the original application and the standards in effect at the time such new application is filed with the City.

#### **25.1.11 Expirations**

In such event that an approval expires, including conditional approvals, the following shall occur.

- A.** All site work associated with the expired approval shall immediately be halted.
- B.** Prior to initiating additional site work associated with the expired approval, a new application shall be submitted and reviewed in accordance with this LDC.
- C.** Any uses of the property associated with the expired approval shall be prohibited.

## 25.3 ZONING TEXT / MAP AMENDMENT

### 25.3.1 Description

The standards and requirements set forth in the Zoning Regulations of this LDC, and the boundaries of zoning districts as shown on the City's Zoning Map may be amended in response to changed conditions or changes in the City's goals or policy.

### 25.3.2 Initiation

Anyone, including City departments, boards and commissions and City Council, may petition the City Council for an amendment to the text of the Zoning Regulations of this LDC and/or the City's Zoning Map.

### 25.3.3 Authority

The City Council, after receiving a recommendation from the Planning Licenses and Development Committee and the Planning Board, shall take action on requests for a zoning text or map amendment.

### 25.3.4 Submittal Requirements

An applicant for a zoning text or map amendment shall submit a completed Zoning Amendment application to the City Clerk, which shall include the following.

- A.** A typed or neatly printed narrative explaining the purpose and effect of, and justification for the proposed change.
- B.** A properly drafted ordinance containing the proposed zoning amendment in a format meeting the requirements of the City Clerk.
- C.** If a zoning map amendment is proposed, 2-copies of a map clearly displaying the zoning district boundary proposed to be changed and the surrounding area. One copy shall be 8½-in by 11-in, and the other shall be at the City Tax Map Scale.
- D.** 4-sets of mailing labels and a notarized list of each property owner within the area proposed for a zoning map amendment, including property directly abutting the affected area. Such list and labels shall include the owner's

**Placeholder for flowchart showing application review and approval process**

name and mailing address and the tax map parcel number for each affected property.

- E. If a proposed zoning amendment would change the zoning district boundary of or the minimum lot sizes and permitted uses in a zoning district containing 100 or fewer parcels, 4-sets of mailing labels and a notarized list of property owners of each affected property shall be submitted, in addition to the requirements of the foregoing section. Such list and labels shall include the owner's name and mailing address and the tax map parcel number for each affected property.
- F. Application fee as set forth in the LDC Schedule of Fees in Appendix B of the City Code of Ordinances, including the costs of published and mailed notice (when required) for both the public workshop and public hearing. Mailed notice shall be First-Class Mail.

### 25.3.5 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 zoning text or map amendment.

#### A. First Reading of City Council

1. Once an application for a zoning or text amendment is determined to be complete, the City Clerk shall forward it to the City Council for a first reading, and to the Community Development Department for review.
2. The City Council shall refer the application, including the draft ordinance, to the Planning, Licenses and Development Committee, and Joint Committee of the Planning, Licenses, and Development Committee and the Planning Board.

#### B. Staff Report

1. Upon receipt of the completed application, the Community Development Department shall prepare, in coordination with other City departments, a review of the proposed change. This review shall evaluate

consistency of the proposed change with the Comprehensive Master Plan.

2. This review will be summarized in a staff report that will be submitted to the Joint Committee of the Planning, Licenses and Development Committee and Planning Board in advance of the first public workshop on the application.

#### C. Joint Public Workshop

1. Upon receipt of the application and draft ordinance from City Council, the Joint Committee of the Planning, Licenses and Development Committee and the Planning Board shall hold a public workshop, with published notice and mailed notice, if required.
2. This public workshop is not a due process public hearing and is intended to: prepare information for the City Council on the proposed change; provide a method by which the City Council and the Planning Board may receive public comment and assistance throughout a changing legislative process; and, afford an opportunity for adjustment to or modification of the proposal and draft ordinance.
3. At the public workshop, the applicant, or their representative, shall present on the requested amendment. The Community Development Director, or their designee, shall present the staff report.
4. The Joint Committee of the Planning, Licenses and Development Committee and the Planning Board may make appropriate changes to the proposed ordinance throughout the public workshop process, without any requirement that additional published or mailed notice be provided.
5. At the conclusion of the public workshop, the Planning Board shall vote on the degree to which the proposal is consistent with the Comprehensive Master Plan and the Planning, Licenses and Development Committee shall vote on a recommendation as to when the public

hearing should be held.

6. Following the public workshop, the Community Development Director, or their designee, shall submit the following materials to City City:
  - a. Any revisions to the draft ordinance recommended by the Joint Committee of Planning, Licenses and Development Committee and the Planning Board.
  - b. The staff report; and,
  - c. Minutes of the public workshop(s) held on the draft ordinance.

**D. Council Public Hearing**

1. Upon receipt of a recommendation to hold a public hearing from the Planning, Licenses and Development Committee, the City Council shall schedule a public hearing on the application and draft ordinance.
2. The City Clerk shall provide published notice and mailed notice in accordance with NH RSA 675:6 of the public hearing.

**E. Decision on Application**

1. After closing the public hearing, the City Council shall refer the application and draft ordinance back to the Planning, Licenses and Development Committee for its recommendation.
2. Further comment from the public on the application and draft ordinance will not be accepted at this meeting of the Planning, Licenses, and Development Committee.
3. Following receipt of a recommendation from the Planning, Licenses, and Development Committee, the City Council shall vote to approve or disapprove the application.

**25.3.6 Approval Standards:**

The City Planning Board shall make written findings of fact on, and the City Council shall consider, the following criteria when deciding on an application for a zoning text or map amendment:

- A. The proposed zoning amendment is consistent with the spirit and intent of this LDC and the Comprehensive Master Plan.
- B. The proposed zoning amendment is compatible with the existing form, pattern, use and zoning of nearby property, or it reflects a change in City goals and policy.



## 25.4 ZONING VARIANCE

### 25.4.1 Description

Zoning variances are intended to address unnecessary hardships or practical difficulties resulting from the strict application of the Zoning 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 Zoning Regulations of this LDC.

### 25.4.2 Initiation

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

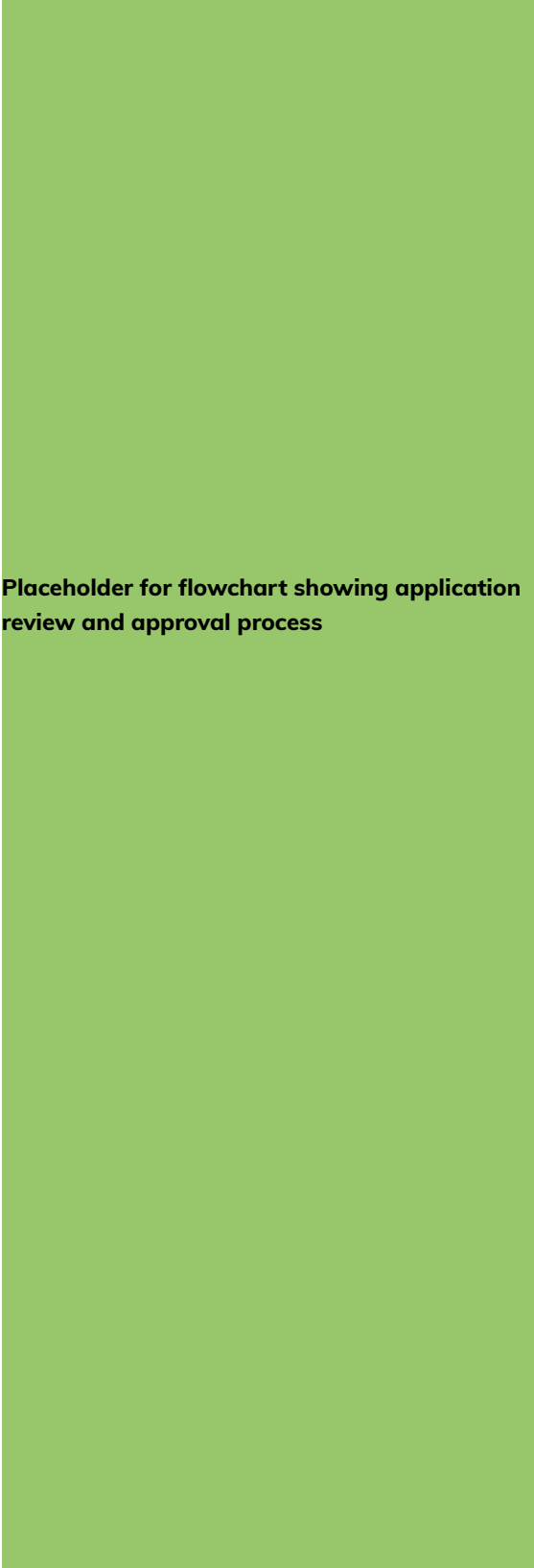
### 25.4.3 Authority

The Zoning Board of Adjustment has the authority to authorize variances from the provisions of the Zoning Regulations of this LDC, subject to the requirements of this Article, the Zoning Regulations, and NH RSA 674:33.

### 25.4.5 Submittal Requirements

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

- A.** A written narrative that describes 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.
- B.** A scaled plot plan clearly displaying the locations and dimensions of all structures and open spaces on the lot in question and on the adjacent lots.
- C.** A notarized list of abutters, which shall include all owners of property that directly abuts and/or is across the street or stream from the subject parcel and all owners of property located within 200-ft of the subject property. This notarized list shall include the name and



mailing address of the property owner, the property street address, and the tax map parcel number for each affected property.

- D.** 2 sets of mailing labels for each abutter, including the owner of the subject property and their authorized agent.
- E.** 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, which shall be Certified Mail.

#### 25.4.6 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 zoning 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 Zoning Regulations, where applicable.

#### 25.4.7 Approval Standards

The Zoning Board of Adjustment may authorize a variance from specific requirements of the Zoning 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 this chapter.

- 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 Zoning Regulations would result in unnecessary hardship.

#### 25.4.8 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.** Application for extensions shall be heard as a new application; any other time limitation shall be specifically prescribed by the Zoning Board of Adjustment.

## 25.5 ZONING SPECIAL EXCEPTION

### 25.5.1 Description

A special exception seeks permission to do something that the Zoning Regulations permit only under certain special circumstances. All special exceptions shall be made in harmony with the general purpose and intent of the Zoning Regulations of this LDC and shall be in accordance with the general or specific rules contained therein.

### 25.5.2 Initiation

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

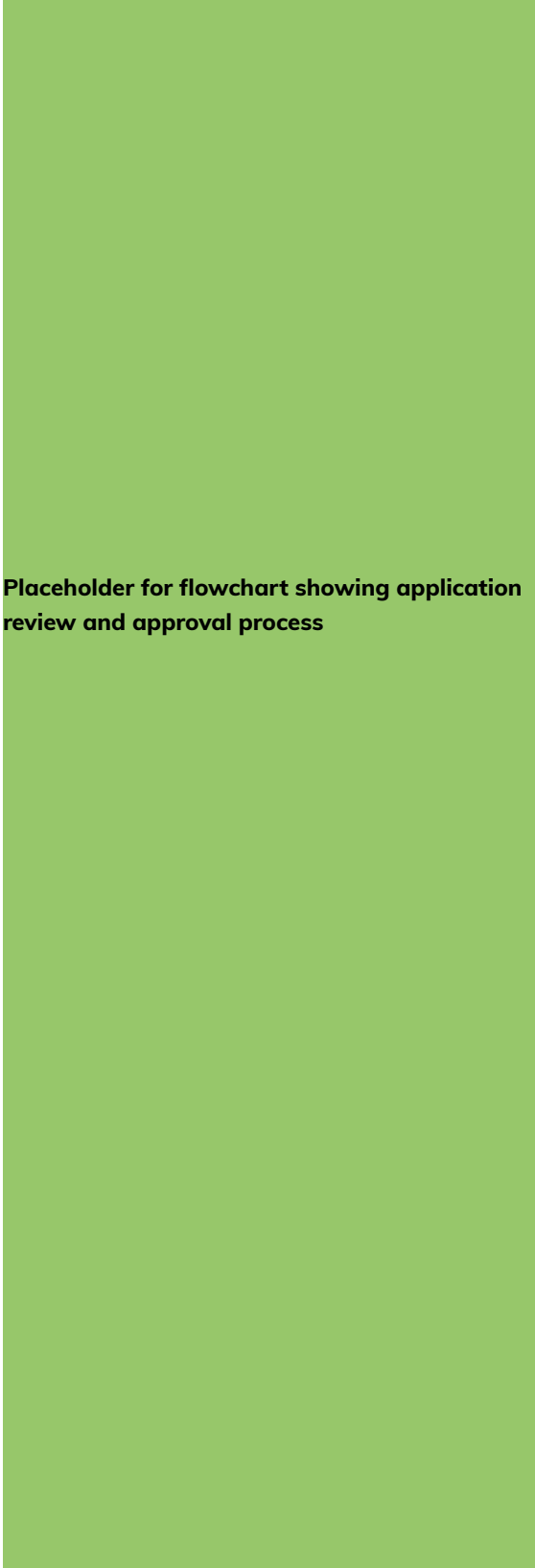
### 25.5.3 Authority

The Zoning Board of Adjustment shall have the authority to hear and decide special exceptions from the provisions of the Zoning Regulations of this LDC, subject to the requirements of this Section and NH RSA 674:33.

### 25.5.4 Submittal Requirements

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

- A.** A written narrative that describes the property location, owner of the subject property, and explains the purpose and effect of, and justification for, the proposed special exception, including a response to each of the special exception criteria.
- B.** A scaled plot plan clearly displaying the locations and dimensions of all structures and open spaces on the lot in question and on the adjacent lots.
- C.** A notarized list of abutters, which shall include all owners of property that directly abuts and/or is across the street or stream from the subject parcel and all owners of property located within 200-ft of the subject property. This notarized list shall include the name and



mailing address of the property owner, the property street address, and the tax map parcel number for each affected property.

- D.** 2 sets of mailing labels for each abutter, including the owner of the subject property and their authorized agent.
- E.** 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, which shall be Certified Mail.

#### 25.5.4 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 special exception.

- 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 special exception applications and shall make reference to the appropriate sections of the Zoning Regulations, where applicable.

#### 25.5.5 Approval Standards

The Zoning Board of Adjustment may approve a special exception application, only when the Board finds that all of the following conditions apply.

- A.** The proposed use is similar to one or more of the uses already authorized in that zoning district and is in an appropriate location for such a use.
- B.** Such approval would not reduce the value of any property within the district, nor otherwise

be injurious, obnoxious or offensive to the neighborhood.

- C.** There will be no nuisance or serious hazard to vehicles or pedestrians.
- D.** Adequate and appropriate facilities will be provided for the proper operation of the proposed use.

#### 25.5.6 Modifications to Approved Applications

If an applicant proposes to install an addition to or expand an existing use or structure for which a special exception has been granted, they shall apply to the Zoning Board of Adjustment for a new special exception if there is an addition or expansion of over 20% or over 500-sf, whichever is less, of the area of the existing structure.

#### 25.5.7 Expiration

A special exception granted by the Zoning Board of Adjustment shall be valid if exercised within 2-years from the date of final approval, or as further extended by the Zoning Board of Adjustment for good cause. Within this 2-year time period, the use must be started or construction begun on the structure.

## 25.6 EQUITABLE WAIVER OF ZONING DIMENSIONAL REQUIREMENTS

### 25.6.1 Description

In situations where a lot or structure is discovered to be in violation of a physical layout or dimensional requirement of the Zoning Ordinance, and such lot or structure is not legally nonconforming, a waiver from the requirement may be sought under certain conditions.

An equitable waiver shall only apply to waivers from physical layout, mathematical or dimensional requirements, and shall not apply to use restrictions.

An equitable waiver shall not be construed as a nonconforming use and shall not exempt future use, construction, reconstruction, or additions on the property from full compliance with the Zoning Regulations.

### 25.6.2 Initiation

The applicant for an equitable waiver of dimensional requirements shall either own the fee simple interest in the property(s) that are the subject of the review or have written permission of the fee simple owner.

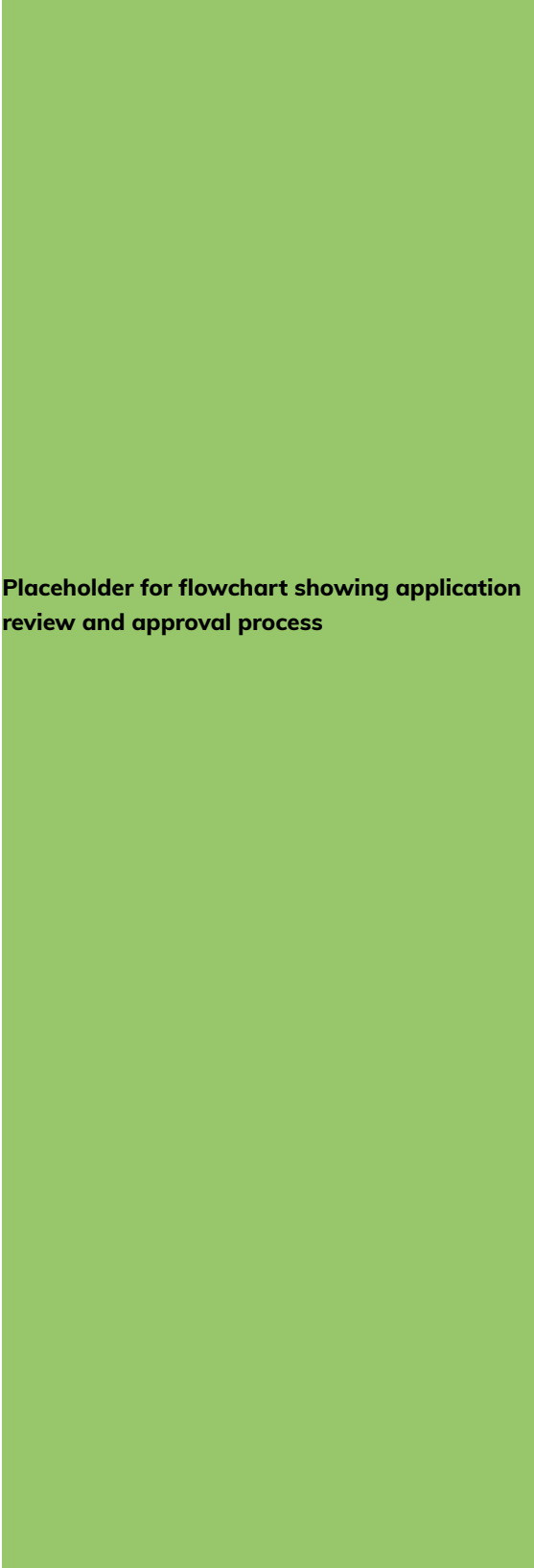
### 25.6.3 Authority

The Zoning Board of Adjustment shall have the power to hear and decide on equitable waivers of zoning dimensional requirements, subject to the requirements of this Section and NH RSA 674:33-a.

### 25.6.4 Submittal Requirements

An applicant for an equitable waiver of dimensional requirements shall submit a completed equitable waiver of dimensional requirements application to the Community Development Department, which shall include the following.

- A. A written narrative that describes the property location, owner of the subject property, and explains the purpose and effect of, and justification for, the proposed waiver, a response to each of the equitable waiver criteria.



- B.** A scaled plot plan clearly displaying the locations and dimensions of all structures and open spaces on the lot in question and on the adjacent lots.
- C.** A notarized list of abutters, which shall include all owners of property that directly abuts and/or is across the street or stream from the subject parcel and all owners of property located within 200-ft of the subject property. This notarized list shall include the name and mailing address of the property owner, the property street address, and the tax map parcel number for each affected property.
- D.** 2 sets of mailing labels for each abutter, including the owner of the subject property and their authorized agent.
- E.** 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, which shall be Certified Mail.

### 25.6.5 Procedure

In addition to the Common Application and Review Procedures of this Article and NH RSA 676:5 through 676:7, the following review and approval procedures shall apply to applications for an equitable waiver of dimensional requirements.

- 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 equitable waiver of dimensional requirements applications and shall make reference to the appropriate

sections of the Zoning Regulations, where applicable.

### 25.6.6 Approval Standards

The Zoning Board of Adjustment shall grant an application for an equitable waiver from the requirement, if it makes all of the following findings, pursuant to NH RSA 674:33-a.

- A.** The violation was not noticed or discovered by any owner, former owner, owner's agent or representative, or municipal official, until after a structure in violation had been substantially completed, or until after a lot or other division of land in violation had been subdivided by conveyance to a bona fide purchaser for value.
- B.** The violation was not an outcome of ignorance of the law or ordinance, failure to inquire, obfuscation, misrepresentation, or bad faith on the part of any owner, owner's agent or representative, but was instead caused by either a good faith error in measurement or calculation made by an owner or owner's agent, or by an error in ordinance interpretation or applicability made by a municipal official in the process of issuing a permit over which that official had authority.
- C.** The physical or dimensional violation does not constitute a public or private nuisance, nor diminish the value of other property in the area, nor interfere with or adversely affect any present or permissible future uses of any such property.
- D.** Due to the degree of past construction or investment made in ignorance of the facts constituting the violation, the cost of correction so far outweighs any public benefit to be gained that it would be inequitable to require the violation to be corrected.
- E.** In lieu of the first two findings in this list, the owner may demonstrate that the violation has existed for 10 or more year, and that no enforcement action, including written notice of violation, has been commenced against the violation during that time by the City or any person directly affected.

## 25.7 ZONING ADMINISTRATOR WRITTEN INTERPRETATION

### 25.7.1 Description

The provisions of the Zoning Regulations of this LDC cannot, as a practical matter, address every specific zoning issue. As such, the Zoning Administrator has the authority to make interpretations of the Zoning Regulations, so long as their interpretation does not add to or change the essential content of these regulations.

### 25.7.2 Initiation

Anyone may submit an application for a written zoning interpretation, provided the request is for the purpose of furthering actual development.

### 25.7.3 Authority

The Zoning Administrator shall have the authority to make interpretations concerning the provisions of the Zoning Regulations of this LDC.

### 25.7.4 Submittal Requirements

A person or entity seeking a written interpretation of the Zoning Regulations shall submit a completed written zoning interpretation form to the Community Development Department. A completed form shall include the following.

- A.** A written narrative that describes the property location and owner of the subject property if the question of interpretation relates to a specific tract of land.
- B.** The section of the Zoning Regulations from which a written interpretation is requested.
- C.** An explanation of the zoning question or issue for which the applicant is seeking an interpretation.
- D.** Application fee as set forth in the LDC Schedule of Fees in Appendix B of the City Code of Ordinances.

**Placeholder for flowchart showing application review and approval process**

### 25.7.5 Procedure

- A. Within 20-business days following the submission of a completed application, the Zoning Administrator shall render a written opinion or interpretation in response.
- B. The Zoning Administrator shall share the written interpretation to the applicant and the property owner (if the property owner is not the applicant and if the question of interpretation relates to a specific tract of land).
- C. The Community Development Department shall maintain an official record of all written interpretations.

### 25.7.6 Expiration

If amendments are made to the Zoning Regulations in accordance with this LDC and state law, which might alter or affect a written interpretation issued by the Zoning Administrator prior to such amendments, the written interpretation shall no longer be valid.



## 25.8 SUBDIVISION REVIEW

### 25.8.1 Description

Subdivision review allows for the orderly division or consolidation of lots, as well as the alteration or adjustment of lot boundary lines.

### 25.8.2 Initiation

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

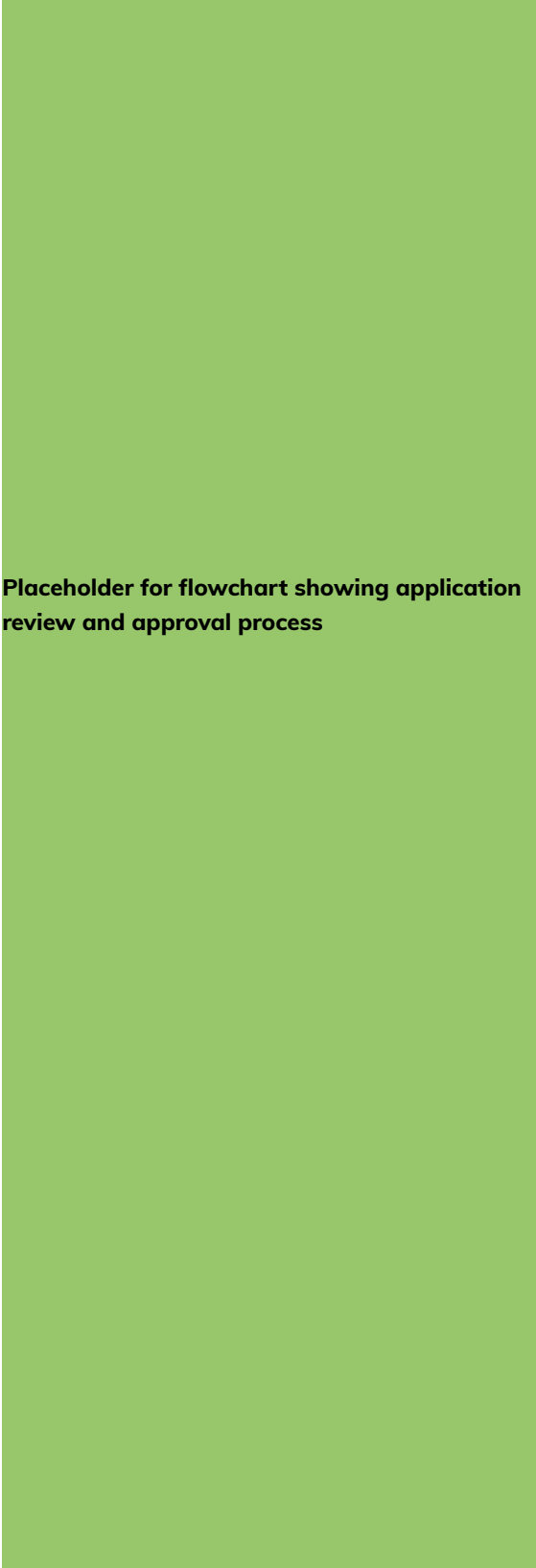
### 25.8.3 Authority

- A. The Planning Board shall have the authority to hear and decide on applications for subdivision review including boundary line adjustments and conservation residential developments.
- B. For Voluntary Merger applications, the Planning Board designates the Zoning Administrator as their designee to review and decide on such applications, and in their absence, the Community Development Director.

### 25.8.4 Applicability

Subdivision review shall be required for the following types of subdivisions.

- A. **Subdivisions.** Any division of a lot, tract or parcel of land into 2 or more lots, plats, sites, or other divisions of land for the purpose, whether immediate or future, of sale, rent, lease or building development.
- B. **Conservation Residential Developments.** Applications for subdivision review consisting of 3 or more proposed lots and the layout and construction of a new road, where the existing parcel to be subdivided is located in either the Rural, Low Density, or Low Density-1 zoning districts, and meets the minimum lot size requirements specified in **Article 20**.
- C. **Boundary Line Adjustments.** The adjustment of boundary lines between 1 or more contiguous, preexisting approved or subdivided lots.



- D. Voluntary Mergers.** The merger of 2 or more contiguous pre-existing approved or subdivided lots owned by the same property owner.

#### 25.8.4 Submittal Requirements

An applicant for subdivision review shall submit a completed application on the appropriate form to the Community Development Department, and shall provide sufficient information to enable City staff and the Planning Board to evaluate the proposal for compliance with this LDC. Submittal requirements for the different types of subdivision review are included below.

##### A. Voluntary Merger Applications

A completed voluntary merger application shall include the following.

1. A completed and notarized voluntary merger form.
2. A map, drawn to scale, displaying the layout and boundaries of the lots proposed to be merged.
3. Application fee as set forth in the LDC Schedule of Fees in Appendix B of the City Code of Ordinances.

##### B. Subdivision & Boundary Line Adjustment Applications

A completed application for subdivisions and boundary line adjustments shall include the following.

1. A written narrative describing the type, scope and scale of the proposal including the following information.
  - a. The sizes of the existing and proposed lot
  - b. Existing and proposed uses
  - c. The location of access points for the existing and proposed lots
  - d. An explanation of how the proposal complies with the applicable standards in this LDC
2. A complete plan set prepared and certified

by a NH licensed surveyor (7-copies on 22-in by 34-in paper; 1-copy on 11-in by 17-in sized paper; and, an electronic pdf file), which shall include the following materials.

- a. A location map of the proposed subdivision or boundary line adjustment.
- b. An existing conditions plan (at a scale of 1-in = 100-ft or a larger scale) showing all parcels affected by the proposal, and depicting the following information.
  - i. Contours of at least 5-ft intervals
  - ii. Owner names and tax map parcel numbers for all abutters.
  - iii. Boundaries and acreage of the existing lot(s) subject to review.
  - iv. Surface waters, including wetland areas delineated by a NH certified wetland scientist, and any manmade waterways, ponds, ditches, etc.
  - v. Precautionary and prohibitive slopes.
  - vi. Delineation of 100-year floodplain and floodways as shown on current FIRM maps.
  - vii. Location of any public streets, rights-of-way, and easements.
  - viii. Location of existing structures, wooded and vegetated areas, site features (e.g. fences, walls, ground-mounted equipment, utilities, stormwater facilities, wells, septic systems, stone walls, etc.), driveways, and parking areas on the subject property, and to the extent practicable on directly abutting properties.
- c. A proposed conditions plan (at a scale of 1-in = 100-ft or a larger scale) showing all parcels affected by the proposal, and depicting the following information.

- i. Owner names and tax map parcel numbers for all direct abutters.
  - ii. Boundaries and acreage of the proposed lots subject to review.
  - iii. Location of any existing structures or site features, driveways, parking areas, public streets, rights-of-way, easements, surface waters (including wetland areas delineated by a NH certified wetland scientist), precautionary and prohibitive slopes, 100-year floodplain and floodways delineation, and wooded and vegetated areas that are displayed on the existing conditions plan, and are proposed to remain.
  - iv. The location of proposed structures and site features, lot lines, public streets, rights-of-way, easements, driveways and parking areas.
3. Any additional information the Planning Board, or its designee, may reasonably deem necessary to determine compliance with the applicable regulations of this LDC.
  4. Any technical reports prepared by a NH licensed engineer or qualified professional, which may be required or reasonably requested by the Planning Board, or its designee, based on the nature and scope of the proposal. Such reports may include, but are not limited to drainage, traffic, and/or soils analyses.
  5. A notarized list of abutters, which shall include all owners of property that directly abuts and/or is across the street or stream from the subject parcel and all owners of property located within 200-ft of the subject property. This notarized list shall include the name and mailing address of the property owner, the property street address, and the tax map parcel number for each affected property.
  6. 2 sets of mailing labels for each abutter, including the owner of the subject property

and their authorized agent.

7. 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, which shall be Certified Mail.

### C. Conservation Residential Development Applications

In addition to the submittal requirements for a subdivision or boundary line adjustment in **Section 25.8.4.B**, a completed application for a proposed conservation residential development shall include the following.

1. An overview plan (1-copy on 22-in by 34-in paper; 1-copy on 11-in by 17-in sized 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 **Article 20**.
3. A yield analysis (1-copy on 22-in by 34-in paper; 1-copy on 11-in by 17-in sized paper; and, an electronic pdf file) to determine the number of residential units that may be permitted within a conservation residential development. 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. 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. A landscaping plan (1-copy on 22-in by 34-in paper; 1-copy on 11-in by 17-in sized paper; and, an electronic pdf file) providing the following information:
  - a. The location and outline 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. Written documentation of the process applied by the applicant in the layout of the proposed conservation residential development to ensure that proposed or future development does not adversely impact primary and secondary conservation areas as defined in **Article 20**.

### 25.8.5 Submittal Requirement Exemptions

- A. An applicant may make a request to the Community Development Director, or their designee, to exempt their application from specific submittal requirements.
- B. Any exemption granted by the Community Development Director, or their designee, shall be evaluated and approved by the Planning Board during its review of application completeness. If the Board determines the exempted material is necessary to complete its review of the application, they may deny the exemption request and determine the application to be incomplete.
- C. If a requested exemption is not granted by the Community Development Director, or their designee, the applicant may appeal the decision to the Planning Board prior to the Board's determination of application completeness.

### 25.8.6 Application Submittal Deadline

A completed application shall be submitted to the Community Development Director, or their designee, no later than 26-calendar days prior to the Planning Board meeting date at which the applicant desires the application to be reviewed.

### 25.8.7 Procedure

In addition to the Common Application and Review Procedures of this Article, the following review and approval procedures shall apply to applications for subdivision review.

#### A. Voluntary Merger Procedure

1. Except where such merger would create a violation of then-current ordinances or regulations, all voluntary merger applications shall be approved administratively, and no public hearing shall be required.
2. No new survey plat need be recorded, but a notice of the merger, sufficient to identify the relevant parcels and endorsed in writing by the Planning Board, or its

designee, shall be filed for recording in the Registry of Deeds, and a copy sent to the City of Keene Assessing Department.

3. No such merged parcel shall thereafter be separately transferred without subdivision approval.

#### **B. Boundary Line Adjustment Procedure**

1. All boundary line adjustment applications shall be reviewed by the Planning Board without a public hearing. However, mailed notice to abutters is required.
2. An updated survey showing the boundary line adjustment, and all metes and bounds of the revised parcels shall be prepared by the applicant following approval from the Planning Board, and shall be filed with the Community Development Department for recording in the Registry of Deeds.

#### **C. Subdivision & Conservation Residential Development Procedure**

1. **Presubmission Meeting.** Applicants for subdivision review that propose the creation of 3 or more lots shall attend a pre-submission meeting at least 2-weeks prior to the Planning Board submittal deadline.
2. **Staff Determination of Application Completeness.** Within 2-business days following the application submittal deadline, the Community Development Director, or their designee, shall complete an initial review of the application to evaluate whether the submittal requirements have been met.
  - a. If the missing application materials or information are necessary for proper documentation, but are not central to the initial departmental review, the applicant will be permitted to provide the required materials or information by the revision deadline of 14-calendar days prior to the corresponding regularly scheduled Planning Board meeting date.
3. **Departmental Review.** Once the

Community Development Director, or their designee, has made an initial determination that an application is complete, copies of the application and associated materials shall be sent to the City's Engineering Division, Fire Department, Police Department, and Building and Health Official for technical review.

- a. City staff will be requested to return comments on the application to the Community Development Department within 5-business days of the distribution date.
- b. The Community Development Director, or their designee, shall communicate departmental comments to the applicant, as soon as they are all received.

4. **Revision Deadline.** Any plan revisions or additional information requested of the applicant by City staff following departmental review of the application shall be delivered to the Community Development Department no later than the revision deadline of 14-calendar days prior to the corresponding regularly scheduled Planning Board meeting date. The revision deadline shall not be waivable.
5. **Site Visits.** At the discretion of the Community Development Director or Planning Board Chair, a formal Planning Board site visit to the subject property may be scheduled prior to the Planning Board public hearing on the application.
6. **Compliance with Zoning.** Applications requiring approval from the Zoning Board of Adjustment shall not be noticed for public hearing until such approvals have been obtained.
7. **Notice of Public Hearing.** The Community Development Director, or their designee, shall forward applications for subdivision review to the Planning Board for a public hearing, and shall provide published and mailed notice of this public hearing

pursuant to NH RSA 675:7(I).

**8. Board Determination of Application**

**Completeness.** The Planning Board shall vote to determine whether the application is complete prior to opening the public hearing.

- a. The Planning Board shall consider advice from the Community Development Director, or their designee, in reaching a determination of application completeness.
- b. If the Planning Board determines that an application is incomplete, the Board will either issue a written decision of incompleteness or, with the applicant's consent, table the application until the next regular meeting of the Board.

**9. Public Hearing.** Upon reaching a finding that an application is complete, the Planning Board may open the public hearing for the application.

**10. Decision.** The Planning Board shall finish its review of an application within 65-days of the meeting at which the Board accepted the application as being complete. If the Board feels that more time is needed, or if the applicant requests additional time, the timeframe provided for review under NH RSA 676:4 can be extended by mutual agreement of the Board and the applicant, so long as the applicant requests the extension in writing.

### 25.8.8 Filing

- A. Building permits shall not be issued until approved subdivision plans have been signed by the Planning Board Chair or Vice Chair. Said signature shall signify that the plan has been duly approved by the Board and that all conditions precedent to plan signature have been met as specified in the approval.
- B. Prior to Planning Board Chair or Vice Chair signature of a plan approved by the Board, the applicant shall:
  - 1. Demonstrate to the satisfaction of the

Community Development Director, or their designee, that all conditions of approval have been met as specified by the Board; and,

- 2. Provide complete copies of the approved plan set in a number and form as specified by the Community Development Department, including 2-copies of the approved subdivision plan, printed on mylar in a format pursuant to NH RSA 478:1-a and displaying the owners signature(s).
- C. For approved conservation residential development 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. Such documents are subject to the review and approval of the City Attorney prior to signature.
- D. Unless otherwise specified in this Section, the Community Development Department shall record the approved subdivision plan with the Registry of Deeds.

### 25.8.9 Approval Standards

Subdivision review by the Planning Board, or its designee, shall include an analysis of land characteristics and access potential to determine if each proposed new lot or each lot affected is of such character that it can be accessed and used for building in a manner that avoids or mitigates the potential for adverse impacts to health, safety, and welfare of the community and the environment. The criteria for Board determination are established in **Article 20** Subdivision Regulations and **Article 21** Site Development Standards.

### 25.8.10 Expirations

- A. Any failure to meet the deadlines in this section shall result in automatic expiration of Planning Board approval. This section shall not be waivable.
- B. **Conditional Approvals.** If an application is conditionally approved, the applicant has 180 days (starting the day following the Board's

decision) to meet any conditions that shall be met prior to signature of the Planning Board Chair on the plan.

1. All conditions that must be met after the plan is signed shall be satisfied within 2-years (starting the day following the Board's decision).
  2. The applicant may request a reasonable extension of the time limit for satisfying the conditions prior to the Planning Board granting a conditional approval.
- C. Active & Substantial Development.** Active and substantial development of an approved project shall be completed within 2-years, starting the day following the Board's decision to approve or conditionally approve the application. Plans approved in phases shall be subject to a determination of active and substantial development for the current phase. For purposes of this Section, active and substantial development shall include all of the following.
1. Construction of and/or installation of basic infrastructure to support the development in accordance with the approved plan including at least 1 building foundation wall/footing, roadways, access ways, etc., to a minimum of gravel base and utilities placed in underground conduit ready for connection to proposed buildings/structures.
  2. Construction and completion of drainage improvements to service the development in accordance with the approved plans.
  3. All erosion control measures (as specified on the approved plans) must be in place and maintained on the site.
  4. Movement of earth, excavation, or logging of a site without completion of items 1-3 above, shall not be considered active and substantial development.

### 25.8.11 Extensions

- A.** Prior to the expiration of an approval, an applicant may request an extension of the timeframe for meeting conditions or achieving active and substantial development from the Planning Board.
1. No modifications to the approved or conditionally approved plan shall be considered in conjunction with the request to extend the deadline.
  2. Extension requests shall be submitted in writing to the Community Development Director, or their designee, at least 10-business days prior to the Planning Board Meeting at which the request will be considered.
- B.** The maximum time length for each approved extension is 6-months for meeting conditions of approval and 1-year for achieving active and substantial development. An extension of the conditional approval deadline by 6-months will automatically extend the deadline for active and substantial development by 1-year.
- C.** Under no circumstances shall an applicant be granted more than 3-extensions total for their application.
1. **First Extension.** The Planning Board shall grant a first extension of the approval, if the applicant demonstrates the necessity of the extension and provides an update to the Board about the nature of the project and its status.
  2. **Second Extension.** Prior to expiration of the first extension, the Planning Board may grant the application a second extension, if said applicant demonstrates the necessity of the second extension and summarizes what changes, if any, have since occurred to applicable state law or City regulations.
    - a. The Planning Board shall consider whether any changes identified by the applicant would have influenced the Board's initial decision with respect to the project. If the Planning Board

finds that substantive changes to applicable state law or City regulations have been adopted that would have resulted in either modification of the project, the imposition of additional or different conditions in the approval, or disapproval of the project, then the extension request shall not be granted.

3. **Third Extension.** Prior to expiration of the second extension period, an applicant may request a third extension.
  - a. Such extension shall only be granted by the Planning Board where an applicant can demonstrate that there are extraordinary circumstances that warrant a third extension of the deadline. Extraordinary circumstances may include, but not be limited to, litigation that is entered into after the conditional approval is granted and which prevents the applicant from completing conditions required for signature or from completing active and substantial development.
  - b. If the extension request is denied by the Planning Board, prior to expiration of the approval, the applicant may submit an application for modification of the conditional approval to address concerns leading to the Board's denial of the extension.

#### 25.8.12 Security

- A. The Planning Board shall have the authority to require applicants post a security deposit for the following.
  1. Public improvements, including but not limited to roads, sidewalks, parks, and utilities, and for performance of site improvements as specified by the Board at the time of approval.
  2. All landscaping installed on a site to ensure its survival for 1 full growing season after installation (a minimum of 1-year)
  3. Erosion and sedimentation control to assure that erosion control provisions are

working, and required technical inspections take place.

4. "As Builts" certified by a NH licensed surveyor or engineer that include the exact location, size, and materials of sewer, water, gas, drainage and any underground utilities (e.g. phone, electric, cable) as well as catch basins, hydrants, compensatory wetlands or flood storage areas, sidewalks, drainage basins, edge of pavement, edge of buildings, and other improvements as may be indicated by the Board at the time of approval.
    - a. After a project is completed and prior to release of any security, applicants shall provide 2-complete plan sets on 22-in by 34-in showing the "As Built" condition, as well as an electronic copy of the complete "As Built" plan set in a .dwg or .dxf format.
  5. Other elements of the project to ensure that they function concurrent with and subsequent to construction.
- B. The security shall be in a form acceptable to the Community Development Director, or their designee, and shall be either certified checks made out to the City of Keene or a letter of credit.
    1. Performance Bonds shall not be an acceptable form of security.
    2. The Planning Board may require a written security agreement that specifies when various improvements will be completed. Such agreement may be required to link the completion of phases of improvement with the issuance of building permits or certificates of occupancy.

#### 25.8.13 Waivers

- A. Unless otherwise set forth in this LDC, the Planning Board may grant a waiver from strict compliance with provisions of the Subdivision Regulations or Site Development Standards on a case-by-case basis, so long as the Board finds, by majority vote, that:



1. Specific circumstances relative to the subdivision, or conditions of the land in such subdivision, indicate that the waiver will properly carry out the spirit and intent of the regulations; and,
  2. Granting the waiver will not increase the potential for creating adverse impacts to abutters, the community or the environment; and,
  3. Consideration will also be given as to whether strict conformity with the regulations would pose an unnecessary hardship to the applicant.
- B. The Planning Board may grant a waiver from the requirement that a subdivision be a Conservation Residential Development, upon reaching a finding that:
  1. That conservation values on a property would be better protected by a conventional subdivision design.
  2. That a Conservation Residential Development would significantly detract from the character of the surrounding neighborhood.
  3. That a conventional subdivision design provides the only reasonable alternative to developing the parcel to be subdivided given the parcel configuration and site constraints.
- C. In granting a waiver, the Planning Board may require any mitigation that is reasonable and necessary to ensure that the spirit and intent of the standard being waived will be preserved, and to ensure that no increase in adverse impacts associated with granting the waiver will occur.
- D. Any waiver request shall be in writing and shall cite the specific regulation or standard a waiver is requested from and the reason(s) it cannot be met.
- E. Waiver requests shall be submitted following the same process and timeframe as is required for formal applications to the Planning Board.

## 25.9 PLANNING BOARD ADVICE & COMMENT

### 25.9.1 Description

Advice and comment is an opportunity for prospective applicants to seek preliminary advice from the Planning Board on project proposals in regards to their consistency with City policies, goals, standards and regulations. The primary purposes of this non-binding discussion are to:

- A. Inform the Planning Board about the concept for the proposed development and familiarize the Board with the location and general character of the land and its surroundings;
- B. Discuss the proposed project in light of the City's Master Plan, goals and policies; and
- C. For the Board to provide the prospective applicant with guidance about the application and procedural requirements set forth in this LDC.

### 25.9.2 Submittal Requirements

- A. Information for the Planning Board to consider shall be submitted by the applicant to the Community Development Department no later than 10-business days prior to the regularly scheduled Planning Board meeting date at which the applicants desires to be on the agenda.
- B. Proposed plans or information may be submitted to the Planning Board for consideration, but specific design and engineering details will not be discussed.
- C. Applicants submitting subdivision layouts for Planning Board consideration should submit 3-copies on 22-in by 34-in sized paper and 1-copy on 11-in by 17-in sized paper.

### 25.9.3 Procedure

- A. Advice and comment is a preliminary and informal review and shall not require published or mailed notice or a public hearing.
- B. City staff are not required to conduct an analysis of the information submitted by the applicant.
- C. Anything said on the proposal by the applicant, Planning Board or City staff will not affect any subsequent review of the proposed development or redevelopment.

**25.10 SITE PLAN REVIEW**

**25.10.1 Description**

Site plan review establishes a process for reviewing proposed improvements to commercial and multi-family structures to assure that such development, redevelopment, or use of land in the City occurs in a manner that is harmonious with surrounding properties, is consistent with the Comprehensive Master Plan and adopted land use policies.

**25.10.2 Initiation**

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

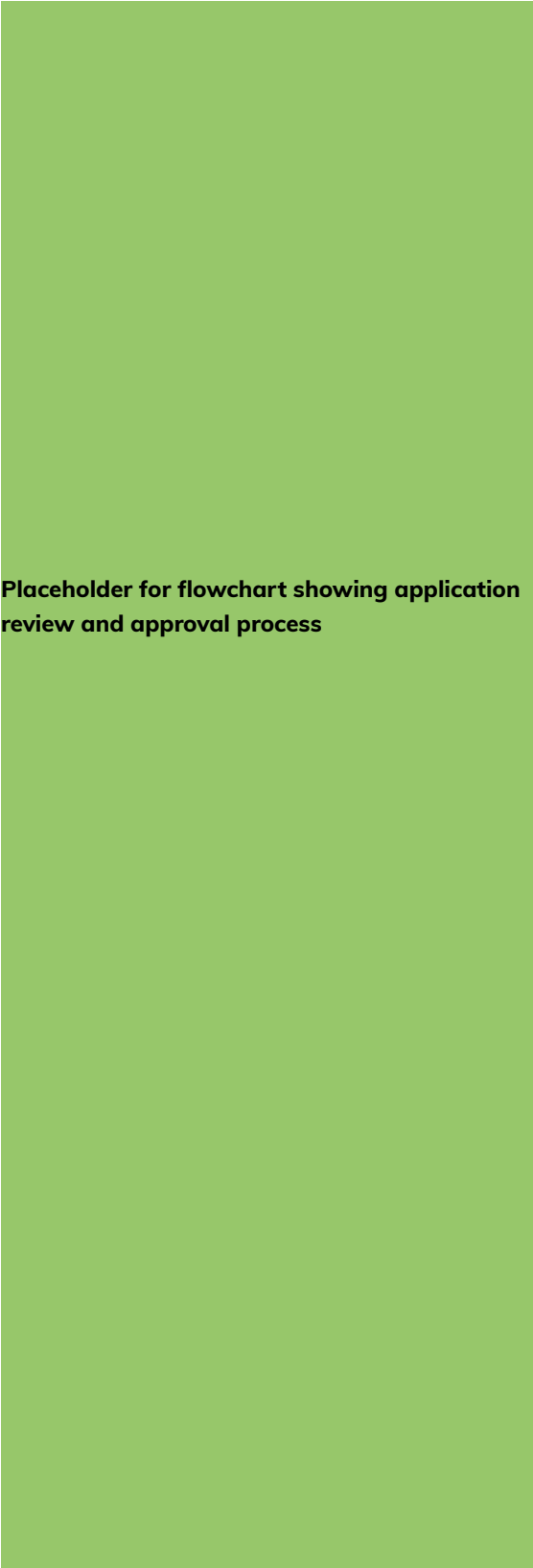
**25.10.3 Applicability**

Site plan review is required for the following types of improvements described below, prior to a building permit being issued. It shall not be required for single-family and two-family dwellings or their associated accessory uses, provided such dwellings are not attached to a mixed-use building or located on a mixed-use lot containing non-residential uses.

**A. Major Site Plan**

Major site plan review is required for any proposal that meets or exceeds the below thresholds.

- 1. New principal buildings or structures greater than 10,000 sf in gfa.
- 2. Additions to existing buildings or structures that are greater than 25% of the gfa of the existing principal building.
- 3. Change or increase of vehicle trips per day of 100, or per peak hour of 50.
- 4. Installation of pavement or gravel surfaces that exceeds 10,000 sf in contiguous area.
- 5. Land disturbance that impacts 1-acre or greater of land area.
- 6. Modifications to the site or building (e.g. lighting, landscaping, façade alteration, etc.), which, at the discretion of the Community Development Director, or their designee, and the Planning Board Chair



warrants major site plan review.

**B. Minor Site Plan**

Minor site plan review is required for any proposal that meets the below thresholds.

1. New principal buildings or structures that are between 1,000 and 10,000 sf in gfa.
2. Additions to existing buildings or structures that are between 10% to 25% of the gfa of the existing principal building.
3. Change or increase of vehicle trips per day of 100, or per peak hour of 50.
4. Installation of pavement or gravel surfaces that are 10,000 sf or less in contiguous area, which, at the discretion of the Community Development Director, or their designee, and based on the nature of the proposal, warrants minor site plan review.
5. Land disturbance that impacts less than 1-acre of land area, which, at the discretion of the Community Development Director, or their designee, and based on the nature of the proposal, warrants minor site plan review.
6. Modifications to the site or building (e.g. lighting, landscaping, façade alteration, etc.), which, at the discretion of the Community Development Director, or their designee, and the Planning Board Chair warrants minor site plan review.

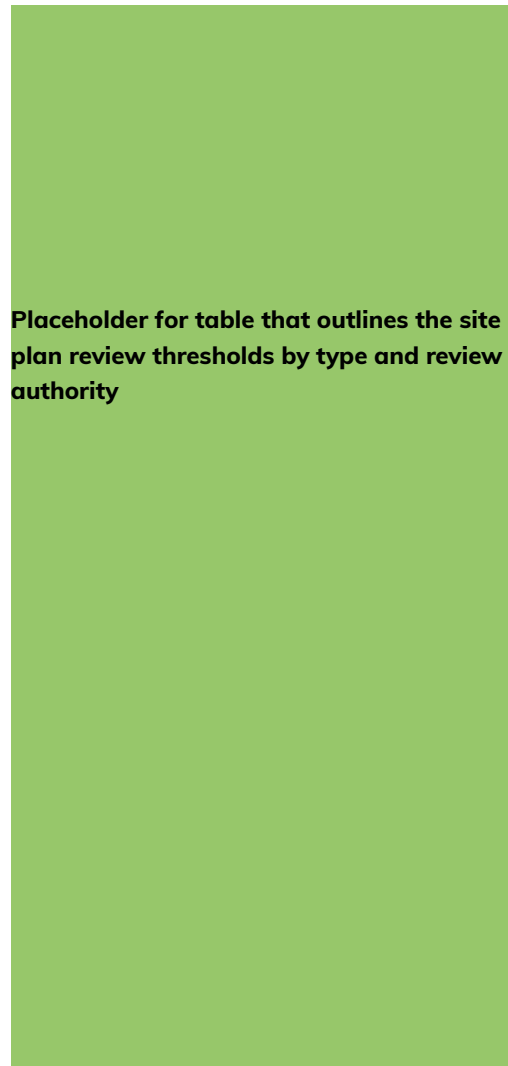
**C. Administrative Review**

Administrative review is required for any proposal that meets the below thresholds.

1. New principal buildings or structures that are less than 1,000 sf in gfa.
2. Additions to existing buildings or structures that are under 10% of the gfa of the existing principal building.
3. Installation of pavement or gravel surfaces that are 10,000 sf or less in contiguous area, which, at the discretion of the Community Development Director, or their designee, and based on the nature of the proposal, warrants administrative review.

4. Land disturbance that impacts less than 1-acre of land area, which, at the discretion of the Community Development Director, or their designee, and based on the nature of the proposal, warrants administrative review.
5. Change of use proposals, unless the change is associated with 1 or more major or minor review thresholds.

- D.** Unless otherwise noted in this Section, the Community Development Director, or their designee, has the authority to determine, on a case-by-case basis, based on the nature of the proposal, whether the proposed work requires review by the Planning Board, Technical Review Committee, or City staff, or whether any review is necessary.



#### 25.10.4 Authority

- A. The Planning Board shall have the authority to hear and decide on applications for major site plans.
- B. The Technical Review Committee shall have the authority to hear and decide on applications for minor site plans.
- C. The Community Development Director, or their designee, shall have the authority to hear and decide on applications requiring administrative review.

#### 25.10.4 Submittal Requirements

An applicant for site plan review shall submit a completed application on the appropriate form to the Community Development Department, and shall provide sufficient information to enable City staff and the Planning Board to evaluate the proposal for compliance with this LDC. Submittal requirements for the different types of site plan review are included below.

##### A. Administrative Review Applications

A completed application for administrative review shall include the following information.

- 1. A written narrative describing the type, scope and scale of the proposal including the following information.
  - a. Existing and proposed uses
  - b. An explanation of how the proposal complies with the Site Development Standards in **Article 21**.
- 2. A scaled plot plan or drawing clearly displaying the locations and dimensions of all structures and open spaces on the lot subject to review.
- 3. Manufacturer specifications (i.e. cut-sheets) for any proposed building materials, exterior lighting fixtures, windows and doors, mechanical equipment or other site elements (e.g. benches, railings). The applicant shall specify the proposed type, color and finish, if missing from the manufacturer specifications.

- 4. Photographs, renderings, and/or line sketches to visually demonstrate the scale, massing, and visual appearance of proposed improvements.
- 5. Other information as deemed necessary by the Community Development Director, or their designee, to complete the review of the application.
- 6. Application fee as set forth in the LDC Schedule of Fees in Appendix B of the City Code of Ordinances.

Submittal of items listed above may not be required depending on the nature and scope of the projects and may be omitted from an application for administrative review with the approval of the Community Development Director, or their designee.

##### B. Major and Minor Site Plan Applications

A completed application for major and minor site plan review shall include the following information.

- 1. A written narrative describing the type, scope and scale of the proposal including the following information.
  - a. Existing and proposed uses
  - b. An explanation of how the proposal complies with the Site Development Standards in **Article 21**.
- 2. A complete plan set certified by a NH licensed engineer or architect (7-copies on 22-in by 34-in paper; 1-copy on 11-in by 17-in sized paper; and, an electronic pdf file), which shall include the following materials.
  - a. A location map of the proposed improvements.
  - b. An existing conditions plan (at a scale of 1-in = 100-ft or a larger scale) showing all parcels affected by the proposal, and depicting the following information.
    - i. Contours of at least 5-ft intervals.
    - ii. Owner names and tax map parcel

- numbers for all direct abutters.
  - iii.** Boundaries and acreage of the existing lot(s) subject to review.
  - iv.** Surface waters, including wetland areas delineated by a NH certified wetland scientist, and any manmade waterways, ponds, ditches, etc.
  - v.** Precautionary and prohibitive slopes.
  - vi.** Delineation of 100-year floodplain and floodways as shown on current FIRM maps.
  - vii.** Location of any public streets, rights-of-way, and easements.
  - viii.** Location of existing structures, wooded and vegetated areas, site features (e.g. fences, walls, ground-mounted equipment, utilities, stormwater facilities, wells, septic systems, stone walls, etc.), driveways, and parking areas on the subject property, and to the extent practicable on directly abutting properties.
- c.** A proposed conditions plan (at a scale of 1-in = 100-ft or at a larger scale) showing all parcels affected by the proposal, and depicting the following information.
- i.** Contours of at least 5-ft intervals.
  - ii.** Owner names and tax map parcel numbers for all direct abutters.
  - iii.** Boundaries and acreage of the lot(s) subject to review.
  - iv.** Location of any existing structures or site features, public streets, rights-of-way, easements, driveways, parking areas, surface waters (including wetland areas delineated by a NH certified wetland scientist), precautionary and prohibitive slopes, 100-year floodplain and floodways delineation, and wooded and vegetated areas that are displayed on the existing conditions plan, which will not be altered or relocated.
- v.** Location of proposed structures and site features, public streets, rights-of-way, and easements.
- vi.** Locations and design details for proposed provisions for vehicular and pedestrian traffic (e.g. parking areas, access driveways, and sidewalks, etc.).
- d.** A grading plan (drawn at a scale of 1-in = 50-ft or at a larger scale) showing proposed erosion and sedimentation control and stormwater management facilities that will be constructed or utilized to control stormwater volume, velocity and water quality. This plan shall include the following.
- i.** Contours of at least 2-ft.
  - ii.** All finish slopes that will exceed 25%.
  - iii.** Surface waters (including wetland areas delineated by a NH certified wetland scientist), precautionary and prohibitive slopes, 100-year floodplain and floodways delineation, and wooded and vegetated areas.
  - iv.** Location of existing and proposed structures, roads, rights-of-way, driveways, impervious surfaces, and easements (including utility or drainage).
  - v.** The location and dimensional information, as appropriate, of existing and proposed utilities (e.g. water lines, sewer lines, storm drain lines and catch basins, gas lines, gas storage tanks, fire hydrants, irrigation lines, grease traps, pump stations, ground

water monitoring wells, ground water source wells, septic systems, electric lines, transformers, etc.).

- vi.** Location and design details for all proposed erosion and sedimentation control, and stormwater management structures, devices, and processes (e.g. catch basins and storm water lines, stormwater detention or retention ponds or devices, sediment settlement area, silt fences and other erosion control devices, flow dissipation measures, soil stabilization measures, etc.) and any other measures proposed to minimize erosion and sedimentation, and promote soil stabilization.
  - vii.** A note describing the procedures and timing for inspecting, maintaining, and repairing erosion and sedimentation control, and stormwater management structures, devices and processes.
  - viii.** A note indicating the requirement for documenting all inspection and maintenance activities, all adverse impacts identified during inspections, and actions taken to remediate the adverse impacts.
- e.** A landscaping plan (drawn at a scale of 1-in = 50-ft or at a larger scale) providing the following information:
- i.** The location, species and size of all landscaping materials proposed to be installed on the site.
  - ii.** Plants shall be drawn to scale and shall show the drip line diameter of each plant at the time of planting and a second circle displaying the average drip line diameter at maturity.
  - iii.** A table listing all plant species to be installed on the site, indicating the size (average height and width) at planting and maturity as well as the number of each species to be installed.
- iv.** A table indicating the number of trees and shrubs required and proposed to meeting landscaping or screening requirements of this LDC.
  - v.** Design details following best management practices for installing landscaping materials.
- a.** A lighting plan providing the following information:
- i.** The location of existing and proposed structures, roads, rights-of-way, driveways, easements, lot lines, walkways, and sidewalks on the subject property and, to the extent practicable, on abutting properties.
  - ii.** Location and outline of wooded and vegetated areas.
  - iii.** Location of all existing and proposed exterior lighting fixtures with a notation differentiating the types of fixtures.
  - iv.** Manufacturer's specifications (i.e. cut-sheets) for all proposed light fixtures, indicating the type of fixture and bulb, wattage of bulb, and height of fixture head.
  - v.** Photometric plan showing light intensity in foot candles across the site and immediately (minimum of 20-ft) beyond the perimeter of the site.
  - vi.** An analysis of the minimum, maximum and average light intensity in foot candles for the site.
  - vii.** A separate analysis for full lighting and security lighting shall be provided when security lighting is proposed by the applicant or required by the Planning Board.

3. Any technical reports prepared by a NH licensed engineer or qualified professional, which may be required or reasonably requested by the Planning Board, or its designee, based on the nature and scope of the proposal. Such reports may include, but are not limited to drainage, traffic, and/or soils analyses. They may also include historic evaluation, screening analysis, or architectural and visual appearance analysis.
4. Elevations (3 color copies on 22" x 34" sized paper and 1-color copy on 11"x17" paper and an electronic pdf file) showing the visual appearance and architectural details of all proposed structures, with proposed façade height and length dimensions, construction materials, finishes, and colors clearly labeled. Landscaping should not be included on elevations.
5. Additional color representations, simulations, or renderings of a proposed development may be required by the Planning Board, or its designee, during the review process.
6. Any additional information the Planning Board, or its designee, may reasonably deem necessary to determine compliance with the applicable regulations of this LDC.
7. A notarized list of abutters, which shall include all owners of property that directly abuts and/or is across the street or stream from the subject parcel and all owners of property located within 200-ft of the subject property. This notarized list shall include the name and mailing address of the property owner, the property street address, and the tax map parcel number for each affected property.
8. 2 sets of mailing labels for each abutter, including the owner of the subject property and their authorized agent.
9. 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, which shall be Certified Mail.

### 25.10.5 Submittal Requirement Exemptions

- A. An applicant may make a request to the Community Development Director, or their designee, to exempt their application from specific submittal requirements.
- B. Any exemption granted by the Community Development Director, or their designee, shall be evaluated and approved by the Planning Board during its review of application completeness. If the Board determines the exempted material is necessary to complete its review of the application, they may deny the exemption request and determine the application to be incomplete.
- C. If a requested exemption is not granted by the Community Development Director, or their designee, the applicant may appeal the decision to the Planning Board prior to the Board's determination of application completeness.

### 25.10.6 Application Submittal Deadline

#### A. Major Site Plan Application

A completed major site plan application shall be submitted to the Community Development Director, or their designee, no later than 26-calendar days prior to the Planning Board meeting date at which the applicant desires the application to be reviewed.

#### B. Minor Site Plan Application

A completed minor site plan application shall be submitted to the Community Development Director, or their designee, no later than **X-calendar days** prior to the Site Review Committee meeting date at which the applicant desires the application to be reviewed.



### 25.10.7 Procedure

In addition to the Common Application and Review Procedures of this Article, the following review and approval procedures shall apply to applications for site plan review.

#### A. Administrative Review Procedure

1. **Confirmation of Project Classification.**  
Upon receipt of an application for administrative review, the Community Development Director, or their designee, shall verify whether the request qualifies for administrative approval in accordance with this LDC.
  - a. Applications that do not qualify for administrative review, or do not have sufficient information to determine compliance with this Section and the Site Development Standards of this LDC, shall be returned to the applicant.
2. **Compliance with Zoning.** Applications requiring the granting of a variance, special exception or other approval from the Zoning Board of Adjustment shall not be approved until such approvals have been obtained.
3. **Notice of Decision.** Within 14-business days of receipt of a completed application for administrative review, the Community Development Director, or their designee, shall complete review of the application, in consultation with other City departments as appropriate, and will approve, approve with conditions, or disapprove the application.
  - a. If the Community Development Director, or their designee, determines that the proposal does not conform with the Site Development Standards of this LDC, they shall work with the applicant (if willing) to modify the proposal to become conforming.
4. **Appeal.** Within 20-days of the written decision issued by the Community Development Director, or their designee, the applicant may request to have the

application placed on the agenda for the next regularly scheduled Planning Board meeting, following the submission requirements and procedures for major plan review.

#### B. Minor Site Plan Procedure

1. **Confirmation of Project Classification.**  
Upon receipt of a minor site plan application, the Community Development Director, or their designee, shall verify whether the request qualifies for classification as a minor site plan project in accordance with this LDC.
2. **Staff Determination of Application Completeness.** Within 2-business days following the application submittal deadline, the Community Development Director, or their designee, shall complete an initial review of the application to evaluate whether the submittal requirements have been met.
  - a. If the missing application materials or information are necessary for proper documentation, but are not central to the initial departmental review, the applicant will be permitted to provide the required materials or information by the revision deadline of 5-business days prior to the corresponding Site Review Committee meeting date.
3. **Site Review Committee Review.** Once the Community Development Director, or their designee, has made an initial determination that an application is complete, copies of the application and associated materials shall be sent to the Site Review Committee for initial review at least 10-calendar days prior to the corresponding Site Review Committee meeting date at which the public hearing on the application will be opened.
4. **Site Visits.** At the discretion of the Community Development Director, a formal site visit to the subject property may be scheduled prior to the Site Review Committee public hearing on the

application.

5. **Compliance with Zoning.** Applications requiring the granting of a variance, special exception or other approval from the Zoning Board of Adjustment shall not be publicly noticed until such approvals have been obtained.
6. **Notice of Public Hearing.** The Community Development Director, or their designee, shall forward applications for minor site plan review to the Site Review Committee for a public hearing, and shall provide published and mailed notice of this public hearing pursuant to NH RSA 675:7(I).
7. **Committee Determination of Application Completeness.** The Site Review Committee shall vote to determine whether the application is complete prior to opening the public hearing.
  - a. The Site Review Committee shall consider advice from the Community Development Director, or their designee, in reaching a determination as to whether an applicant has provided sufficient information to deem the application complete.
  - b. If the Site Review Committee determines that an application is incomplete, the Committee will either issue a written decision of incompleteness or, with the applicant's consent, table the application until the next regular meeting of the Committee.
8. **Public Hearing.** Upon reaching a finding that an application is complete, the Site Review Committee may open the public hearing for the application.
9. **Decision.** The Site Review Committee shall finish its review of an application within 60-days of the meeting at which the Committee accepted the application as being complete.
  - a. If the Committee feels that more time is needed, or if the applicant requests

additional time, the timeframe provided for review under NH RSA 676:4 can be extended by mutual agreement of the Committee and the applicant, so long as the applicant submits a request for the extension in writing.

10. **Appeal.** Within 20-days of the written decision issued by the Community Development Director, or their designee, the applicant may request to have the application placed on the agenda for the next regularly scheduled Planning Board meeting, following the submission requirements and procedures for major plan review.

### C. Major Site Plan Procedure

1. **Presubmission Meeting.** Applicants for major site plan review shall attend a pre-submission meeting at least 2-weeks prior to the Planning Board submittal deadline.
2. **Staff Determination of Application Completeness.** Within 2-business days following the application submittal deadline, the Community Development Director, or their designee, shall complete an initial review of the application to evaluate whether the submittal requirements have been met.
  - a. If the missing application materials or information is necessary for proper documentation, but are not central to the initial departmental review, the applicant will be permitted to provide the required materials or information by the revision deadline of 14-calendar days prior to the corresponding regularly scheduled Planning Board meeting date.
3. **Departmental Review.** Once the Community Development Director, or their designee, has made an initial determination that an application is complete, copies of the application and associated materials shall be sent to the City's Engineering Division, Fire

Department, Police Department, and Building and Health Official for technical review.

- a. City staff will be requested to return comments on the application to the Community Development Department within 5-business days of the distribution date.
  - b. The Community Development Director, or their designee, shall communicate departmental comments to the applicant, as soon as they are all received.
4. **Revision Deadline.** Any plan revisions or additional information requested of the applicant by City staff following departmental review of the application shall be delivered to the Community Development Department no later than the revision deadline of 14-calendar days prior to the corresponding regularly scheduled Planning Board meeting date. The revision deadline shall not be waivable.
5. **Site Visits.** At the discretion of the Community Development Director or Planning Board Chair, a formal Planning Board site visit to the subject property may be scheduled prior to the Planning Board public hearing on the application.
6. **Compliance with Zoning.** Applications requiring approval from the Zoning Board of Adjustment shall not be noticed for public hearing until such approvals have been obtained.
7. **Notice of Public Hearing.** The Community Development Director, or their designee, shall forward applications for major site plan review to the Planning Board for a public hearing, and shall provide published and mailed notice of this public hearing pursuant to NH RSA 675:7(l).
8. **Board Determination of Application Completeness.** The Planning Board shall vote to determine whether the application is complete prior to opening the public hearing.

- a. The Planning Board shall consider advice from the Community Development Director, or their designee, in reaching a determination of application completeness.
  - b. If the Planning Board determines that an application is incomplete, the Board will either issue a written decision of incompleteness or, with the applicant's consent, table the application until the next regular meeting of the Board.

9. **Public Hearing.** Upon reaching a finding that an application is complete, the Planning Board may open the public hearing for the application.
10. **Decision.** The Planning Board shall finish its review of an application within 65-days of the meeting at which the Board accepted the application as being complete. If the Board feels that more time is needed, or if the applicant requests additional time, the timeframe provided for review can be extended by mutual agreement of the Board and the applicant, so long as the applicant requests the extension in writing.

#### 25.10.8 Filing

- A. Building permits shall not be issued until approved site plans have been signed by the Planning Board Chair or Vice Chair. Said signature shall signify that the plan has been duly approved by the Board and that all conditions precedent to plan signature have been met as specified in the approval.
- B. Prior to Planning Board Chair or Vice Chair signature of a plan approved by the Board, the applicant shall:
  1. Demonstrate to the satisfaction of the Community Development Director, or their designee, that all conditions of approval have been met as specified by the Board; and,
  2. Provide complete copies of the approved plan set in a number and form as specified by the Community Development

Department.

### 25.10.9 Approval Standards

All types of site plan review, including administrative review, shall include an analysis of the potential impacts of the proposed use, development or redevelopment on the health, safety, and welfare of the community and the environment. The basis for this determination shall be the Site Development Standards in **Article 21**.

### 25.10.10 Expirations

**A.** Any failure to meet the deadlines in this section shall result in automatic expiration of Planning Board approval. This section shall not be waivable.

**B. Conditional Approvals.** If an application is conditionally approved, the applicant has 180 days (starting the day following the Board's decision) to meet any conditions that shall be met prior to signature of the Planning Board Chair on the plan.

1. All conditions that must be met after the plan is signed shall be satisfied within 2-years (starting the day following the Board's decision).
2. The applicant may request a reasonable extension of the time limit for satisfying the conditions prior to the Planning Board granting a conditional approval.

**C. Active & Substantial Development.** Active and substantial development of an approved project shall be completed within 2-years, starting the day following the Board's decision to approve or conditionally approve the application. Plans approved in phases shall be subject to a determination of active and substantial development for the current phase. For purposes of this Section, active and substantial development shall include all of the following.

1. Construction of and/or installation of basic infrastructure to support the development in accordance with the approved plan including at least 1 building foundation wall/footing, roadways, access ways, etc.,

to a minimum of gravel base and utilities placed in underground conduit ready for connection to proposed buildings/structures.

2. Construction and completion of drainage improvements to service the development in accordance with the approved plans.
3. All erosion control measures (as specified on the approved plans) must be in place and maintained on the site.
4. Movement of earth, excavation, or logging of a site without completion of items 1-3 above, shall not be considered active and substantial development.

### 25.10.11 Extensions

**A.** Prior to the expiration of an approval, an applicant may request an extension of the timeframe for meeting conditions or achieving active and substantial development from the Planning Board.

1. No modifications to the approved or conditionally approved plan shall be considered in conjunction with the request to extend the deadline.
2. Extension requests shall be submitted in writing to the Community Development Director, or their designee, at least 10-business days prior to the Planning Board Meeting at which the request will be considered.

**B.** The maximum time length for each approved extension is 6-months for meeting conditions of approval and 1-year for achieving active and substantial development. An extension of the conditional approval deadline by 6-months will automatically extend the deadline for active and substantial development by 1-year.

**C.** Under no circumstances shall an applicant be granted more than 3-extensions total for their application.

1. **First Extension.** The Planning Board shall grant a first extension of the approval, if the applicant demonstrates the necessity of the extension and provides an update to

the Board about the nature of the project and its status.

2. **Second Extension.** Prior to expiration of the first extension, the Planning Board may grant the application a second extension, if said applicant demonstrates the necessity of the second extension and summarizes what changes, if any, have since occurred to applicable state law or City regulations.
  - a. The Planning Board shall consider whether any changes identified by the applicant would have influenced the Board's initial decision with respect to the project. If the Planning Board finds that substantive changes to applicable state law or City regulations have been adopted that would have resulted in either modification of the project, the imposition of additional or different conditions in the approval, or disapproval of the project, then the extension request shall not be granted.
3. **Third Extension.** Prior to expiration of the second extension period, an applicant may request a third extension.
  - a. Such extension shall only be granted by the Planning Board where an applicant can demonstrate that there are extraordinary circumstances that warrant a third extension of the deadline. Extraordinary circumstances may include, but not be limited to, litigation that is entered into after the conditional approval is granted and which prevents the applicant from completing conditions required for signature or from completing active and substantial development.
  - b. If the extension request is denied by the Planning Board, prior to expiration of the approval, the applicant may submit an application for modification of the conditional approval to address concerns leading to the Board's denial of the extension.

### 25.10.12 Security

- A. The Planning Board shall have the authority to require applicants post a security deposit for the following.
  1. Public improvements, including but not limited to roads, sidewalks, parks, and utilities, and for performance of site improvements as specified by the Board at the time of approval.
  2. All landscaping installed on a site to ensure its survival for 1 full growing season after installation (a minimum of 1-year)
  3. Erosion and sedimentation control to assure that erosion control provisions are working, and required technical inspections take place.
  4. "As Builts" certified by a NH licensed surveyor or engineer that include the exact location, size, and materials of sewer, water, gas, drainage and any underground utilities (e.g. phone, electric, cable) as well as catch basins, hydrants, compensatory wetlands or flood storage areas, sidewalks, drainage basins, edge of pavement, edge of buildings, and other improvements as may be indicated by the Board at the time of approval.
    - a. After a project is completed and prior to release of any security, applicants shall provide 2-complete plan sets on 22-in by 34-in showing the "As Built" condition, as well as an electronic copy of the complete "As Built" plan set in a .dwg or .dxf format.
  5. Other elements of the project to ensure that they function concurrent with and subsequent to construction.
- B. The security shall be in a form acceptable to the Community Development Director, or their designee, and shall be either certified checks made out to the City of Keene or a letter of credit.
  1. Performance Bonds shall not be an acceptable form of security.

The Planning Board may require a written security agreement that specifies when various improvements will be completed. Such agreement may be required to link the completion of phases of improvement with the issuance of building permits or certificates of occupancy.

### 25.10.13 Waivers

- A.** Unless otherwise set forth in this LDC, the Planning Board may grant a waiver from strict compliance with provisions of the Site Development Standards on a case-by-case basis, so long as the Board finds, by majority vote, that:
  - 1.** Strict conformity would pose an unnecessary hardship to the applicant and waiver would not be contrary to the spirit and intent of the regulations; or,
  - 2.** Specific circumstances relative to the site plan, or conditions of the land in such site plan, indicate that the waiver will properly carry out the spirit and intent of the regulations.
  - 3.** In granting a waiver, the Planning Board may require any mitigation that is reasonable and necessary to ensure that the spirit and intent of the standard being waived will be preserved, and to ensure that no increase in adverse impacts associated with granting the waiver will occur.
- B.** Any waiver request shall be in writing and shall cite the specific regulation or standard a waiver is requested from and the reason(s) it cannot be met.
- C.** Waiver requests shall be submitted following the same process and timeframe as is required for formal applications to the Planning Board.

**25.11 CONDITIONAL USE PERMITS**

**25.11.1 Description**

A conditional use permit allows certain uses that have increased potential for incompatibility in a zoning district to be carefully reviewed to determine, against fixed standards, whether their establishment on any given site should be allowed.

**25.11.2 Initiation**

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

**25.11.3 Applicability**

Uses that require a conditional use permit shall be clearly identified in the Zoning Regulations, as may be amended.

**25.11.4 Authority**

Unless otherwise specified in this LDC, the Planning Board shall have the authority to review and decide on applications for a conditional use permit.

**25.11.5 Submittal Requirements**

- A.** An applicant for a conditional use permit shall submit a completed application on the appropriate form to the Community Development Department, and shall provide sufficient information to enable City staff and the Planning Board to evaluate the proposal for compliance with this LDC.
- B.** A completed application for a conditional use permit shall include all of the submittal requirements for major site plan applications as outlined in this Article, unless otherwise specified.
- C.** The applicant shall be responsible for reviewing the applicable conditional use permit standards of this LDC to identify if any additional application materials or information shall be required for submittal.

**25.11.6 Procedure**

Conditional use permit applications shall be subject to the same procedure for review and decision by the Planning Board as major site plan applications.

**25.11.7 Approval Standards**

In the review of a Conditional Use Permit application, the Planning Board shall evaluate the application for compliance with all applicable design standards and conditional use permit review criteria as provided for in this LDC as well as the Site Development Standards in **Article 21**.

**25.11.8 Expiration**

Conditional use permit applications shall be subject to the same standards for expirations as major site plan applications.

**25.11.9 Extensions**

Conditional use permit applications shall be subject to the same standards for extensions as major site plan applications.

**25.11.10 Waivers**

- A.** Applicants for a conditional use permit seeking a waiver from conditional use permit standards in the Zoning Regulations of this LDC, shall apply to the Zoning Board of Adjustment for a variance.
- B.** Unless otherwise set forth in this LDC, the applicant may request a waiver from the Planning Board from strict compliance with specific provisions of the Site Development Standards in **Article 21**.

## 25.12 HISTORIC DISTRICT CERTIFICATE OF APPROPRIATE

### 25.12.1 Description

Prior to changes or major alterations to property within the City's Historic District, a certificate of appropriateness is required to determine whether the proposed work is appropriate for the Historic District and is consistent with the Historic District Regulations.

### 25.12.2 Initiation

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

### 25.12.3 Applicability

Applications for a certificate of appropriate shall be required for work, which is classified as either major or minor projects (as specified below), to property located within the City's Downtown Historic District.

- A. Minor Project.** Minor project review is required for any work, including alteration or modification, that meets or exceeds the threshold for minor projects in the Historic District Regulations in **Article 22.**
- B. Major Project.** Major project review is required for any work, including alteration or modification, that meets or exceeds the threshold for major projects the Historic District Regulations in **Article 22.**

### 25.12.4 Authority

- A. Minor Project.** The Community Development Director, or their designee, shall have the authority to review and decide on minor project applications for certificates of appropriateness.
- B. Major Project.** The Historic District Commission shall have the authority to review and decide on major project applications for certificates of appropriateness.

Placeholder for flowchart showing application review and approval process



**25.12.5 Submittal Requirements**

An applicant for a certificate of appropriateness shall submit a completed application on the appropriate form to the Community Development Department, and shall provide sufficient information to enable City staff and the Historic District Commission to evaluate the proposal for compliance with this LDC. A completed application for a certificate of appropriateness shall include the following.

- A.** A written narrative describing the type, scope and scale of the proposal including the following information.
  - 1.** Existing and proposed uses
  - 2.** An explanation of how the proposal complies with the applicable standards in the Historic District Regulations in **Article 22.**
- B.** A complete plan set (3-copies on 22-in by 34-in paper; 1-copy on 11-in by 17-in sized paper; and, an electronic pdf file), which shall include the following materials.
  - 1.** An existing conditions plan (at a maximum scale of 1-in = 50-ft) showing all parcels affected by the proposal, and depicting the following information.
    - a.** Owner names and tax map parcel numbers for all direct abutters.
    - b.** Boundaries and acreage of the existing lot(s) subject to review.
    - c.** Location of any public streets, rights-of-way, and easements.
    - d.** Location of existing structures, site features (e.g. fences, walls, ground-mounted equipment, utilities, etc.), driveways, parking areas, and wooded or vegetated areas on the subject property.
  - 2.** A proposed conditions plan (at a maximum scale of 1-in = 50-ft) showing all parcels affected by the proposal, and depicting the following information.

- a.** Owner names and tax map parcel numbers for all direct abutters.
    - b.** Boundaries and acreage of the lot(s) subject to review.
    - c.** Location of any existing structures or site features, driveways, parking area, wooded or vegetated areas, public streets, rights-of-way, and easements that are displayed on the existing conditions plan, which will not be altered or relocated.
    - d.** The location of proposed structures and site features, driveways, parking areas, public streets, rights-of-way, easements, and landscaping.
- C.** Elevations at a maximum scale of ¼-in = 1-ft (3 color copies on 22" x 34" sized paper and 1-color copy on 11"x17" paper and an electronic pdf file) showing the visual appearance and architectural details of all proposed structures, as well as any portions of the existing structure proposed for demolition or removal. Such drawings shall include proposed façade height and length dimensions, construction materials, finishes, and colors clearly labeled. Landscaping should not be included on elevations.
- D.** Additional color representations, simulations, or renderings of a proposed development may be required by the Historic District Commission, or its designee, during the review process.
- E.** Samples of mortar and/or brick for projects proposing new or replacement mortar and/or brick.
- F.** Manufacturer specifications (i.e. cut-sheets) for any proposed building materials, exterior lighting fixtures, windows and doors, mechanical equipment or other site elements (e.g. benches, railings). The applicant shall specify the proposed type, color and finish, if applicable, and if missing from the manufacturer specifications.

- G. Manufacturer specifications (i.e. cut-sheets) for cleaning products, if applicable.
- H. Photographs, renderings, and/or line sketches to visually demonstrate the scale, massing, and visual appearance of neighboring structures.
- I. Major project applications shall include a notarized list of abutters, which shall include all owners of property that directly abuts and/or is across the street or stream from the subject parcel. This notarized list shall include the name and mailing address of the property owner, the property street address, and the tax map parcel number for each affected property.
- J. Major project applications shall include 2 sets of mailing labels for each abutter, including the owner of the subject property and their authorized agent.
- K. 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, which shall be Certified Mail.
- L. Other information as deemed necessary by the Community Development Director, or their designee, or the Historic District Commission to complete the review of the application.

### 25.12.6 Submittal Requirement Exemptions

- A. An applicant may make a request to the Community Development Director, or their designee, to exempt their application from specific submittal requirements.
- B. For minor project applications, the Community Development Director, or their designee, shall have the authority to approve such exemption requests, based on the nature and scope of the proposal.
  - 1. If a requested exemption is not granted by the Community Development Director, or their designee, the applicant may appeal the decision to the Historic District Commission prior to the Commission's determination of application completeness.

- C. For major project applications, any exemption granted by the Community Development Director, or their designee, shall be evaluated and approved by the Historic District Commission during its review of application completeness.
  - 1. If the Commission determines that the exempted material is necessary to complete its review, they may deny the exemption request and determine the application to be incomplete.

### 25.12.7 Major Project Application Submittal Deadline

A completed major project application shall be submitted to the Community Development Director, or their designee, no later than 21-calendar days prior to the Historic District Commission meeting date at which the applicant desires the application to be reviewed.

### 25.12.8 Procedure

#### A. Minor Project Procedure

##### 1. Confirmation of Application

**Classification.** Upon receipt of a minor project application for a certificate of appropriateness, the Community Development Director, or their designee, shall verify that the request qualifies for classification as a minor project in accordance with this LDC.

- 2. Applications that do not qualify for minor project review in accordance with the Historic District Regulations in **Article 22**, or do not have sufficient information to determine compliance with these regulations, shall be returned to the applicant.

- 3. **Decision on Application.** Within 45-business days of receipt of all information necessary to evaluate a request for minor project review, the Community Development Department, or their designee, shall complete its review of the application, in consultation with other City departments as appropriate.

- a. If in the judgment of the Community Development Director, or their designee, the minor project application is consistent with all applicable standards and regulations, the Community Development Director or their designee shall approve or approve with conditions an application.
- b. If in the judgment of the Community Development Director, or their designee, the minor project application is not consistent with all applicable standards and regulations, or is of a precedent-setting nature, the Community Development Director, or their designee, shall, at the preference of the applicant, either refer the application to the Historic District Commission for review and action as a major project or disapprove the application.

**B. Major Project Procedure**

- 1. **Presubmission Meeting.** A presubmission meeting with the Community Development Director, or their designee, is required prior to submitting a major project application for a Certificate of Appropriateness.
- 2. **Staff Determination of Application Completeness.** Within 2-business days following the application submittal deadline, the Community Development Director, or their designee, shall complete an initial review of the application to evaluate whether the submittal requirements have been met.
  - a. If the missing application materials or information is necessary for proper documentation, but are not central to the initial departmental review, the applicant will be permitted to provide the required materials or information by the revision deadline of 9-calendar days prior to the corresponding regularly scheduled Historic District Commission meeting date.

- 3. **Revision Deadline.** Any plan revisions or additional information requested of the applicant by City staff following departmental review of the application shall be delivered to the Community Development Department no later than the revision deadline of 9-calendar days prior to the corresponding regularly scheduled Historic District Commission meeting date. The revision deadline shall not be waivable.
- 4. **Site Visits.** At the discretion of the Community Development Director or Historic District Commission Chair, a formal Historic District Commission site visit to the subject property may be scheduled prior to the Historic District Commission public hearing on the application.
- 5. **Compliance with Zoning.** Applications requiring approval from the Zoning Board of Adjustment shall not be noticed for public hearing until such approvals have been obtained.
- 6. **Notice of Public Hearing.** The Community Development Director, or their designee, shall forward major project applications for a certificate of appropriateness to the Historic District Commission for a public hearing, and shall provide published and mailed notice of this public hearing pursuant to NH RSA 676:7.
  - a. For demolitions, applicants shall post a sign identifying the structure as proposed for demolition in a visible location on the premises at least 10-days prior to the public hearing. The sign is available from the Community Development Department and shall be returned prior to an issuance of a Demolition Permit.
- 7. **Determination of Application Completeness.** The Historic District Commission shall vote to determine whether the application is complete prior to opening the public hearing.
  - a. The Historic District Commission shall

consider advice from the Community Development Director, or their designee, in reaching a determination of application completeness.

- b. If the Historic District Commission determines that an application is incomplete, the Commission will either issue a written decision of incompleteness or, with the applicant's consent, table the application until the next regular meeting of the Commission.

**8. Public Hearing.** Upon reaching a finding that an application is complete, the Historic District Commission may open the public hearing for the application.

**9. Decision.** The Historic District Commission shall finish its review of an application within 45-days of the meeting at which the Commission accepted the application as being complete.

- a. If the Commission feels that more time is needed, or if the applicant requests additional time, the timeframe provided for review can be extended by mutual agreement of the Commission and the applicant, so long as the applicant submits a request for the extension in writing.
- b. Applicants whose application has been disapproved may make modifications to the disapproved plans and may submit a new application for consideration by the Historic District Commission, or their designee, which shall review the new submittal without prejudice.

#### 25.12.9 Filing

- A. Upon approval of an application, a certificate of appropriateness shall be by signed by the Historic District Commission Chair, or their designee, and issued to the applicant. A copy of the signed certificate of appropriateness shall be filed with the Community Development Department.

**B.** Building permits shall not be issued, nor shall any construction or demolition commence, until an approved certificate of appropriateness has been signed by the Historic District Commission Chair, or their designee. Said signature shall signify that the certificate of appropriateness has been duly approved by the Commission and that all conditions precedent to the Chair's signature have been met as specified in the approval.

**C.** Prior to signature of an approved certificate of appropriateness by the Historic District Commission Chair, or their designee, the applicant shall:

1. Demonstrate to the satisfaction of the Community Development Director, or their designee, that all conditions of approval have been met; and,
2. Provide complete copies of the approved plan set in a number and form as specified by the Community Development Department.

#### 25.12.10 Approval Standards

All applications for a certificate of appropriateness shall be evaluated for compliance with the Historic District Regulations in **Article 22**.

#### 25.12.11 Expiration

**A.** A Certificate of appropriateness issued pursuant to this LDC shall be valid for either the duration of an active building permit issued for construction associated with the certificate of appropriateness or, if no building permit is issued, the approval is valid for 1-year from the date of the Historic District Commission approval.

**B.** If an application is conditionally approved, the applicant has 180-days, beginning the day following conditional approval by the Historic District Commission or Community Development Director, whichever is the appropriate review authority in accordance with this Section, to meet any conditions required to be met prior to signature of the

Historic District Commission Chair, or their designee, on the Certificate of Appropriateness.

- C. This section shall not be waivable.

#### 25.12.12 Extensions

- A. Extensions to the duration of a certificate of appropriateness may be granted by the Community Development Director, or their designee.
- B. No extension shall be granted for a period greater than 1-year from the current expiration date of the certificate of appropriateness.
- C. No more than 2 consecutive extensions shall be granted.
- D. The Community Development Director may refer the request for extension of the duration of a certificate of appropriateness to the Historic District Commission, if in their judgment the extension is not consistent with all applicable standards and regulations.

#### 25.12.13 Waivers

- A. Unless otherwise set forth in this LDC, the Historic District Commission may grant a waiver from strict compliance with provisions of the Historic District Regulations of this LDC on a case-by-case basis, so long as the Board finds, by majority vote, that:
  - 1. Strict application of these regulations would result in a particular and exceptional difficulty or undue hardship upon the owner of the affected property; and
  - 2. An alternative design or materials meets the design objectives stated in the Historic District Regulations of this LDC equally well or better than would strict compliance with these regulations; and
  - 3. The waiver may be granted without substantial detriment to the intent of the Historic District Regulations and the public good.
- B. In granting a waiver, the Historic District Commission shall require any mitigation that is reasonable and necessary to ensure that

the spirit and intent of the standard being waived will be preserved, and to ensure that no increase in adverse impacts associated with granting the waiver will occur.

- C. Any waiver request shall be in writing and shall cite the specific regulation or standard a waiver is requested from and the reason(s) it cannot be met.
- D. Waiver requests shall be submitted following the same process and timeframe as is required for formal applications.

## 25.13 FLOODPLAIN DEVELOPMENT PERMIT

### 25.13.1 Description

Floodplain development permit review is a process to ensure that any activities occurring within high hazard flood areas and the 100-year floodplain will not adversely impact the full function and capacity of this essential resource system.

### 25.13.2 Initiation

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

### 25.13.3 Applicability

A floodplain permit is required for any proposed construction or substantial improvement within the floodway or Special Flood Hazard Area in the City in accordance with the Floodplain Regulations in **Article 24.**

### 25.13.4 Authority

The Floodplain Administrator, or their designee, shall have the authority to review and decide on applications for a floodplain development permit..

### 25.13.5 Submittal Requirements

An applicant for a floodplain development permit shall submit a completed application on the appropriate form to the Community Development Department and shall provide sufficient information to enable City staff to evaluate the proposal for compliance with this LDC. A completed floodplain development permit application shall including the following.

- A.** A location map of the property subject to review sufficient to accurately locate the proposed work in relation to existing roads and waterbodies.
- B.** A written narrative describing the type, scope and scale of the proposal, including the following information.
  - 1.** A description of the proposed development

**Placeholder for flowchart showing application review and approval process**

and the use or occupancy for which the proposed development is intended.

2. Calculations and diagrams prepared by a NH licensed engineer that demonstrate compliance with compensatory storage requirements of the Floodplain Regulations of this LDC.
  3. The height of seasonal high ground water.
  4. If the proposal involves work on an existing structure, a description of the total costs of the proposed work including all materials and labor.
- C. A proposed condition plan (3 copies on 22-in by 34-in sized paper) certified by a NH licensed surveyor that identify the proposed construction, the property boundaries, the boundaries of special flood hazard areas, the base flood elevation, and existing and proposed contours at 1-ft intervals.
- D. Submission of either a high intensity soil survey completed by a NH certified soil scientist, or wetland delineation completed by a NH certified wetland scientist demonstrating that there are no wetlands within any proposed fill area.
- E. Certification by a NH licensed engineer that any proposed fill is free of hazardous or toxic substances.
- F. If the proposal requires floodproofing, a certification by a NH licensed engineer or architect, that the design and methods of construction are in accordance with accepted standards for meeting the provisions of the Floodplain Regulations of this LDC and the National Flood Insurance Program.
- G. If the application proposes encroachment into a regulatory floodway, a Flood Study shall be completed and certified by a NH licensed engineer.
- H. In Zone A, proposed developments either greater than 50-lots or greater than 5-acres, shall establish the base flood elevation(s) for the area subject to review, and shall include

any data (e.g. hydraulic and hydrologic analyses) used to determine the elevation(s).

- I. Application fee as set forth in the LDC Schedule of Fees in Appendix B of the City Code of Ordinances.
- J. Other material and information as may be required by the Floodplain Administrator to determine conformance with this LDC.

#### 25.13.6 Submittal Requirement Exemptions

An applicant may make a request to the Floodplain Administrator, or their designee, to exempt their application from specific submittal requirements. The Floodplain Administrator, or their designee, shall have the authority to approve such exemption requests, based on the nature and scope of the proposal.

#### 25.13.7 Procedure

##### A. Determination of Application Completeness

1. The Floodplain Administrator shall review all floodplain development permit applications for completeness, and coordinate with the applicant for corrections or further documentation, as needed.
2. The Floodplain Administrator may require technical review of the application by a third-party at the applicant's expense.

##### B. Departmental Review

The Community Development Director, or their designee, and the City Engineer shall be notified in writing of each floodplain development permit application and shall be given an opportunity to share comment on the application with the Floodplain Administrator within 5-business days following receipt of the application.

##### C. Notice of Decision

1. Within 30-calendar days of receipt of a completed application, the Floodplain Administrator, or their designee, shall complete review of the application, in consultation with other City departments

as appropriate, and will approve, approve with conditions, or disapprove the application.

2. All decisions shall be delivered in writing to the applicant and shall include any conditions for approval or reasons for denial.
3. The Floodplain Administrator, or their designee, shall also provide the Community Development Department and the Public Works Department with written notification of the final decision regarding each floodplain development application.
4. For conditional approvals, the Floodplain Administrator, or their designee, may establish dates by which conditions of approval shall be met.

#### 25.13.8 Filing

- A. Building permits for any construction or substantial improvement within a special flood hazard area shall not be issued unless a floodplain development permit has been issued.
- B. If the floodplain development permit requires compensatory storage, the applicant shall provide written certification from a NH licensed engineer at the completion of the project that the required compensatory storage has been provided so as to ensure no net loss of flood storage.
- C. 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 for review and approval.
  1. A completed and certified copy of an Elevation Certificate that includes the as-built elevation of the lowest floor of the structure and whether or not the structure has a basement.
  2. 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 to which the structure was dry floodproofed and certification of floodproofing.

#### 25.13.9 Approval Standards

All applications for a floodplain development permit shall be evaluated for compliance with the Floodplain Regulations in **Article 24.**

#### 25.13.10 Security

The Floodplain Administrator may require security be submitted as part of the issuance of any floodplain development permit to ensure the submittal of an "As Built" plan of the pre- and post-construction contours of the site, and the location, dimensions and contours of any compensatory flood storage areas, as well as to secure any other improvements or performance standards (e.g. sediment and erosion control).

#### 25.13.11 Expirations

- A. A floodplain development permit shall become invalid 1-year from the day it is granted, unless all required permits have been obtained, conditions of approval have been met, and at least 10% of the proposed fill has been placed on the site, or by some other objective measure which in the judgment of the Floodplain Administrator demonstrates that substantial construction has begun.
- B. The applicant shall submit evidence that all necessary state, federal, or local permits have been obtained to the Floodplain Administrator, or their designee, prior to the expiration date of the floodplain development permit.
- C. Expiration of a building permit or site plan review approval shall result in the automatic expiration of the floodplain development permit.



**25.14 SIGN PERMIT**

**25.14.1 Description**

A sign permit allows for signs to be erected, installed, reconstructed, altered or relocated in conformance with this LDC and all other applicable regulations.

**25.14.2 Initiation**

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

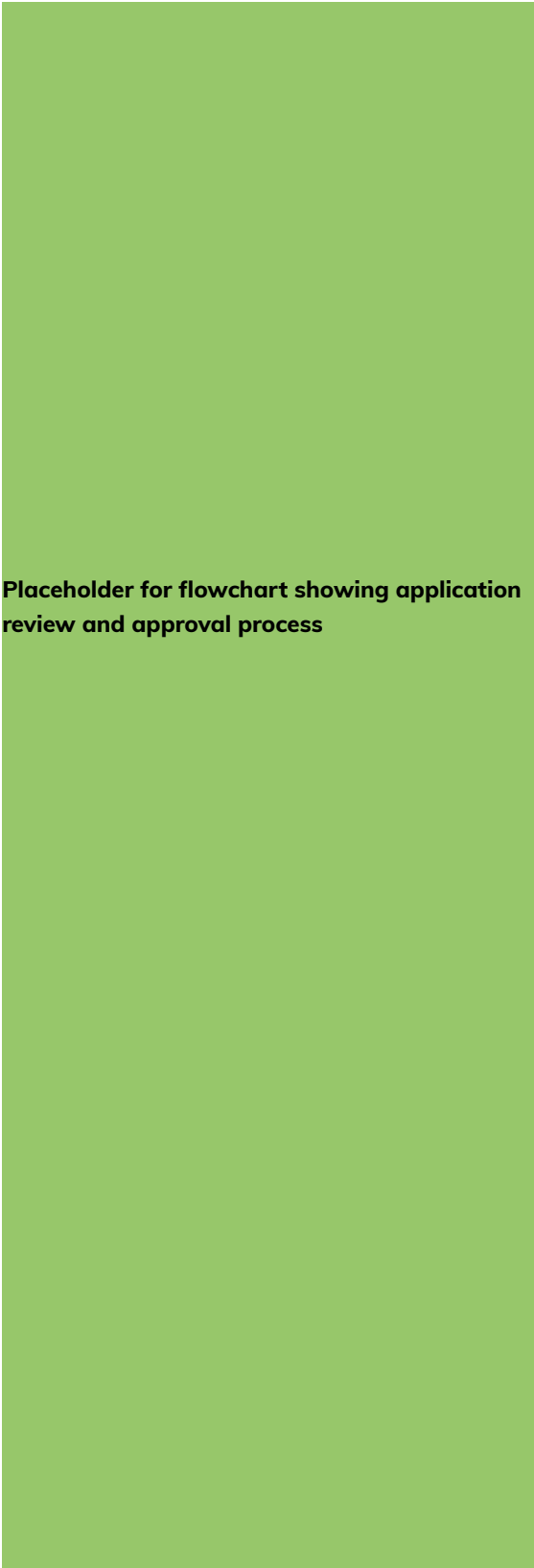
**25.14.3 Authority**

The Zoning Administrator, or their designee, shall have the authority to review and decide on applications for a sign permit.

**25.14.4 Submittal Requirements**

An applicant for a sign permit shall submit a completed application on the appropriate form to the Community Development Department. A completed sign permit application shall including the following.

- A.** The name and contact information of the sign contractor, if applicable.
- B.** The location and street address of the building, structure or lot to which, or upon which, the sign or sign structure is to be constructed, erected, replaced, altered, or attached.
- C.** A written narrative describing the type, scale, and placement location of the proposed sign or sign structure including, including the following information.
  - 1.** The lineal footage of the building frontage to which, or upon which, the sign is proposed to be attached or altered; or the total linear feet of site frontage upon which any freestanding sign is proposed to be constructed, erected, replaced, or altered.
  - 2.** A description of the materials and colors proposed to be used for the proposed sign and sign structure.



- 3. A description or depiction of the size and font of the proposed sign copy.
- D. A scaled drawing of the sign, sign structure, and building as they would appear in relation to each other, and other signage on the property, including a depiction or description of the number and total area of all existing signs on the property, and a photograph of existing building elevations with signage, preferably as an electronic file.
- E. For signs equal to or less than 4-sf, a photograph or reasonable facsimile of the sign proposed to be installed.
- F. For signs greater than 4-sf, a plan drawn to scale depicting the sign or sign structure as well as technical specifications pertaining to the method of construction and method of attachment or erection of the sign or sign structure.
- G. For any sign or sign structure greater than 100-sf, certification by a NH licensed engineer of proper design.
- H. Calculations demonstrating that the sign structure is designed to carry all loads in compliance with the state building code and any other applicable regulations.
- I. A description or depiction of the method of illumination (if applicable), including but not limited to a description of the electrical wiring for the illuminated sign.
- J. A depiction of all above-ground utilities that will be within 8-ft of any portion of the sign or sign structure.
- K. Written documentation demonstrating that the owner or authorized representative has provided notice of any excavation related to the construction, erection, replacement, alteration, or attachment of a sign or sign structure to all applicable public utilities in accordance with state law.
- L. Electrical or other technical specifications or diagrams as may be reasonably required by the Zoning Administrator or their designee.

- M. Application fee as set forth in the LDC Schedule of Fees in Appendix B of the City Code of Ordinances.
- N. Such other material and information as may be required by the Zoning Administrator, or their designee to verify compliance this LDC.

#### 25.14.5 Submittal Requirement Exemptions

An applicant may make a request to the Zoning Administrator, or their designee, to exempt their application from specific submittal requirements, in accordance with Section X of this LDC. The Zoning Administrator, or their designee, shall have the authority to approve such exemption requests, based on the nature and scope of the proposal.

#### 25.14.6 Procedure

##### A. Determination of Application Completeness

The Zoning Administrator, or their designee, shall review all sign permit applications for completeness, and coordinate with the applicant for corrections or further documentation, as needed.

##### B. Notice of Decision

Within 30-calendar days of receipt of a completed application, the Zoning Administrator, or their designee, shall complete review of the application, in consultation with other City departments as appropriate, and will approve, approve with conditions, or disapprove the application.

- 4. All decisions shall be delivered in writing to the applicant and shall include any conditions for approval or reasons for denial.
- 5. For conditional approvals, the Zoning Administrator, or their designee, may establish dates by which conditions of approval shall be met.
- 6. If a sign permit application is approved, a sign permit shall be issued and forwarded to the applicant upon payment of the permit fee.

### 25.14.7 Expiration

The work authorized under a sign permit shall commence within 6-months after the date of issuance, or the permit shall become null and void.

## 25.15 EARTH EXCAVATION PERMIT

### 25.15.1 Description

An earth excavation permit allows a process to facilitate safe and reasonable opportunities for the excavation of earth materials from land within the City in conformance with the regulations of this LDC and the requirements of NH RSA 155-E.

### 25.15.2 Initiation

The applicant for an earth excavation permit shall either own the fee simple interest in the property(s) that are the subject of the review or have written permission of the fee simple owner.

### 25.15.3 Authority

The Planning Board shall have the authority to review and decide on applications for an earth excavation permit.

### 25.15.4 Submittal Requirements

An applicant for an earth excavation permit shall submit a completed application on the appropriate form to the Community Development Department. A completed application for an earth excavation permit shall include all of the submittal requirements for major site plan applications as outlined in this Article, as well as the following information.

- A.** The name and contact information of the person or entity that will be performing the excavation.
- B.** A written narrative describing the type, scale, and nature of the proposed excavation site, including the following information:
  - 1.** The number of acres involved in the proposed project.
  - 2.** Existing and proposed uses
  - 3.** The hours of operations of the proposed project
  - 4.** Estimated duration and description of phasing of the proposed project
  - 5.** Information on the access routes to and from the excavation site including the

routes to be utilized, the type and weight of motor vehicles involved, and the frequency and schedule of operations of such vehicles.

- 6.** The estimated volume of material to be removed.
  - 7.** All measures to control sedimentation and erosion, water and air pollution, and hazards to human safety.
  - 8.** An explanation of how the proposal complies with the applicable standards in the Earth Excavation Standards in Section X and the approval standards this Section.
- C.** A location map (at a scale of 1-in = 1,000-ft) showing the excavation site in relation to existing roads, and displaying the location of all driveways and road intersections within 200-ft of the subject property boundary.
- D.** An excavation plan (3-copies on 22-in by 34-in sized paper) at a maximum scale of 1-in equals 100-ft and certified by a NH licensed engineer that displays the excavation site(s) and all land within 200-ft of its perimeter, as well as the following information. This plan may be prepared as an overlay to the proposed conditions plan.
- 1.** Contours of at least 2-ft intervals.
  - 2.** The boundaries of the proposed excavation, and existing excavation where applicable, as well as any accessory facilities or structures.
  - 3.** The location of existing wooded and vegetated areas, stone walls, and ledge outcroppings.
  - 4.** All surface waters, including wetland areas delineated by a NH certified wetland scientist, and any manmade waterways, ponds, ditches, etc.
  - 5.** All precautionary and prohibitive slopes.
  - 6.** Delineation of 100-year floodplain and floodways as shown on current FIRM maps.
  - 7.** Aquifer locations and limits as identified by the United States Geological Survey and other acceptable sources.
- 8.** The location and width of all public roads, rights-of-way, and any easements.
- 9.** The location, width, and surface materials of any existing or proposed access roads or driveways and parking areas.
- 10.** A log of borings or test pits that extend to either the seasonal high water table, ledge, or a minimum of 6-ft below the maximum proposed excavation depth, including location and soils data.
- 11.** The location, dimensions, and materials of existing and proposed fencing, buffers or visual barriers.
- 12.** The location of storage areas for topsoil to be used in reclamation.
- 13.** The location of existing structures, utilities, septic systems, wells and other similar site features on the subject parcel(s) as well as within 150-ft of the subject property boundary.
- 14.** The location of sedimentation and erosion control measures (e.g. silt fencing, stabilized construction entrances, etc.).
- E.** A reclamation plan (3-copies on 22-in by 34-in sized paper) at a maximum scale of 1-in equals 100-ft and certified by a NH-licensed engineer that displays the proposed excavation site(s) and all land within 200-ft of its perimeter, as well as the following information.
- 1.** All boundaries of the site proposed for reclamation.
  - 2.** Final topography of the area proposed for reclamation at 2-ft contours or less.
  - 3.** Final surface drainage pattern, including the location and physical characteristics of all artificial and/or modified drainage facilities.
  - 4.** Schedule of vegetative and temporary reclamation activities, including seeding mixtures, mulching materials, fertilizer types, lime and application rates.
  - 5.** The number, type and location of plant materials to be used in the restoration and

their size at planting as well as at maturity.

- 6.** Subsequent use of the site, if known or anticipated.
- F.** Cross-section views showing existing, excavated and restored topographic configurations.
- G.** A copy of any permits required by state or federal regulations.
- H.** A notarized list of abutters, which shall include all owners of property that directly abuts and/or is across the street or stream from the subject parcel and all owners of property located within 200-ft of the subject property. This notarized list shall include the name and mailing address of the property owner, the property street address, and the tax map parcel number for each affected property.
- I.** 2 sets of mailing labels for each abutter, including the owner of the subject property and their authorized agent.
- J.** 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, which shall be Certified Mail.
- K.** Other material and information as may be required by the Community Development Director or Planning Board to determine conformance with this LDC.

#### 25.15.5 Submittal Requirement Exemptions

- A.** An applicant may make a request to the Community Development Director, or their designee, to exempt their application from specific submittal requirements.
- B.** Any exemption granted by the Community Development Director, or their designee, shall be evaluated and approved by the Planning Board during its review of application completeness.
  - 1.** If the Board determines the exempted material is necessary to complete its review of the application, they may deny

the exemption request and determine the application to be incomplete.

- C.** If a requested exemption is not granted by the Community Development Director, or their designee, the applicant may appeal the decision to the Planning Board prior to the Board's determination of application completeness.

#### 25.15.6 Application Submittal Deadline

A completed earth excavation permit application shall be submitted to the Community Development Director, or their designee, no later than 26-calendar days prior to the Planning Board meeting date at which the applicant desires the application to be reviewed.

#### 25.15.7 Procedure

- A.** Earth excavation permit applications shall be subject to the same procedure for review and decision by the Planning Board as major site plan review applications in this Article.
- B.** If the Planning Board approves an application for an earth excavation permit, the Community Development Director, or their designee, shall, upon verification that any conditions of approval have been met, issue an earth excavation permit to the applicant.

#### 25.15.8 Approval Standards

All applications for an earth excavation permit shall be evaluated for compliance with the Earth Excavation Regulations in **Article 13**, the Site Development Standards in **Article 21**, NH RSA 155-E, and the following standards.

- A.** The proposed excavation site is a sufficient distance from nearby residential and commercial uses such that the excavation operation will not disrupt or disturb those uses.
- B.** The excavation operation will not adversely impact to the quality or quantity of surface or ground water.
- C.** The site is located in such a way as to minimize disruption of wildlife, habitat, and other environmental resources.

- D.** The operation and site are designed in such a way that drainage, sedimentation and erosion can be controlled on site.
- E.** Streets used to access the site can accommodate the anticipated volume of truck and worker traffic generated by the site safely and without disrupting residential and commercial uses along those streets, and without causing significant premature degradation of those streets.
- F.** The excavation uses and impacts will not be visible from public ways, from nearby properties, or from prominent outlooks.
- G.** Noise as measured at the parcel boundary will not exceed standards set forth in this LDC.
- H.** Dust generated by the operation can be controlled both on and off the site.

#### 25.15.9 Expiration

- A.** An earth excavation permit shall specify the date upon which it expires. Such expiration date shall not exceed 2-yrs from the date of permit issuance.
- B.** Earth excavation permits may be renewed in accordance with the procedures set forth below. The renewal permit shall specify the date upon which it expires; however, such expiration date shall not exceed 2-yrs from the date of the renewal permit issuance.
  - 1.** Following the filing of a completed earth excavation permit renewal application and payment of associated fees, the Community Development Director, or their designee, shall forward the application to the Planning Board for a public hearing in accordance with Section X of this LDC.
  - 2.** The Community Development Director, or their designee, shall provide published and mailed notice of this public hearing pursuant to NH RSA 675:7(I).
  - 3.** The Planning Board shall hold a public hearing on the application.
  - 4.** The Planning Board shall evaluate the

application based upon the evidence presented at the public hearing, pursuant to the approval standards of this Section, and whether the work being performed on the site is consistent with that as shown on the approved excavation plan and/or reclamation plan that served as the basis for the permit for which the renewal is being request.

- 5.** When the Board has completed its deliberation of the application, it will approve, approve with conditions, or disapprove the request for permit renewal. All decisions shall be delivered in writing to the applicant and shall include any conditions for approval or reasons for denial.

#### 25.15.10 Posting of Permit

A copy of the earth excavation permit shall be prominently posted at the primary entrance to the excavation perimeter. The excavation perimeter is land within an excavation site, which includes the excavation area, areas where excavation operations and processing activities are performed, stockpiling areas, and any areas where earth materials are or will be loaded or unloaded for purposes of transport.

#### 25.15.11 Security

- A.** Prior to the issuance of an earth excavation permit, the Planning Board may require applicants post a security deposit in an amount that is reasonably sufficient to guarantee reclamation of the excavation area and compliance with the terms of the approved permit.
- B.** This security may also guarantee off-site improvements, such as the repair public roads or facilities damaged by the transportation of earth materials.
- C.** The security amount shall be based on the acreage of the project or approved phases and the estimated per-acre restoration costs.
- D.** The security shall be in a form acceptable to the Community Development Director, or their

designee, and shall be either certified checks made out to the City of Keene or a letter of credit.

1. Performance Bonds shall not be an acceptable form of security.
  2. The Planning Board may require a written security agreement that specifies when various improvements will be completed. Such agreement may phase the security to coincide with the phasing of the work.
- E. The security shall be returned to the applicant when the restoration work has been completed and a final satisfactory site inspection has been conducted by the Community Development Director, or their designee.

## 25.16 STREET ACCESS PERMIT

### 25.16.1 Description

A street access permit allows for review of proposed cuts to curbing or pavement within a public right-of-way to provide access to a property.

### 25.16.2 Initiation

The applicant for an earth excavation permit shall either own the fee simple interest in the property(s) that are the subject of the review or have written permission of the fee simple owner.

### 25.16.3 Applicability

A street access permit is required prior to the construction or alteration (e.g. changes to 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 approved by the Planning Board or Site Review Committee.

### 25.16.4 Authority

- A. **Administrative Review.** The City Engineer, or their designee, shall have the authority to review and decide on street access permit applications for single-family or two-family residential properties, single-family shared access, single-family or two-family residential second street access, agricultural street access, or temporary street access.
- B. **Planning Board.** The Planning Board shall have the authority to review, and approve or disapprove all street access applications for multi-family, industrial, and commercial street access.

### 25.16.5 Submittal Requirements

An applicant for a street access permit shall submit a completed application on the appropriate form to the Community Development Department. A completed street access permit application shall include the following information.

- A. A written narrative describing the location, purpose, and reason for the proposed cut(s) to

curbing or pavement within the public right-of-way.

- B. A plot plan drawn to scale depicting the location and dimensions of the proposed cuts to curbs or pavement within the public right-of-way in relation to the lot it provides access to, as well as the adjacent roads and sidewalks, existing or proposed drainage features (e.g. catch basins), visual obstructions (e.g. telephone poles), and other similar site features.
- C. Application fee as set forth in the LDC Schedule of Fees in Appendix B of the City Code of Ordinances.
- D. Such other material and information as may be required by the City Engineer or Community Development Director, or their respective designees, to determine conformance with this LDC.

### 25.16.6 Procedure

#### A. Administrative Review

##### 1. Staff Determination of Application

**Completeness.** Within 10-business days, the City Engineer, or their designee, shall complete an initial review of the application to evaluate whether the application is complete.

- a. Applications that do not have sufficient information to determine compliance with this Section and the Street Access Standards of this LDC, shall be returned to the applicant.

##### 2. Compliance with Zoning.

Applications requiring the granting of a variance, special exception or other approval from the Zoning Board of Adjustment shall not be approved until such approvals have been obtained.

##### 3. Notice of Decision.

Within 14-business days of receipt of a completed application for administrative review, the City Engineer, or their designee, shall complete review of the application, in consultation with other

City departments as appropriate, and will approve, approve with conditions, or disapprove the application.

- a. All decisions shall be delivered in writing to the applicant and shall include any conditions for approval or reasons for denial.

#### B. Planning Board Review

##### 1. Staff Determination of Application

**Completeness.** Upon receipt of a street access permit application, the Community Development Director, or their designee, shall complete an initial review of the application to evaluate whether the submittal requirements have been met.

- a. If the missing application materials or information are necessary for proper documentation, but are not central to the initial departmental review, the applicant will be permitted to provide the required materials or information by the revision deadline of 5-business days prior to the corresponding Site Review Committee meeting date.

##### 2.

Once the Community Development Director, or their designee, has made an initial determination that an application is complete, copies of the application and associated materials shall be sent to the City Engineer and the Planning Board for initial review at least 10-business days prior to the corresponding Planning Board meeting date at which the application will be reviewed.

##### 3. Site Visits.

At the discretion of the Community Development Director or the Chair of the Planning Board, a formal site visit to the subject property may be scheduled prior to the Planning Board meeting on the application.

##### 4. Board Determination of Application

**Completeness.** The Planning Board shall vote to determine whether the application is complete prior to deliberating on the application.



a. The Planning Board shall consider advice from the Community Development Director, or their designee, in reaching a determination as to whether an applicant has provided sufficient information to deem the application complete.

b. If the Planning Board determines that an application is incomplete, the Committee will either issue a written decision of incompleteness or, with the applicant's consent, table the application until the next regular meeting of the Board.

5. **Board Review of Application.** Upon reaching a finding that an application is complete, the Planning Board may review the application.

a. The Planning Board shall evaluate the application based upon the evidence presented by the applicant and consultation with the City Engineer, pursuant to the approval standards of this section.

6. **Decision.** The Planning Board shall finish its review of an application within 65-days of the meeting at which the Board accepted the application as being complete. If the Planning Board feels that more time is needed, or if the applicant requests additional time, the timeframe provided for review under NH RSA 676:4 can be extended by mutual agreement of the Committee and the applicant, so long as the applicant submits a request for the extension in writing.

### 25.16.7 Approval Standards

All applications for a street access permit shall be evaluated for compliance with the Street and Access Standards in **Article 23**.

### 25.16.8 Expiration

A street access permit shall specify the date upon which it expires. Such expiration date shall not exceed 2-yrs from the date of permit issuance.

### 25.16.9 Exceptions to Street Access Standards

A. Requests for exceptions to the street access standards in **Article 23**, shall be made in writing to the appropriate review and decision making authority. The process for review and approval of an exception request shall be as follows.

1. An applicant seeking an exception request to the street access standards in **Article 23**, shall follow the same submittal requirements for a street access permit, and shall submit:

a. A notarized list of abutters, which shall include all owners of property that directly abuts and/or is across the street or stream from the subject parcel and all owners of property located within 200-ft of the subject property. This notarized list shall include the name and mailing address of the property owner, the property street address, and the tax map parcel number for each affected property.

b. 2 sets of mailing labels for each abutter, including the owner of the subject property and their authorized agent.

c. 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, which shall be Certified Mail.

B. In determining whether to approve or disapprove an exception request, the appropriate decision-making authority shall evaluate the exception request using the following criteria:

1. Issuance of the exception will not adversely affect the safety of pedestrians, bicyclists and vehicles using adjacent streets and intersections.

2. Issuance of the exception does not adversely affect the efficiency and capacity

of the street or intersection.

- 3.** There are unique characteristics of the land or property that present a physical hardship to the requestor.
  - 4.** In no case shall financial hardship be used to justify the granting of the exception.
- C.** Within 7-business days of the receipt of a written request for an exception as provided above, the appropriate decision-making authority shall mail notice to abutting property owners of the requested exception. Such notice shall include the address of the request and the standard(s) to which an exception is requested. The notice shall instruct potentially affected property owners to submit comments in writing to the issuing authority.
- D.** The appropriate decision-making authority shall wait a minimum of 10-business days following the issuance of abutter notification before making a final determination on the requested exception.
- E.** If, after reviewing all submitted comments, the appropriate decision-making authority finds that the applicant has met all exception criteria the requested exception shall be granted. Otherwise, the requested exception shall be denied.

# ARTICLE 26. APPEALS

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26.2 APPEAL OF ZONING ADMINSTRATIVE DECI-  
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26.4 APPEAL OF SITE REVIEW COMMITTEE DECI-  
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26.5 APPEAL OF COMMUNITY DEVELOPMENT  
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26.8 APPEAL OF DECISIONS ON STREET ACCESS  
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## 26.1 APPEAL OF ZONING BOARD OF ADJUSTMENT DECISION

- A.** Appeals concerning any matter within the authority of the Zoning Board of Adjustment shall be in the manner provided for by RSA 676:5-7.
- B.** In accordance with NH RSA 677:1-14, any person aggrieved by the decision of the Zoning Board of Adjustment shall file a motion for a rehearing with the Community Development Department within 30-calendar days after the date of the Zoning Board of Adjustment decision.
  - 1.** The motion for rehearing shall fully set forth every ground upon which it is claimed that the decision rendered is unlawful or unreasonable
- C.** The Zoning Board of Adjustment shall deliberate the motion for rehearing within 30-days of the date of the filing of the motion.
- D.** If the Zoning Board of Adjustment Board grants a motion for rehearing, the new public hearing shall be held within 30-calendar days of the decision to grant the rehearing, provided all applicable fees are paid and an updated abutters list, including all abutters within 200-ft of the subject parcel, is submitted by the party requesting the rehearing. Notice of the rehearing shall follow the procedures set forth in NH RSA 676:7.
- E.** If a motion for rehearing is denied by the Zoning Board of Adjustment, the applicant may appeal to the Superior Court within 30-calendar days after the date upon which the Board voted to deny the motion for rehearing.
- F.** Any further appeal of a final decision or order of the Zoning Board of Adjustment shall be in accordance with RSA 677:4.

## 26.2 APPEAL OF ZONING ADMINISTRATIVE DECISION

- A.** In accordance with NH RSA 676:5, appeals to written decisions of the Zoning Administrator shall be made to the Zoning Board of Adjustment, provided the notice of appeal is filed with the Community Development Department within 45-calendar days after the date of the Zoning 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.

## 26.3 APPEAL OF PLANNING BOARD DECISION

- A.** Appeals concerning any decision of the Planning Board concerning a subdivision or site plan shall be made in the form of a petition to the superior court in the manner provided for by RSA 677:15.
- B.** Such petition shall be presented to the superior court within 30-calendar days after the date upon which the Board decided on the application; provided, however, that if the appeal from the decision of the Planning Board is based on any matters appealable to the Zoning Board of Adjustment, such matters shall be appealed to the Zoning Board of Adjustment before any appeal is taken to the superior court.

**26.4 APPEAL OF SITE REVIEW COMMITTEE DECISION**

- A.** Appeals to decisions of the Site Review Committee shall be made to the Planning Board, provided the notice of appeal is filed with the Community Development Department within 20-calendar days from the date of the Site Review Committee’s decision, in accordance with NH RSA 674:43(III), all applicable fees are paid, and an updated abutters list, including all abutters within 200-ft of the subject parcel, is submitted by the appealing party.
- B.** The notice of appeal shall specify all grounds on which the appeal is based.
- C.** Any aggrieved party appealing a decision of the Site Review Committee is entitled to a de novo public hearing before the Planning Board.

**26.5 APPEAL OF COMMUNITY DEVELOPMENT DIRECTOR DECISION**

- A.** Appeals to decisions of the Community Development Director on site plans that have been administratively reviewed shall be made to the Planning Board, provided the notice of appeal is filed with the Community Development Department within 20-calendar days from the date of the Community Development Director’s decision, all applicable fees are paid, and an updated abutters list, including all abutters within 200-ft of the subject parcel, is submitted by the appealing party.
- B.** The notice of appeal shall specify all grounds on which the appeal is based.
- C.** Any aggrieved party appealing a decision of the Community Development Director is entitled to a de novo public hearing before the Planning Board.

**26.6 APPEAL OF HISTORIC DISTRICT COMMISSION DECISION**

- A.** Appeals to decisions of the Historic District Commission shall be made to the Zoning Board of Adjustment in accordance with NH RSA 676:5-7, provided the notice of appeal is filed with the Community Development Department within 30-calendar days after the date of the Historic District Commission decision being appealed, all applicable fees are paid, and an updated abutters list is submitted by the appealing party.
- B.** The notice of appeal shall specify all grounds on which the appeal is based.
- C.** 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.

**26.7 APPEAL OF CITY COUNCIL DECISION**

- A.** Any person aggrieved by the decision of the City Council in regard to the City’s Zoning Regulations shall petition for a rehearing, in accordance with NH RSA 677:1-14.
- B.** A motion for rehearing shall be filed with the city Clerk within 30-calendar days after the date of the City Council decision and shall fully set forth every ground upon which it is claimed that the decision rendered is unlawful or unreasonable
- C.** The City Council shall deliberate the motion for rehearing within 30-days of the date of the filing of the motion.
- D.** If the City Council grants a motion for rehearing, the new public hearing shall be held within 30-calendar days of the decision to grant the rehearing, provided all applicable fees are paid and an updated abutters list is submitted by the party requesting the rehearing.

- E.** If a motion for rehearing is denied by the 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 RSA 677:4.

## **26.8 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.

# ARTICLE 27. ENFORCEMENT

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## 27.1 AUTHORITY

The Building and Health Official has the authority to enforce this LDC with respect to property outside of the public rights-of-way. The Building and Health Official or the Public Works Director may institute any appropriate inspection, action, or proceeding to:

1. Prevent the unlawful erection, relocation, extension, enlargement, or alteration of any structure or sign;
2. Prevent the unlawful use or occupancy of structures or land;
3. Prevent any illegal act, business, or use in or about the premises; and,
4. Restrain, correct or abate violations of this LDC.

## 27.2 PERMITS

- A. The Building and Health Official, or their designee, may not issue any permit for the construction or alteration of any structure or the use or occupancy of any premises unless the plans, specifications, and proposed use of the structure or premises conform to the provisions of this LDC.
- B. Any permit issued for the construction or alteration of any structure or for the use or occupancy of any premises contrary to the provisions of this LDC will be void.
- C. Any material misstatement of fact by an applicant for a permit or any material misrepresentation in their plans or specifications shall render void the permit.

## 27.3 CERTIFICATES OF OCCUPANCY

No structure may be used or changed in use, nor premises occupied or used, until a certificate of occupancy has been issued by the Community Development Department.

## 27.4 STOP-WORK ORDERS

- A. Whenever the Building and Health Official has reasonable grounds to believe that any of the following is occurring with respect to work on any structure or lot in the City, they shall notify the owner of the property or the owner's agent to suspend all work, and any of these persons shall stop work and suspend all building activities until the stop-work order has been rescinded.
  1. The work is being performed in violation of the provisions of the applicable building laws, ordinances and regulations of this LDC or the City Codes of Ordinances.
  2. The work is not in conformity with the provisions of the approved permit application, plans, specifications, and revisions.
  3. The work is in an unsafe and dangerous condition.
  4. The work is without a required permit.
- B. The order and notice shall be in writing, state the conditions under which the work may be resumed, shall order the abatement of the violation within a reasonable time, and may be served either by delivering it personally or by posting it conspicuously where the work is being performed, and a copy of it shall be sent by Certified Mail to the address set forth in the permit application.
- C. Such notice need not be sent and shall not be a prerequisite if the Building and Health Official deems the violation to constitute an emergency and a hazard to the health and welfare of any person, in which case they may order the violation abated immediately and may file a complaint forthwith.
- D. The Building and Health Official shall have the right, after taking the preceding steps, to file a petition in the Superior Court requesting that the violator be ordered to cease the violation if, in their judgment, that is the preferable course of action.



## 27.5 FINES AND PENALTIES

- A.** Any violation of the provisions of this LDC, or of any conditions established by a decision-making authority in conjunction with an approval issued in accordance with this LDC, shall be punishable by a fine as provided in the LDC Fee Schedule in Appendix B of City Code.
- B.** Each day that a violation continues to exist, following issuance of a stop-work order by the Building and Health Official to the violator, shall constitute a separate violation.
- C.** More than one violation may be included on the stop-work order, but shall be subject to a separate fine.
- D.** The accumulation for payment for previous violations, ceases upon correction of the violation.

# ARTICLE 28. DEFINED TERMS

**NOTE: THIS SECTION IS STILL UNDER DEVELOPMENT. ALL USES ARE DEFINED IN SECTION 8.3, AND ARTICLE 1 INCLUDES DEFINITIONS FOR MEASUREMENTS AND SITE DIMENSIONAL REQUIREMENTS.**