



Due to the COVID-2019 State of Emergency, the Planning, Licenses and Development Committee will be holding its meeting remotely using the web-based program, Zoom. Members of the public will be able to access this public meeting through a variety of options, described below. If you encounter any issues accessing this meeting, please call 603-757-0622 during the meeting. To access the meeting online navigate to [Zoom.us](https://zoom.us) and enter the Webinar ID #889 6743 7719. To listen via telephone call 877 853 5257 and enter the Webinar ID #889 6743 7719. When the meeting is open for public comment, callers may press *9 if interested in commenting or asking questions.

**PLANNING, LICENSES AND
DEVELOPMENT COMMITTEE**

**AGENDA
Council Chambers A
May 12, 2021
6:00 PM**

Kate M. Bosley, Chair
Mitchell H. Greenwald, Vice Chair
Philip M. Jones
Gladys Johnsen
Catherine Workman

1. Keene Music Festival - Request to Use City Property
2. Keene Downtown Group - Request to Use City Property - Art Walk
3. Kiwanis Club - Request to Use City Property - Tree Lighting Ceremony
4. Friends of Public Art - Request to Use City Property - Outdoor Art Market - Railroad Square
5. Continued Discussion: Keene Ordinance – Wearing of Face Coverings
6. Relating to the Wearing of Face Coverings
Ordinance O-2021-07
7. Amendments to the Land Development Code - Historic District Commission
8. Land Development Code and Downtown Zoning
Ordinance O-2020-10A
Ordinance O-2020-11A
9. Relating to Ch. 46 Licenses and Permits – Social Service and Congregate Care
Ordinance O-2021-04
10. Relating to Social Service and Congregate Care Uses and License
Ordinance O-2019-13
Ordinance O-2019-14

MORE TIME ITEMS:

- A. Terry Clark – Relating to Small Wireless Facility Deployments in Public Rights-of-Way
- B. Danya Landis/Machina Arts – Requesting Permission to Erect a Parklet in Parallel Parking Spaces – Outdoor Dining

Non Public Session
Adjournment



City of Keene
Transmittal Form

May 2, 2021

TO: Mayor and Keene City Council

FROM: Pablo Fleischmann, Keene Music Festival Director

THROUGH: Patricia A. Little, City Clerk

ITEM: 1.

SUBJECT: Keene Music Festival - Request to Use City Property

COUNCIL ACTION:

In City Council May 6, 2021.

Referred to the Planning, Licenses and Development Committee.

ATTACHMENTS:

Description

Communication_Keene Music Festival

BACKGROUND:

Mr. Fleischmann is requesting the annual license to conduct the Keene Music Festival on Saturday, September 4, 2021.

*Keene Music Festival
37 Roxbury Street
Keene, NH 03431
(603) 499-6656*



May 2, 2021

The Honorable Mayor and City Council
Keene City Hall
3 Washington Street
Keene, NH 03431

Re: 2021 Annual Keene Music Festival

The Keene Music Festival wishes to sponsor this year's Annual Keene Music Festival on Saturday, September 4, 2021. The scheduled hours for performances and other activities are 10:00 AM until 10:30 PM; with performances ending by 10:00 PM.

With an understanding of the current Coronavirus situation, we have decided to keep the scale/scope of this year's Festival as we have in the past, with the understanding that we will likely reduce the overall footprints the date approaches, to avoid any chance of over-crowding. The traditional locations have been: The common area and bandstand in Central Square/Gazebo; Railroad Square; City Tire Company (124 Main Street); Lamson St./ Main Street; Miller Brothers "Alley"; The Monadnock Food Coop; Lindy's Diner; and, Toadstool Bookshop. We will likely reduce the footprint to the three larger areas: Gazebo, Railroad Square and City Tire, but want to make preliminary provisions for maintaining our pre-Covid Festival footprint.

We would like to request and reserve the use of parking metered space #'s: 164, 166, 168, 170, 172, and 174 on Main Street in front of the City Tire Company. The Main Street metered spaces are being requested to serve as a staging area to allow the sound crew to prepare equipment to be set up in the City Tire Company parking lot; and could be opened for use later in the day.

We are also proceeding with the understanding that should conditions in our overall community dictate a stricter than usual protocol (such as a flare-up in Coronavirus cases), we may cancel the event altogether.

While we do not request that Railroad Street, from Main Street to the parking garage be officially closed, we are asking that the Public Works Department please provide us with adequate barriers for that eventuality. If the Keene Police Department determines that there is a safety issue, we will close the street as needed.

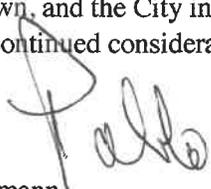
As with prior years, and in a manner consistent with community event protocol, we ask that the City please give due consideration to absorbing any additional cost of Police Officers, Public Works and Fire Department Personnel for the day. We are requesting that Police and Fire Department Personnel be detailed to the event between the hours of 11 :00 AM and 10:30 PM.

As required, we will provide a \$1 Million certificate of insurance to the City, and work closely with City staff to ensure that this is a safe and enjoyable event.

Our previous Music Festivals have always been a great success. There have been no public issues; the performances have been amazing, and the crowds' orderly. As in previous years, Keene Music Festival does not consider or accept outside vendor applications. We prefer to encourage our guests to explore local businesses and shops as they enjoy the musical well as the array of the current licensed Food Trucks, who will be invited to participate in the Downtown area.

Events such as this add to the vibrancy of our Downtown, and the City in general, helping Keene be the exceptional place that it is. We thank you in advance for your continued consideration and support.

Sincerely,


Pablo Fleischmann
Keene Music Festival Director



City of Keene
Transmittal Form

May 3, 2021

TO: Mayor and Keene City Council

FROM: Madeline Ullrich, Project Coordinator

THROUGH: Patricia A. Little, City Clerk

ITEM: 2.

SUBJECT: Keene Downtown Group - Request to Use City Property - Art Walk

COUNCIL ACTION:

In City Council May 5, 2021.

Referred to the Planning, Licenses and Development Committee.

ATTACHMENTS:

Description

Communication_Art Walk

BACKGROUND:

The Keene Downtown Group is requesting a Street Fair License to hold art demonstrations, sidewalk sales and other activities in the downtown area on Saturday, June 5th and Saturday, June 12th. They are also requesting free parking on these dates.

ArtWalk

May 3, 2021

City of Keene
3 Washington Street
Keene, NH 03431

Dear Members of the City Council,

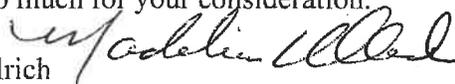
I am the program coordinator for the Keene Art Walk. We request the following for the two Saturdays during Art Walk from 10 a.m. to 5 p.m. on June 5th and June, 12th:

1. Sidewalk Sales Permit: This will benefit the downtown businesses, restaurants as well as the Art Walk artists.
 - a. Four 10 x 10 tents around the downtown area w/artist demonstrations.
 - b. Music performances
2. Free parking on Saturday June 5 and June 12.
 - a. A letter has already been sent in Keene City Council.
3. Use of Electricity as needed for the Artist Demos.
 - a. We are already permitted for Use of Railroad Square
 - b. Other locations
4. Artists painting in various areas in the Downtown Area

This is the 30th year of the Keene Art Walk. The Keene Art Walk works with the artists, the community, and the businesses to support and enhance arts in the region. This event brings to downtown Keene, NH local multigenerational visual artists to showcase their art in the windows of over 50 store businesses creating a walking art gallery.

This year we have added a new event to Keene Art Walk - *Artists Everywhere*. This event includes artist demonstrations and performing artists downtown on both Saturdays of Art Walk.

Thank you so much for your consideration.


Madeline Ullrich
Project Coordinator
KEENE ART WALK
603-722-5445





City of Keene
Transmittal Form

May 3, 2021

TO: Mayor and Keene City Council

FROM: Peg Bruce, Secretary

THROUGH: Patricia A. Little, City Clerk

ITEM: 3.

SUBJECT: Kiwanis Club - Request to Use City Property - Tree Lighting Ceremony

COUNCIL ACTION:

In City Council May 6, 2021.

Referred to the Planning, Licenses and Development Committee.

ATTACHMENTS:

Description

Communication_Kiwanis

BACKGROUND:

Ms. Bruce has submitted the annual request for a license to conduct the Tree Lighting Ceremony on Central Square on November 26, 2021.



Kiwaniis

CLUB OF KEENE

63 Emerald Street
PMB 451
Keene, NH 03431
keenekiwaniis.org

OFFICERS:

Elizabeth Sayre
President

Pete Southwell
President-Elect

Art Trombly
Vice President

Arthur Walker
Past President

Donna Petersen
Treasurer

Janet Genatt
Co-Treasurer

Peg Bruce
Secretary

DIRECTORS:

Carl Allen

David Ganio

Scott Olmstead

Diana Sommer

Patti Spears

Pamela Wilson

PAST PRESIDENTS:

Arthur Walker 2019-20

David Ganio 2018-19

Eli Rivera 2017-18

Paul Bothwell 2016-17

Peg Bruce 2015-16

David Ganio 2014-15

Beth Healy 2013-14

Gary Grashow 2012-13

Carl Allen 2011-12

Michael Haines 2010-11

Keene Kiwanis is a 501 (c) 3
Organization: tax exempt
number - 020458160.

May 3, 2021

Mayor Hansel and the Keene City Council
3 Washington Street
Keene, NH 03431

Re: 11/26/2021 Tree Lighting, Central Square, Keene, NH

Dear Mayor Hansel and the Keene City Council:

The Kiwanis Club of Keene requests a license to produce the 2021 Tree Lighting Event. The proposed date and time of the event is November 26, 2021, 5 p.m. to 8:30 p.m. This event continues to compliment the Kiwanis' mission of supporting our local youth.

This is the ninth year we are managing this event. We would once again like to decorate the Bandstand on Central Square with wreaths and lights and decorate the City tree on Central Square. If we are able to find a suitable tree, would like to place a tree on the roundabout at the intersection of Marlboro St, Main St. and Winchester St. Will use battery operated lights on this tree. We plan to do the decorating of Central Square and the roundabout on a Saturday in the month of November 2021 and take the decorations on Central Square and the roundabout down by the second week of February 2022. We plan to string bars of soap on the trees to continue to deter the squirrel population from damaging the light strings. We had no lights damaged the past several years.

Between 2013 and 2019 the event has been a great success. In 2021, we did a virtual event. The children have enjoyed the entertainment with the brass band and the choirs as well as the Christmas story. They really liked having the fire truck circle the square with Santa and Mrs. Claus. We give close to 600 Christmas bells to children and have had a very large crowd attend the event. The new road closure of Central Square is keeping the crowd very safe during the event. We plan to keep the event similar this year.

Feel free to contact Dave Ganio should there be any questions. He can be reached at 603-357-7700 or via email at glmgt@myfairpoint.net.

Thank you for your consideration of this request.

Sincerely,

Peg Bruce, Secretary
Kiwaniis Club of Keene
63 Emerald Street, PMB 451
Keene, NH 03431
603-762-7276



City of Keene
Transmittal Form

May 10, 2021

TO: Planning, Licenses and Development Committee

FROM: Georgia Cassimatis, Executive Director

THROUGH: Patricia A. Little, City Clerk

ITEM: 4.

SUBJECT: Friends of Public Art - Request to Use City Property - Outdoor Art Market - Railroad Square

RECOMMENDATION:

The Friends of Public Art is requesting use of the grassy area adjacent to Railroad Square for an outdoor art market on June 5, July 30, September 4 and October 2 from 8 am to 2 pm.

ATTACHMENTS:

Description

Communication_Friends of Public Art

Layout



Friends of Public Art
Robertson Center for Non Profits
15 Eagle Court
Keene, NH ZIP 03431

631.872.4156
FPAMonadnock@gmail.com

FRIENDS of PUBLIC ART

Mayor George Hansel and Keene City Council,

I am writing you to ask for permission to host an outdoor Art Market in Railroad Square with the proposed dates in the application attached. It is in mine, and the community at large is interested, to have these markets become a feature of Keene to support the continued growth of our cultural identity and to support the efforts to make Keene a destination city. There is virtually no space in Keene to have markets like these. I have reached out to the private owners in proximity and the farmers market and they are already at capacity for their crafters. I would like to use Railroad Square because it lends itself to these types of events and it makes sense to be as close to the farmers market as possible to allow visitors to cross-pollinate in each event. I hope in 2022 that I can have these markets once a month on the First Saturday of the month.

Dates in Question:

June 5th , July 30th , September 4th October 2nd

Time:

8AM-2PM

An hour buffer on each side of the event is given to support set up and break down.

Event Insurance will be provided with Keene listed as an additionally insured.

You will expect to see a wide range of hand made goods by local artists.

Thank you for your time and consideration,

Georgia Cassimatis

Executive Director

Friends of Public Art

Founder of 17ROX Artist Studios

FPA brings art and culture to Keene, NH

Free to the public and encourages economic, cultural, social and historical vitality.



**CITY OF KEENE
USE OF CITY PROPERTY APPLICATION**

Applicant/Sponsoring Organization Information:

NAME OF ORGANIZATION: Friends of Public Art

APPLICANT NAME: Georgia Cassimatis

ADDRESS: 15 Eagle Ct. Keene NH 03431

DAYTIME PHONE: (631) 872- 4156 EVENING: () FAX #: ()

E-MAIL: FPAmonadnock@gmail.com

DAY OF EVENT CONTACT NAME AND CELL NUMBER: Georgia Cassimatis 631-872-4156

Special Event Information:

SPECIAL EVENT ON CITY PROPERTY

STREET FAIR

DISCHARGE OF FIREWORKS

SERVING OF ALCOHOL AT A CITY FACILITY - please specify location HEBERTON HALL

COMMUNITY ROOM

PARADE, WALK-A-THON, OR BIKE/FOOT RACE REQUIRING STREET CLOSURES/POLICE ASSISTANCE

OTHER (please specify) Artisan Market IN RR SQ.

Artisan Market

EVENT TITLE: _____

EVENT DATE(S): June 5th, July 30th, September 4th October 2nd ESTIMATED ATTENDANCE: ~100 people Not all at once, they will be scattered through the event.

LOCATION OF EVENT: Railroad Square Keene NH

DURATION OF USE (INCLUDING SET UP/BREAKDOWN): from: 8 AM / PM to: 2 AM / PM

HOURS OF ACTUAL EVENT: from: 9AM AM / PM to: 1PM AM / PM

DESCRIPTION OF EVENT: Artisans will set up 10x10 booths in Railroad Square to sell their art.

Please attach additional sheets as necessary

STREET CLOSURES/DETOURS REQUESTED: NONE

Please attach additional sheets as necessary



**CITY OF KEENE
USE OF CITY PROPERTY APPLICATION**

Is this the first time your organization has sponsored this event? Yes No

If not, has the person(s) in charge of organizing the event changed since it was last applied for? Yes No

For events that have been held previously, has the City provided any support or services to your event? Yes No

If so, please describe: _____

DETAILED MAP OF PROPOSED EVENT FOOTPRINT: Please provide as an attachment to your application a single line sketch/drawing of the layout of the event. On the sketch/drawing include sidewalks/streets/lanes to be closed and/or blocked, locations of vendors (merchandise, food, etc.), display tables, or other encumbrances, and identify areas of activities (start lines, finish lines, attractions, etc.).

PLEASE INDICATE WHETHER THE FOLLOWING ITEMS PERTAIN TO YOUR EVENT:

YES	NO	
_____	_____ x _____	WILL ACTIVITIES AND ATTENDEES BE ENCUMBERING THE TRAVELED PORTION OF ANY PUBLIC WAY, STREET OR LANE?
_____	_____ x _____	FOOD CONCESSIONS AND/OR OUTDOOR COOKING
_____	_____ x _____	USE OF PROPANE
_____	_____ x _____	OUTDOOR BURNING (CAMPFIRE)
_____ x _____	_____	SET UP OF TABLES AND CHAIRS (if so, how many): <u>At least 8 booths possibly more if space allows it</u>
_____	_____ x _____	DOES THE EVENT REQUIRE ACCESS TO CITY ELECTRICAL? (location): _____



**CITY OF KEENE
USE OF CITY PROPERTY APPLICATION**

YES

NO

x

SOUND AMPLIFICATION (if yes, indicate start/end times): _____

OTHER MISCELLANEOUS INFORMATION YOU WISH TO PROVIDE PERTAINING TO THIS EVENT:

Event Insurance will be provided for each day the event takes place and the city of Keene will be listed as additionally insured. I have held events like these in the past and they have been a huge with the community. Most recently, in the 17ROX parking lot in December 2020. I hope this can be a monthly event moving forward in 2022. It is hard to define 100% how many booths I will be able have set up due to COVID restrictions, but the current goal is 10. If space will allow, then I would have more.

(Protocol meetings will be held with the applicant as necessary to seek further details relative to the request for a license and/or funding for City services. Please be aware, the City may place additional conditions or requirements on the event at its sole discretion to ensure public safety)



CITY OF KEENE USE OF CITY PROPERTY APPLICATION

What is General Use of City Property?

General use City property is defined as the use of public property for a specified duration, including but not limited to use of city parking spaces, city sidewalks or rights-of-way, or facilities. It also includes the sale or service of alcohol on city property, which in addition to requiring City permission, shall also be in compliance with the requirements of the state liquor commission.

Obtaining a License

The City Clerk is the licensing authority for general uses of City property that have a minimal impact on the public. Events that are larger in scale may be referred to the Keene City Council for license approval. To obtain a license, the applicant must complete an application that is submitted to the City Clerk's Office along with the applicable fee. The applicant will also need to submit a certificate of liability insurance listing the City of Keene as an Additional Insured.

Licenses issued by the City Clerk

The City Clerk's Office will initiate a review process with various City departments to determine licensing conditions. If deemed necessary, the applicant may be asked to attend a safety protocol meeting with City staff to determine public safety needs. Once the review process had concluded, the applicant will sign an indemnification agreement and the City Clerk will issue the license.

Licenses Requiring City Council Approval

If upon initial review of the application it is determined that City Council approval is needed, the applicant will submit a cover letter to the City Clerk's Office addressed to the Honorable Mayor and City Council. The applicant will be invited to a meeting of the Planning, Licenses and Development Committee to discuss their request. In addition, safety protocol meeting(s) will be scheduled with City staff to determine public safety needs. The City Clerk's Office assists applicants through the process and helps to facilitate communication with the City Council and/or the various City departments. Once the review process has concluded, the applicant will sign an indemnification agreement and the City Clerk will issue the license.

Licenses issued under this section of the City Code are date specific. There is a \$30.00 application fee for this type of license. In addition, if City resources are required to ensure safety, these costs are passed along to the applicant.

To review the regulations relative to this type of license, please go to the Keene City Code at the following web address:

https://www.municode.com/library/nh/keene/codes/code_of_ordinances
Chapter 46 is the Licensing Chapter.



CITY OF KEENE USE OF CITY PROPERTY APPLICATION

What is a Street Fair or Community Event?

As define by NH Statute **31:100 Street Fairs.** – The selectmen of a town or governing body of a city may grant a license in writing to any person or persons to use and occupy a portion of any street or sidewalk, as may be designated in general or in specific terms, for the purpose of conducting thereon street fairs or other community events, including but not limited to the sale of merchandise by commercial retailers, or by community associations conducting street fairs or other promotions. Such licenses may include the right to encumber the designated area with boxes, shelves, stands and other devices useful in conducting such sales and shall be issued for not in excess of 3 consecutive business days. Licenses may also be subject to such other terms and conditions, to be expressed in the license, as the public convenience and safety may require.

Obtaining a License

The Keene City Council is the licensing authority for Street Fair Licenses. To obtain a license, the applicant must complete an application that is submitted to the City Clerk's Office along with a certificate of liability insurance listing the City of Keene as an Additional Insured and a cover letter addressed to the Honorable Mayor and City Council. The applicant will be invited to a meeting of the Planning, Licenses and Development Committee to discuss their request. In addition, safety protocol meeting(s) may be scheduled with City staff to determine public safety needs. The City Clerk's Office assists applicants through the process and helps to facilitate communication with the City Council and the various City departments. Once the review process has concluded, the applicant will sign an indemnification agreement and the City Clerk will issue the license.

Licenses issued under this section of the City Code are date specific. There is a \$50.00 per day application fee for this type of license. In addition, if City resources are required to ensure safety, these costs are passed along to the applicant.

To review the regulations relative to this type of license, please go to the Keene City Code at the following web address:

https://www.municode.com/library/nh/keene/codes/code_of_ordinances

Chapter 46 is the Licensing Chapter.

Railroad St
Keene, New Hampshire

Google

Street View



Artist Booth

Artist Booth

Artist Booth

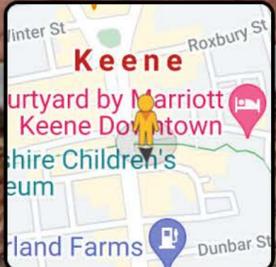
Artist

Artist Booth

Artist Booth

Artist Booth

Artist Booth



Google



April 21, 2021

TO: Mayor and Keene City Council
FROM: Planning, Licenses and Development Committee
ITEM: 5.

SUBJECT: Continued Discussion: Keene Ordinance – Wearing of Face Coverings

COUNCIL ACTION:

In City Council May 6, 2021.
More time granted.

RECOMMENDATION:

On a vote of 5-0, the Planning, Licenses, and Development Committee placed the item on more time.

BACKGROUND:

Chair Bosley stated that this is the discussion on the Wearing of Face Coverings Ordinance in the City of Keene. She continued that they will begin by hearing from John Rogers, Keene's Department of Health Director.

Mr. Rogers stated that certainly, masks are not 100% preventive of transmitting or contracting this virus, but along with the masks, vaccines, social distancing, and hand-washing are some of the most effective ways to try and end this pandemic. Face coverings help prevent the spread of COVID-19 in a couple of ways. He continued that first, face coverings help prevent infectious individuals from spreading the respiratory droplets, and second, face coverings can help, probably at a much lower percentage, as a barrier by preventing respiratory droplets from entering the wearer's nose and mouth. As the Health Officer, he has some concerns with the Governor's mask mandate not being renewed last week, along with the Governor's statement that the current re-opening guidelines that are in place for many businesses will be removed May 7. By removing this, it removes a lot of other tools that they have, as far as the social distancing. These will be replaced with just a universal guideline and they will only contain recommendations for protocol. This will remove three out of four of the main tools the City has to try and combat this virus.

Mr. Rogers stated that last week, between April 14 to 20, there were an average of 360 cases per day [in the state], which is an 18% decrease from the week before. That trend seems to be continuing with only 280 new cases reported yesterday. That being said, with an incubation period of 2 to 14 days for the virus, we really do not know what the effect will be of the Governor ending the mask mandate and what effect that will have on the positivity rate for another week and a half.

Mr. Rogers continued that while NH is at the top of the list for the number of people who have received their first shot, about 50%, much of the state's younger population is still really low on the percentage. They are in a later phase of the vaccine roll-out. According to John Hopkins Medicine, the younger population might not be as high of a risk from the virus or hospitalization or death, but they can still develop severe and long-lasting

symptoms, particularly if they have underlying health issues, and can most certainly transmit the virus to others. Many of the students currently in town attending Keene State College (KSC) are from out of state and had not been able to register for the vaccine until this past Monday. With the Johnson & Johnson vaccine on hold this means that the earliest they would be considered fully vaccinated would be the end of May. Many of the younger population work within the city's service industry, such as retail, restaurants, bars, schools, and childcare. They are at much higher risk of exposure dealing with the public in those different sectors.

Mr. Rogers continued that without a Mask Ordinance with our reopening guidelines in place we certainly would be putting many of our local businesses at risk. We have all seen the different businesses that have had to close for weeks due to an employee testing positive and other employees being considered close contacts and having to go into self-isolation to help prevent the spread of this virus. Another change that is the local SAU will be having students back in classrooms starting next week. While citizens, local businesses, KSC, the school system, the hospital, and the local health network in the city have been doing the best job possible during this difficult time, we need to continue to use the best practices possible to help end this pandemic and wearing masks is a large part of that effort. As the City's Health Official he recommends that this current Mask Ordinance stay in place until June 1, especially with all these other changes that are happening.

Chair Bosley asked to hear from Melinda Treadwell.

Melinda Treadwell, KSC President, stated that she has slides to show, with data to help the PLD Committee. The City Attorney asked if she will be showing any slides of copyrighted material. Dr. Treadwell replied no.

Dr. Treadwell stated that she offers her thanks and appreciation to the City, to the downtown merchants, employers of KSC students, and to the entire community. KSC's goal was to open the college, knowing they would increase the city's population about 10%, and to operate fully and get back to economic vitality, without compromising the public health of the city. She believes they have done a remarkable job through partnership together, to get through the months that we have gotten through. She thanks the community for the support the college has felt.

Dr. Treadwell continued that she has some information to share that hopefully will inform the PLD Committee's deliberations. She opens with a request, consistent with what was just offered by the lead Public Health professional for the City: that the City Council maintain the current ordinance through June 1. KSC was surprised by the Governor's announcement to move to reopening the state. KSC delayed their opening for the spring semester by approximately three weeks to allow the peak incidents in the January timeframe to pass, so their semester will not end until late May. The University of New Hampshire (UNH) and Plymouth State will be ending in the first week of May; they both have had operational interruptions this spring. KSC has not had those operational interruptions. Not only has the college been able to perform with full business operations but they are seeing high success and high economic performance at the downtown restaurants during this past month. Thus, they ask that the City consider extending the Mask Ordinance through June 1. There are a number of concurrent situations that would encourage the continuation of the mask use and the distancing requirements.

Dr. Treadwell continued that she will speak specifically about KSC's experiences this year. KSC has conducted approximately 100,000 COVID-19 tests. They are doing weekly surveillance of 97% of KSC's population and conducting wastewater screenings, so they have a robust data set and they have an active response tracking system, so they know quite a bit about disease transmission at the college over the past full year. In those 100,000 tests what they are aware of is that their stringent mask use requirement at all times on campus and the distancing spacing requirements in the classrooms has meant that they have no documented cases of transfer within the campus community where they are adhering to these requirements. Where they are seeing transmissions from students to other students, from staff from their family members predominantly, is when they are in environments at home without mask usage and exposed to a positive COVID-19 case or in environments where the masks are off and people are speaking loudly, such as apartment-style living. When

KSC is working through their response tracing, if masks are not in use, and there is an individual with COVID-19, they are seeing a 25-50% increase in transfer to individuals who are not wearing masks in those spaces. The mask usage, as a source control method, has made a tremendous difference.

Dr. Treadwell continued that her research was originally in particulate toxicology which is why she has been asked to be part of the COVID-19 Planning Team for the system, and what they do know within the scientific community is multi-layered masks or tight-fitting surgical masks do provide protection for airborne droplets of 10 microns and above and the protection factor can range from 50-80% to block droplets from an individual who may be carrying or infected with COVID-19 from transmitting. She thinks that is where they are seeing the reduction in the potential transfer when students are wearing masks on campus. They are not seeing, as they look through the data and are working with their population, impacts on oxygen levels throughout the days of using masks, and that includes the more senior faculty as well. Although these are not concerns with the style of multi-layer or surgical-style masks they can get up to 80% protection and they are seeing it having a very positive impact on controlling transmission in the campus population, and they are not seeing impacts on oxygen rates or health in anyone who has been wearing masks during the past year.

Dr. Treadwell continued that as Mr. Rogers has stated, vaccine rates at this point are not reaching a level where they can relax their transmission control, which is the use of masks and spacing. The college and City have done an exceptional job. She has data to show what KSC's case rates have looked like. She provided testimony when the City Council was considering this ordinance in the fall. KSC students share the Main St. and work in Keene restaurants and in downtown merchants. KSC students are very concerned that they have made it this far through the year, and if they are in a quarantine or isolation protocol they will not be able to complete the semester. KSC may have an interruption in its operations, and students are concerned with making it through what is the end of a very long year with lots of requirements if we begin to have mixed standards, some on campus and some downtown. Thus, part of her request is to help support consistency in the types of requirements they are asking of the students, whether they are on campus or on Main St. or workplaces downtown. To this point, KSC has not had an interruption to its operations. They have been able to function. Even with the Mask Ordinance and the requirements they have seen economic vitality and the ability for them to persist during a pandemic, and she is proud of that, and proud of the city for it.

Showing a slide of KSC's COVID-19 data review, Dr. Treadwell continued that since July of 2020 there have been a total of 271 cases at KSC. Compared to the number of cases at UNH and Plymouth State, KSC has done exceptionally well, and that is because they have worked well with the City and have had a consistency of requirements and the students have leaned in and done what has been asked of them. KSC's positivity rate has been low even though they have seen increases in the community transmission rate around them. They plot on their dashboard that is published each week, and these are the data going back to February 15, just prior to their opening. These are the case rates between the county, the city, and the college, and these data reflect case counts up through last week. They will plot new data for this week. They are starting to see an increase in both the city and continued increase at the county level right now. These are known, new positive cases. We are not at a level where case rates are dropping and mitigation methods like masks and distancing can be relaxed.

She showed slides of the wastewater data, from approximately February 8 to the most recent sampling on April 7. She continued that they are working in partnership with the City to sample an air shed that brings up some of the congregate living, elder care facilities, and the college, as well as the baseline well in the city. What these data show are actual COVID mRNA counts in the wastewater. High wastewater counts tend to precede case counts in the city. People shed virus in their waste prior to actually being able to test positive and KSC is seeing high levels of continuing wastewater levels of COVID-19, which again emphasizes that we are not through even a plateauing of case counts yet.

Dr. Treadwell showed the operational dashboard for KSC, published on a daily and weekly basis. She continued that they are operating red, green, and yellow and they have a series of metrics both at the State and County level. KSC this week tripped into yellow for wastewater and red for the City of Keene and Cheshire

County for the number of cases. They are approaching a level where the case count increase may actually result in some operational interruption at KSC. The campus has been operating at green or yellow. They typically see between 10-16 cases a week. This week they are up to 20. These case counts show that we are on the edge. Her hope is that the college can complete its semester and students present no risk; that has been her promise to the city. She implores the PLD Committee to consider extending the precaution that has been afforded with the Mask Ordinance and the physical distancing requirements for at least one more month as we move into June, so the semester can be completed and the students can have consistent experiences and the city will see where the virus goes in the next few weeks. We are not through at this point.

Chair Bosley thanked Dr. Treadwell for collecting and sharing that information. She asked if the committee had any questions.

Councilor Workman stated that she agreed with everything Mr. Rogers said about the variables he is concerned about, specifically about May and children returning classrooms full time and the industry-specific guidelines changing to universal recommendations as of May 7. She continued that her question is how the June 1 date was determined, because her only additional concern that she did not hear Mr. Rogers mention is Memorial Day Weekend. She would like the date to be mid-June to accommodate for any potential increase in positive cases as a result of the Memorial Day gatherings.

Mr. Rogers replied that June 1 was sort of chosen based on the vaccines. The State of NH has done an outstanding job, being first with the percentage of the population that has had at least their first shot, and based off of that, right around the end of May or beginning of June the percentage rates (for vaccinations) should be pretty high and that is why they initially picked June 1. But he agrees with Councilor Workman's concern about Memorial Day weekend possibly being a high-transmission time.

Chair Bosley asked the City Manager to go over the data presented to the City Council last week, regarding Dr. Caruso's opinion about herd immunity in Cheshire County and vaccinations happening at Krif Rd.

The City Manager replied that Dr. Caruso talked about how the vaccination rate at Krif Rd. is a good measure in regards to this ordinance and other protective measures in the community. She continued that Dr. Caruso shared that that site is serving about 100,000 people. It is serving Cheshire County and a few other communities and reaching between 60-80%, Dr. Caruso felt, would be reaching herd immunity for our region. At this time they have administered about 50,000 vaccines, but that is one vaccine. There are probably about 25,000 people fully vaccinated with two shots from Krif Rd. In addition, pharmacies and other places like nursing homes and long-term care facilities have administered vaccines, so that is at least another 6,000 people at this time. That is about 31,000 people who have been vaccinated. She talked with Cheshire Medical Center's representative Tricia Zahn, and they are administering about 1,000 shots per day on average and sometimes reaching 1,900 shots in a day. They are open seven days a week. Every week the State puts out a call for municipalities and during that call they indicated that the Krif Rd. site would likely be looking to close down or pull back at the end of May because at that time they believe everyone will have had an opportunity to receive both their first and second shots. That is how City staff came to the conclusion of June 1 being a good point at which people will have had the opportunity to be fully vaccinated to get close to herd immunity. That, and in addition the graduation at KSC being later in the month of May. That was the information they used to come up with the June 1 date. In addition, they learned today that soon children will be offered the vaccine and that is another reason why they will be moving to hospitals and primary care physicians to provide the vaccine for children. The City is asking to be kept updated weekly, regarding the percentage of people being vaccinated in the region, and she would be happy to report that out to the City Council.

Councilor Jones asked Dr. Treadwell if KSC has found any cases of the African or Brazilian COVID-19 variants. Dr. Treadwell replied that UNH has been conducting phenotyping of the variant mix within their positive samples and they are seeing a strong emergence of the UK variant at this point. They have, to her knowledge, not seen the Brazilian variant. KSC has been sampling and phenotyping the septic waste stream

samples and they have not seen the UK or Brazilian variant yet. The State is also tracking and phenotyping and they are seeing some incidence of the UK variant at the statewide level and are beginning to see, they believe, some emergence of the Brazilian variant in neighboring states and some concern that NH will start to pick that up soon. UNH has seen the UK variant and approximately 14 or 15 other variants that have been moving, as you watch the genetic phenotyping of the positive samples.

Councilor Greenwald asked the City Attorney: what is the timetable and process for the potential rescinding of a City Ordinance? The City Attorney replied that if the committee votes on it this evening, staff suggests that the committee recommend to the City Council that the Mask Ordinance in place be repealed as of a date certain. The next cycle will be early May, because this is a month with a fifth week. Staff would submit it to the City Council if the committee recommendation happens. Depending on how the City Council wants to proceed, and the City Manager, they could potentially submit it for a first read at the first City Council meeting in May. It would have an effective date, unlike most of the ordinances, which are effective upon passage. The repeal would be effective at whatever that date is that the committee recommends, if the committee does make that recommendation and if it is accepted by the City Council.

Councilor Greenwald asked if there is a second reading with this. The City Attorney replied yes, there is always a second reading. Councilor Greenwald replied that in that case, even if they did want to push this forward, they would not be rescinding prior to June 1 anyway. The City Attorney replied that it would be the end of May. Chair Bosley stated that it looks like the earliest date would be May 20. The City Attorney replied that if they did it direct, which they have sometimes done in the past, and submit it on May 6, then it would go back to the committee on May 12 and act on May 20. Councilor Greenwald stated that he is not saying that is what he wants to do, but he wants to make it clear to the public that even if they decide that masks are yesterday's news, it still is going to be deep into May when the ordinance is repealed, and by that time, the Emergency Order might be over. He asked if anyone knows when that will end. The City Manager replied that in the Governor's last press conference he stated that he intends to keep the Emergency Order in place until the end of the year for other reasons, related to use of resources and access to funds.

Councilor Greenwald stated that his thoughts on the Mask Ordinance are: he is not sure what the philosophical reasoning is, but if wearing a mask works, it is a good thing. If not wearing a mask is a bad thing, or if not wearing a mask does not make a difference anyway, it strikes him that continuing the Mask Ordinance basically does no harm. His opinion is that they should continue it until the science says that there is enough herd immunity makes it reasonable to not wear masks. If someone does not want to wear a mask, they are not wearing a mask. If a business wants to require their patrons to wear masks, at least the City Council would be giving them some backup to be able to say "If you want to do business the City wants you wear a mask." If a business does not want to enforce the Mask Ordinance they are not doing it anyway. Thus, he thinks the City Council should continue the Mask Ordinance and he is not in favor of an early repeal. He hopes that the science catches up with all of the inoculations and all the hand-washing and everything else. We are so close to the finish line. It feels short-sighted to pull the plug prematurely. Also, the logic coming from Dr. Treadwell could not be expressed better. They need to support KSC, if nothing else, and keep the Mask Ordinance in place.

Councilor Jones stated that he wants to speak as well but will wait until after hearing public input, because something might change his mind.

Chair Bosley asked if any other committee members would like to speak at this time. Hearing none, she asked for public comment. She explained the procedures for participation.

Tiffany Matthews of 85 Nims Rd. stated that she is a Health Educator at KSC and suggests that the City keep the Mask Ordinance until the end of June when schools are out and more people who live or work in Keene are fully vaccinated. She continued that the City Manager was talking about numbers and data in regards to how many people have been vaccinated and the numbers they are seeing at Krif Rd. She wants everyone to

remember that NH residents have been able to go or required to go all over the state to get their first or second vaccine. On Monday the State opened it up to people age 16 or over, regardless of residency, to get their first shot. Also, there has been a delay in the Johnson & Johnson supply. Thus, she hopes they keep the Mask Ordinance.

Marie Duggan of 330 Hurricane Rd. stated that she has two children in the public schools, ages 14 and 18. She continued that she has learned this year that no matter how hard she tries, she cannot protect her family by herself. She needs the community to make rules that will protect her family. She believes that when we wear masks, we protect our neighbors. She loves all of her neighbors. She has many students who did not believe in the masks and many of them had parents get very ill last March. She teaches many students from Connecticut and New Jersey, and they did not realize the virus could actually harm their loved ones, and it really did. She has students whose parents died. She thinks we need to take the virus seriously. She would feel disappointed if she was asked to send her 14-year-old into school without a solid Mask Ordinance. She has read that it is safe to send children to school in the pandemic, as long as there is a really solid line on masks. If the whole community agrees to wear masks and to teach children to do that, then we can pull it off. But if we do not, and are wishy-washy and say, "Well, I don't think so; I won't cover my nose," then of course her child will not be protected no matter how hard she tries.

Ms. Duggan continued that her partner is a vendor at a local farmer's market and her 14-year-old runs the stand in the summer. It was very hard last year for her to have to tell people to put a mask on. It is a much easier for a person who is selling something to just be kind to the customer and have the City Councilors tell everyone that they have to wear a mask. Then her 14-year-old would not be put in the position of having to confront people twice her age and twice her size. She has also seen this with some of her neighbors who run small businesses. For example, a store was filling up with ten people from out of state and you could feel the owners getting nervous when people took off the masks. Her wish is for people to fight this together. She had to learn to teach students through the little screen, and that was really hard. Wearing a mask is actually not so hard, and everyone around her has learned to do it. Sure, people gripe about it, herself included, but we can do it, and we should keep the Mask Ordinance in place until schools are out and until 70% of the local population is vaccinated.

Natasha Athens, of Keene, stated that she believes the problem is an attempted power theft from City staff and Keene State staff as they try to dictate for the whole state what is good for everyone. She continued that they do not seem to care about the loss of business and people's rights. She believes that if you give government a reason to create an emergency they always are going to, to steal freedom and power. Businesses should sell customers their items and let them proceed on their way, instead of telling their customers what to do. Businesses and schools are not allowed to discriminate. Ms. Athens continued that she believes the government is never going to end the mask mandate and that no one on the City Council is actually considering anything for the rights and freedoms of businesses and people. She was heartbroken to hear a health professional talk about how (masks cause the) suppression of oxygen over the long term, when (the Mask Ordinance) has been in place for over a year. She is looking for the City Council to rescind the Mask Ordinance and leave it up to choice, like it always should have been.

John-Michael Dumais of 10 Foster St. asked if he could direct a question to Dr. Treadwell. Chair Bosley replied yes. Mr. Dumais asked how cases are being determined.

Dr. Treadwell replied that KSC does weekly surveillance in partnership with Cheshire Medical Center and they are working with The Broad Institute, an affiliate of MIT. The confirmatory test is the RT-PCR test that has been used for COVID-19 detection.

Mr. Dumais asked if she knows the cycle threshold being used for that test. Dr. Treadwell replied that she does not know the cycle threshold, but they evaluated the three vendors they looked at and in the RT-PCR methodology they looked at the sensitivity and the false positive rates.

Mr. Dumais asked if there is clinical confirmation of illness when the tests are being done, in order for KSC to count them as cases. Dr. Treadwell replied that the clinical confirmation is confirmed in accordance with CDC guidelines with a positive test. She continued that they do a false positive/false negative screen in the analysis itself. The Broad Institute has both false positives and false negatives and they run any non-confirmatory tests through a second cycle. They are not doing clinical diagnostic beyond that, because the clinical diagnostic would be the same method with a nasopharyngeal swab and they are not going to that level based on their work with the Infectious Disease lead at Dartmouth Hitchcock Medical Center (DHMC). KSC was informed that their method, approach, and false positive/false negative screening from The Broad Institute met all clinical diagnosis criteria that they would use, so they have been using that.

Mr. Dumais stated that according to the WHO, last year they were supporting the idea of PCR tests as being confirmatory and has released new guidance suggesting that there has to be additional clinical confirmation of symptomology and perhaps other blood testing, the way it normally used to be done before people could say it is a positive test. Children under 20 are 99.997% recovered from COVID-19 so they are not major spreaders or major illness or death risks from this. He encourages people to consider additional confirmatory means for positive diagnosis.

Janet Sinclair from Shelburne Falls, MA, stated that she works in downtown Keene as an acupuncturist, in an office building. She continued that most of her patients are disabled veterans or elderly, and are extremely vulnerable. She has to operate under strict guidelines from the State, including taking precautions similar to the ones dentists need to take. She does not own the building. When her patients come to her office they are hoping and assuming that she is able to create a safe atmosphere for them, which she can do in her own office, but there is a shared hallway and shared bathrooms. It took the landlord a year to put a sign on the building's door saying "Masks required," and until then, people were coming into the building not wearing masks. There are still tenants who refuse to wear masks in shared spaces while her patients are there. She is doing everything she can to protect her patients. If this mask requirement goes away she is concerned about what will happen. Is she supposed to not go to work because she cannot protect her patients? Are her patients not supposed to come see her, because they are not protected in the building? If any City Councilors have advice about how to get the Mask Ordinance enforced in her office building, she welcomes that.

John Schmidt of 31 Green Acres Rd. stated that he does not believe any scientists have proven that COVID-19 exists and he does not believe the pandemic exists and the PCR tests are faulty and worthless. He continued that he is a retired firefighter and worked with all kinds of real protective equipment, and believes these flimsy masks people are required to wear are worthless, regardless of what the medical establishment says. He believes the real virus is the government and the media spreading fear and lies. It is especially wrong to force young children to wear masks. In the Live Free or Die state, he believes people have the right to Breathe Free or Die. He asks the City Council to end the Mask Ordinance as soon as possible. He knows government bureaucracy means they cannot do anything quickly and it will take months, but they should end this ordinance whenever they can.

Rebecca Montrone of Winter St. stated that she is a holistic health practitioner and has a business in Keene and has not followed the Mask Ordinance at all, nor have her clients, although they can wear masks if they want to. She continued that she goes to a church in Swanzey where people do not wear masks, and they share a microphone, sing, and hug, and there has been no COVID-19 outbreak. She does not believe COVID-19 is a real threat. In 1957 the Asian Flu was huge, including in the United States, but the United States did not shut things down. It was over in three months. She assumes most people here tonight have not even heard of that Asian Flu, because it went by. There will always be germs, and we should keep ourselves strong and just get on with life. The fear people in the community have of this virus is more devastating than the virus.

Joseph Mirzoeff of 641 Clark Ave. stated that recently a citizen has charged the Governor with a criminal complaint under RSA 638-14, Unlawful Simulation Of the Legal Process. He feels that the Governor has

overstepped, and many people think there is law when there was not. He is worried that this ordinance that the City has done is very similar to what the Governor has done. He would like to know from the City Attorney if there is an RSA that entitles the City to do an ordinance like this and have it apply to business owners and the citizens.

The City Attorney replied that he is not going to debate this tonight. He continued that this debate happened when the ordinance was adopted by the City Council last summer and it is all public record.

Mr. Mirzoeff stated that the difference then was there was no legislature in session. He continued that the City Attorney gets his rights from the legislature. That is the case with the Nashua case, also. The judge deferred to the Governor because there was no legislature. Moving on to something else, people tonight have talked about herd immunity, but no one has talked about natural immunity. In early 2020 he thinks he probably had COVID-19 and now probably has natural immunity. Also, we do not know what effect the experimental vaccine has, because it has only been approved for emergency authorization use. Last year there were seven deaths in Cheshire County and there was no vaccine. This year in 3.5 months there have been 26 deaths and 12 were on Court St. a month after a vaccine clinic. The evidence nearby is that this has not been successful.

Sandra Van De Kauter of 38 Felt Rd. stated that even if the mechanics of process results in the actual date of repeal not being until several weeks after any vote that the committee takes, there is a cohort which will stop wearing masks as soon as the repeal is announced and will start challenging anyone seeking to enforce the requirement which is still technically in existence. That is something to take into consideration when the City Council decides the date at which repeal will eventually occur. In the meantime, she encourages people to keep their masks on.

Dr. John Walter of 38 Felt Rd. stated that he is dismayed to hear from all of the people who claim to know more than epidemiologists, who have made their whole career with public health problems and pandemics. He continued that there is a lot of misinformation being spread and a lot of conspiracy thinking. He is dismayed that many people who are anti-mask are also anti-vaccine, as if everything about this disease is made up. He strongly urges the City Council to continue the Mask Ordinance and to follow the directions from the NH State Medical Society, which recently recommended that mask mandates be kept until 70% or more of people in the community are vaccinated and also until there are less than 50 new cases per 100,000 people over the course of the previous 14 days. He encourages the City to follow the real medical experts.

Dr. Nora Traviss of Marlboro St. stated that she is an Environmental Health scientist and teaches at KSC and is a co-founder of the NH Science Public Health Task Force. She continued that everyone is tired of the pandemic and she concurs. Dr. Treadwell has put out the facts very clearly that we are close to the finish line. The active case rate, which she just looked up on the NH Department of Health website, is at 75 in Keene. We are not at a place where we should be repealing the Mask Ordinance. It is critical to get to warmer weather so people can get outside in the fresh air where the ventilation is 100%. When the virus spreads, it occurs indoors in close contact. There are over 50 peer-reviewed studies on the effectiveness of masks to reduce the spread of the virus, and there is history as far back as the 1918 pandemic on the effectiveness of masks, and we are so close. Dr. Treadwell gave what she considers excellent updates about hanging in there until KSC students graduate. Something not highlighted, which should be, is the college has done a census by testing everyone twice a week. They have very good knowledge of how the virus spreads and the effect of ventilation and other mitigation practices such as masks have reduced the spread. When 10% of the population exits Keene that will take a huge load off. Members of her family have not been able to get a vaccine at Krif Rd. She thinks we are a little ways away from herd immunity. Remember, anyone can come to Keene and get a vaccine; they do not have to be Keene or Cheshire County residents. Memorial Day weekend, based on all of the science she has read, and based on math and exponential growth, they will be in a much stronger place, and she urges the City Council to keep the Mask Ordinance in place until then.

Rebecca Montrone stated that she disagrees with this kind of decision being left up to the Keene City Council.

She continued that she does not think they know very much about this. Ms. Montrone spoke more.

Chair Bosley reminded members of the public to refrain from questioning other members of the public who have spoken tonight and to refrain from personal attacks on their neighbors.

Ms. Montrone spoke of how she feels like fear of COVID-19 has taken over many people's lives, and wearing masks is a way to show that. She continued that they seem to believe that COVID-19 is all that matters, not diabetes, cancer, or COPD. She believes the COVID-19 vaccines are not immunizations and were never tested to see if they could prevent people from contracting or transmitting COVID-19. They are experimental and put people at risk and she will never get one.

Tim Condon of 28 Lee St. stated that he urges the City Council to maintain the Mask Ordinance at least through mid-July, which includes the 4th of July holiday and graduation. He continued that he thinks they need to follow the science and the Governor did a great disservice by recommending that masks be eliminated. He has seen several people in the past few days go into businesses without masks, and scream and swear when they were told they need to wear masks. Then the people said "We're not going to do business with you." Any business that wants people to wear masks should put a sign on the door saying "No mask, no service." He will not go into any business that does not require masks. He thinks employees need to be protected. He used to be an Educator and knows children in school have a hard time staying six or more feet apart. No one likes having to wear a mask, but it is like during World War II when we all had to sacrifice a little bit for the common good, with the rationing, which should be taken into account. He wants to commend Dr. Treadwell and KSC staff for the amazing job they have been doing, along with Cheshire Medical Center and the National Guard at Krif Rd. He has had his two shots and is proud of that. It is his body and his choice and he also chooses to wear a mask. He thinks the Governor's actions are inviting people from other states to come to NH because they know they do not have to wear a mask here. NH was the last state to have a mask mandate and the first state to un-mask. He thinks that needs to be corrected. He urges the City to maintain the Mask Ordinance at least until mid-July.

Tiffany Matthews stated that she is a proud resident of Keene and is happy to be part of a community where people care for each other. She continued that the community cares for people who live, work, and go to school here, looking out for families and individuals. She thanks the City Council for giving time and space to the public to call in. Everyone is doing what they can, and people should look out for each other and try to support each other through this difficult time. We are almost at the end of the tunnel. People can check out the Healthy Monadnock Alliance and its social media pages, which promote a Mask Up Monadnock campaign. We can do this together.

Natasha Athens stated that she believes the City Councilors need to be replaced because they do not represent the people. She continued that she does not believe the City Council has a legal right to create the Mask Ordinance or to renew it. She believes the City Council will never end the Mask Ordinance because they receive money for keeping it and for keeping the state locked down. She believes this meeting is rigged. She believes John Rogers is not a health expert, and that government cannot be in charge of people's health, and each person is in charge of their own health. No one should tell people to get the vaccine; it needs to be up to each person to decide. She is concerned that people will try to continue the Mask Ordinance into September since there will be new students coming into Keene who might have come from other states, and then they will never end the Mask Ordinance because of the money she believes is behind it.

Joseph Mirzoeff stated that he believes hanging herd immunity out there as a carrot is a form of coercion. He continued that this is an experimental vaccine. The Nuremberg [Code] says that the choice has to be free. They say "We can do such-and-such as soon as there is herd immunity," but to get herd immunity people need to get the vaccines and not get immunity naturally, so that is coercing people into having vaccines, which is against the Nuremberg Code. The Nuremberg Code also says you cannot do a medical experiment if there are

alternatives. In the country and this state, the alternatives were frozen out. An order from HHS said you could not use a combination of medications that were proven elsewhere to be viable. The emergency authorization use would not have happened if there were alternatives. There is no evidence that masks give protection, because COVID-19 spread does not decrease with mask mandates. Masks can help in certain situations, such as when you are tending to an older person or are in the operating room, but mask mandates actually slightly increase the spread of the virus. Also, masks inhibit communication. People who rely on lip-reading and facial expressions to understand people struggle. Masks create more isolation. In NH, 65% of people who died from COVID-19 are over 80 years old, and those are normal ages where people die. The response to COVID-19 is killing young people. National public health officials have given misguided advice.

Tammy Adams of 39 Wright St. stated that she is a Registered Nurse and echoes Dr. John Walter. She continued that we need to seek guidance from the Department of Public Health and the State epidemiologists who are keeping track of the numbers. She continued that she believes in the numbers and the evidence is there. She asks the City Council to please keep the Mask Ordinance.

John Schmidt stated that he agrees with the people who have said the government and the medical industrial complex want to keep the [mask mandate] going forever, and keep pushing the carrot out further and further. He continued that he believes the virus, its variants, and the PCR test kits are all fake and the government's goal is to force yearly vaccinations on everyone and control the population with microchips.

Councilor Greenwald asked for public comment to stay on the topic of what Keene should do about its Mask Ordinance. Chair Bosley noted that it is past 9:30 PM and they do need to wrap this conversation up. She asked if there was anyone else wanting to speak before she closed public comment. Hearing none, she asked for PLD Committee discussion. They have heard a lot of input. She has some questions. One of the points that was brought up was, when they were talking about the data from Krif Rd., she is aware of some residents who went out of the area to receive the Johnson & Johnson vaccine. Someone also brought up natural immunity for people who have had positive COVID-19 tests themselves. Does the City Manager or Mr. Rogers know what the cumulative positive test for Cheshire County has been, to add to the numbers?

The City Manager replied that from what we understand, a positive COVID-19 test means that you may have immunity for three months. She continued that regarding the other question, she asked Krif Rd. if they have any data about people who might have gone to another location to get their vaccine, and unfortunately, we do not have access to that. She has a correction to make: people have to be from this region, Cheshire County or another couple towns, to get vaccinated at the Krif Rd. site. That is why they were so focused on getting data from that site, knowing that the Walgreens and nursing homes were also get people vaccinated and adding those numbers to what they were hearing from Krif Rd., as the best local information they have.

Chair Bosley replied yes, being in healthcare herself, she is aware that there have been many private vaccination clinics posted through facilities, organizations, and non-profit agencies to vaccinate their clientele and staff, so that adds to the numbers as well.

Councilor Johnsen stated that she wants to thank Dr. Treadwell and Mr. Rogers and other people who have called with medical information. She knows Dr. Treadwell was given this task for the entire university system, and she appreciates all of the work. It has given her, as a senior citizen, and other senior citizens in her ward, guidance. She also thanks Professor Duggan, because yes, our teenaged children still need us, and parents and grandparents need to have something other than "I told you so." When the City helps them, it helps everyone.

Chair Bosley stated that she wants to point out that the SAU has a mask policy that is independent from the City's mask policy. She continued that she thinks they were asking for masks to be worn in schools prior to the City's Mask Ordinance. She does not know that a change in the City's Ordinance would necessarily result in a change in SAU policy.

Chair Bosley stated that the PLD Committee needs to get into the meat of the question, regarding what they want to see accomplished here. She knows some citizens are concerned that this will never end and this is a “no light at the end of the tunnel” ordinance that they could extend until the end of the year or into the following year. She does think that there is science-based evidence that there is a natural tendency for the spread of COVID-19 to decline in the summer, and the holiday gatherings they are talking about mostly happen outdoors, where you see a lower spread of the virus anyway, and that they are coupling this with vaccinations, which they are encouraging people to receive, under the premise that it will get us back to some semblance of normalcy. Thus, she hopes they can have a candid conversation tonight about an appropriate time to sunset this ordinance. She asked if anyone has input along those lines.

Councilor Jones stated that he moved here 28 years ago and went to high school and college in NJ. He continued that he lost six friends due to COVID-19. He travels during the day for work, and he cannot explain what it is like to go to NY or CT and see, behind hospitals, refrigerated trailers because the hospital has no room for all of the dead people. It is wrong to say that this virus does not exist. People need to wake up and see what is going on around them. We in NH have been very lucky. He is concerned about the variants. Right now the virus they are dealing with is an “open-envelope” virus, which is much easier to deal with than a “closed-envelope” one, such as tuberculosis, which is very hard to disinfect or sanitize. Not being able to know about the variants scares him. He thinks they need to wait until the spread rate is less than the vaccination rate and wait until there is herd immunity. It is still scary. Part of the City Council’s job is the health and well-being of the community. Why do people think the City Council is in charge of the Police Department and the Fire Department? The City Council is here for the health and well-being of the community, and that is why they need to take the lead.

Councilor Jones continued that the only thing he would ask is: the present ordinance has a sunset clause in section L., and he does not know that is necessary. Right now it is dependent on someone else, for the City Council to sunset this ordinance. He thinks if they create a new ordinance, it should be up to them and what they hear from their health professionals. Right now it is sunsetting when the Emergency Order from the NH Governor is over, and he thinks the City Council should be able to sunset it when the professionals tell them it is time. That is something to take into consideration if they ask the City Manager to submit a new ordinance. He asked if taking no action means this ordinance stays on the books.

Chair Bosley replied that she does not think the discussion was about changing this ordinance or submitting a new one, it was about the possibility of sunsetting or repealing this particular ordinance. Instead of waiting for the Governor to end the Emergency Order and having the Mask Ordinance dissolve with that, they would be choosing to go by the recommendations of the City’s health officials. The question is whether the PLD Committee feels they have received sufficient information in order to choose an appropriate date.

Councilor Jones replied that his answer would be “no.” He continued that he knows Dr. Treadwell suggested a date, but that is because it is a date that fits the college’s needs. He thinks the PLD Committee should rely on the professionals. When the professionals tell them the spread rate is less than the vaccination rate and the community is close to herd immunity, then they should address this.

Chair Bosley replied that Dr. Caruso reaching out and suggesting that the community would be reaching herd immunity at some point during May was the impetus behind this coming before the PLD Committee tonight. That is the question. The professionals are here, and they are that saying they think sometime in late May or the beginning of June is appropriate.

Councilor Jones replied that in that case, they can leave this open, and address it at the time, or in September. Chair Bosley replied they could, but the question is who are the health professionals, if not the local health Director?

Councilor Jones replied that the PLD Committee should not state who the health professionals are. He

continued that he believes it is up to each of the 15 City Councilors who they are listening to.

Councilor Workman stated that she agrees with Councilor Jones. She continued that her concern with putting any date on it – say, June 1 - is they are then tied to that June 1 repeal date no matter what, even if COVID-19 cases skyrocket. She is very hesitant to put any date on it. She would like to table the decision until they have more statistics and look at it either on a month to month basis based off of statistics such as hospitalization rates, death rates, positivity rates, and vaccination rates. They have to look at the numbers and make decisions as they move forward. They can project that herd immunity would be around June 1, but that is projection. She would like to table it until mid-June and then look at the numbers and see where they are as a County.

Councilor Greenwald stated that coming into the meeting he was thinking of a strategy, thinking that even if they push this forward it was still going to take the whole cycle, and that is why he asked the City Attorney what the procedure was. They could stall the final rescinding of the ordinance right up until the last minute. But the more conversation he has heard, he has heard there are people who think COVID-19 is a fraud, and/or that masks are useless, while others have said that it is a deadly situation and masks are essential, and he goes back to his earlier logic: leave it alone. If someone does not want to wear a mask, they are not going to. If a business does not want patrons to wear masks, they will not enforce anything. He has not seen or heard anything about the Police getting aggressive with businesses that are not following the Mask Ordinance. He thinks it is better to err on the side of caution and leave the ordinance alone. He agrees with Councilor Workman and does not want to put a date on it at this point. He wants to hear experts from all the different media networks saying “Okay, the mask ordinance is over.” What he is hearing more is experts saying that states revoking the mask ordinance are making a big mistake and they are playing with people’s lives. He thinks they should accept this discussion as informational. Then, all it takes is a memo from a Councilor or two to bring this up again.

Chair Bosley asked if it would be reasonable to place this on more time. Councilor Greenwald replied yes, it is the same thing.

Councilor Johnsen stated that she thanks Chair Bosley for her leadership and patience. She continued that she thinks they should just leave it. They were given the direction of when the college ends, and that is a good majority of people, so they might want to follow that, but she is with the other three Councilors who have spoken and thinks they should give this some more time.

Chair Bosley stated that she would like to leave this on more time and wants to see it sitting on the bottom of the agendas so they do not forget about it. This is something important to a lot of residents. She continued that she can respect the fact that we are still at a tipping point and they want to see data that supports this decision before they move forward.

The City Manager stated that she wants to make it clear that the City is enforcing the Mask Ordinance. She continued that it will be harder now that the Governor has lifted his mask mandate. That will create more friction between the KPD and the public. To be very clear: certainly the KPD and Mr. Rogers cannot be everywhere at once where there are people without masks, but in the beginning of this ordinance they received quite a few complaints and both Mr. Rogers and the KPD responded often to both re-opening guidelines concerns and mask concerns. She wants the PLD Committee to realize that the decision does have some impact. There will be increased friction between the KPD and the public. The other reason she wanted to bring this Mask Ordinance topic up tonight is because it takes about a month to change an ordinance and is not something that can be done in a week or two. They were trying to project ahead as best they could, and she agrees that June 1 could be an optimistic date. If they are looking at vaccinating the public as being the way to return to some sort of normal life again, then that should be a very important part of the reason to lift the Mask Ordinance. The best way to do that is to look at the numbers for our region and at how many people are fully vaccinated. It is very difficult to get exact numbers, because people are going to those super-sites and may have gotten the Johnson & Johnson one shot, so it is hard to track exactly how many people are fully

vaccinated. But they gather that information as best they can, so the City Council can make informed decisions. Placing this on more time is a good compromise. She can work with the Krif Rd. site to see if they can get more information as best they can, as well as tracking information from the State. She also wants anyone listening to know that the City is enforcing the Mask Ordinance and will continue to do so.

Chair Bosley stated that she thinks it is important for the City Manager to continually update the City Council on the guidance from Dr. Caruso and the data from KSC and what they are hearing from Krif Rd.

Councilor Greenwald made the following motion, which was seconded by Councilor Jones.

On a vote of 5-0, the Planning, Licenses, and Development Committee placed the item on more time.



City of Keene
Transmittal Form

May 4, 2021

TO: Mayor and Keene City Council

FROM: Mayor George S. Hansel

ITEM: 6.

SUBJECT: Relating to the Wearing of Face Coverings

COUNCIL ACTION:

In City Council May 6, 2021.

Referred to the Planning, Licenses and Development Committee.

RECOMMENDATION:

Refer to the Planning, Licenses and Development Committee for their review and recommendation.

ATTACHMENTS:

Description

Ordinance O-2021-07



CITY OF KEENE

Ordinance O-2021-07

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

AN ORDINANCE **Relating to the Wearing of Face Coverings**

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

That the City Code of the City of Keene, New Hampshire, as amended, is hereby further amended by deleting the stricken text and adding the bolded text to Article VIII, "Wearing of Face Coverings," to Chapter 66, entitled "PUBLIC CONDUCT" as follows:

Section 66-170. Statement and Intent.

- a) COVID-19 has been determined to be a virulent infectious disease threatening the public health and welfare of the country, and including residents in the City of Keene; and
- b) Infectious diseases such as COVID-19 are caused by germs, such as viruses, bacteria, and parasites; and
- c) Some diseases, including COVID-19, are transmitted from person to person very easily through respiratory droplets produced by sneezing and talking; and
- d) Public Health Officials have determined that it is possible for an infected individual to transmit certain diseases without exhibiting any symptoms; and
- e) The best means of slowing the spread of a virus is through minimizing close personal contact with individuals in a public environment, social distancing, covering the mouth and nose by wearing a proper face covering in a proper manner, and proper hand washing; and
- f) For optimal protection, the safe use of face coverings also requires the wearer to maintain proper hand hygiene by frequently handwashing with soap and water or hand sanitizer for at least twenty (20) seconds; and
- g) The wearer of the face covering can prevent the spread of disease by not touching the face, nose, or eyes with unwashed hands, not touching the outside of the face covering, and by keeping a distance of at least six (6) feet between from others; and
- h) The City Council for the City of Keene desires to minimize the threat to public health posed by the spread of communicable disease such as COVID-19 within the community.

Section 66-171. Requirements.

- a) Employees of businesses, while performing their duties **within the business premises**, are required to wear a face covering completely covering their mouth and nose at all times when interacting with the public, unless a barrier approved by the City Health Official provides sufficient separation.
- b) Members of the public entering any **enclosed indoor** business for any purpose, ~~including any outdoor area where business is conducted,~~ are required to wear a face covering completely covering their nose and mouth while conducting their business; provided however, that members of the public shall not be required to wear a face covering while actually seated at a restaurant table.
- c) Residents, visitors, and members of the public entering or present within a residential apartment complex containing three or more residential units are required to wear a face covering over their nose and mouth while in the interior common areas, including but not limited to foyers, stairwells and elevators (“Common Areas”) unless social distancing of six (6) feet can be maintained. This requirement shall also apply to any business having such Common Areas, notwithstanding the number of business units within the business complex.
- d) As used herein, “business” is defined as any place, premises, or location within a premises (“Premises”), operated either for profit or not for profit, which is generally open to, or accessible to the public, and into which the public is invited for the purpose of conducting any business customarily provided to the public by the business, including but not limited to retail stores, restaurants, banks, fitness centers, personal care facilities, food banks, grocery stores, thrift stores, theaters, City of Keene public facilities, and public conveyances licensed by the City of Keene; provided, however, that “business” shall not include any home occupation or business located ancillary to, or entirely within a private residence.
- e) As used herein “face covering” means a covering made of cloth, fabric, paper or other soft or permeable materials, without holes, mesh, or exhaust valves, that covers the nose, mouth, and surrounding areas of the lower face. A face covering may be factory made or homemade and improvised from ordinary household materials. The face covering shall be worn in a manner to completely and continuously cover the mouth and the nose of the wearer when required to be worn. Provided, however, that this provision shall not supersede any Personal Protective Requirements that may otherwise apply to employees in any employment context, including, but not limited to health care workers emergency service personnel, public works employees, construction employees, and hazard mitigation employees.
- f) Children under ten (10) years of age are not required to wear a face covering, although parents should make their own judgment on such use.

- g) A face covering is not required for any person with a medical or developmental condition to whom the wearing of a face covering would pose a threat to their health or safety. The individual shall not be required to produce documentation or other evidence to verify the condition.
- h) Businesses shall implement adequate measures to notify their employees and the public of the requirements stated by this Ordinance. Such measures may include, but are not limited to the implementation of internal policies and procedures applicable to employees, and the prominent posting of signage both interior and exterior to any Premises subject to this Ordinance that the wearing of a face covering within the Premises is required. Businesses shall deny entry and/or services to any person who declines to wear a face covering after being requested to do so.
- i) Notwithstanding any provision of the City Code to the contrary, the penalty under this Ordinance for any member of the public who declines to wear a face covering as required by this Ordinance, after being requested to do so, shall be limited to the denial of entry to, and/or services provided, by the business; provided, however, that any business that violates the requirements of this Ordinance shall be given a verbal warning for a first offense; a written warning for a second offense; a fine of \$100 for any third offense; and a fine of \$250 for any fourth or subsequent offense.
- j) Except as otherwise required herein, this Ordinance shall not be interpreted to supersede, alter, revise or amend any requirement, business operation guidance, or recommendations with respect to the public, applicable to any specific business under any Executive Order or guidance issued by the Governor of the State of New Hampshire, or required by any other federal, state, or local government authority having jurisdiction over the business.
- k) This Ordinance shall not preclude any business from having requirements to entry, or for the provision of services, related to the COVID-19 State of Emergency that are more restrictive than as stated herein.
- l) This Ordinance shall automatically and immediately terminate, without the necessity of further action by the City Council for the City of Keene, upon the termination of the COVID-19 State of Emergency by the Governor of the State of New Hampshire.
- m) Businesses owners in the City of Keene are also encouraged to take the #KeeneSafe business pledge to follow the New Hampshire and federal CDC guidelines to prevent and slow the spread of COVID-19. Information about the Keene Safe Pledge may be obtained at www.keenesafe.com.

George S. Hansel, Mayor



City of Keene
Transmittal Form

April 29, 2021

TO: Mayor and Keene City Council

FROM: Tara Kessler, Senior Planner

THROUGH: Elizabeth A. Dragon, City Manager

ITEM: 7.

SUBJECT: Amendments to the Land Development Code - Historic District Commission

COUNCIL ACTION:

In City Council May 6, 2021.

Referred to the Planning, Licenses and Development Committee.

RECOMMENDATION:

To refer this item to the Planning, Licenses and Development Committee for their review and consideration.

ATTACHMENTS:

Description

HDC Memo on Proposed Amendments to Land Development Code

BACKGROUND:

This memorandum relates to proposed amendments to the Land Development Code for the consideration of the PLD at their May 12, 2021 meeting. Ordinance O-2020-10A, which proposes to establish the City of Keene Land Development Code, is currently on more time with the Planning Licenses and Development Committee. City staff will present on these proposed amendments before the PLD on May 12, and will be recommending that the PLD incorporate these amendments into a B-version of the O-2020-10A.

Following a public hearing on April 21, the Historic District Commission voted to incorporate amendments to its regulations into the proposed Land Development Code. Per NH RSA 674:46-a, the Historic District Commission has the authority to amend its regulations. Some of the changes voted on by the Historic District Commission at its meeting are not reflected in the most current draft of the Land Development Code. For these amendments to be reflected in the proposed Land Development Code, a B-version of O-2020-10A will need to be established. The attached memorandum provides an overview of the changes that are proposed to be incorporated into the Land Development Code.

In addition to amendments proposed to the Historic District Regulations, City staff will be sharing minor changes it is proposing to language related to application submission requirements in Article 25 of the proposed Land Development. These minor changes are intended to provide greater clarity to the application process for certain development permits.

CITY OF KEENE
NEW HAMPSHIRE

MEMORANDUM

Date: April 14, 2021

To: Historic District Commission

From: Tara Kessler, Senior Planner

Re: Proposed changes to the Historic District Regulations

At the Historic District Commission public hearing on March 17 City staff gave an overview of amendments proposed to the Historic District Regulations, which are part of a larger, multi-year effort to establish a Land Development Code for the City of Keene (see Ordinances O-2020-10A and O-2020-11A). The majority of these amendments are changes that had previously been reviewed and discussed with the Commission prior to incorporation into a draft of the City's proposed Land Development Code. Based on the feedback and comments received at the meeting, City staff have made further amendments to the changes that were reviewed at the March meeting, and have included these changes below for your review and consideration in advance of the April 21, 2021 meeting.

Staff will facilitate a discussion on the amendments included in this memorandum at the meeting; however, if any Commission member has questions or feedback that they would prefer to share in advance of the meeting, they may do so by reaching out to City staff directly. Staff will share any comments received with the full Commission on April 21.

- **Review of New Building Construction:** At the March meeting, there was concern expressed for the proposal to exempt buildings younger than 50 years from the Historic District Regulations. While staff have addressed questions related to this proposal in a separate memorandum included in this agenda packet, we are proposing the following amendment as a potential option to ensure that the Historic District Commission still has a degree of input on proposals for new construction within the District boundaries.
 - The construction of new buildings or additions to buildings younger than 50 years old in the Historic District that require Major Site Plan Review by the Planning Board would require a recommendation from the Historic District Commission prior to Planning Board decision on the application. Such recommendation would be advisory, and would not require a Historic District Commission public hearing.

Please note, the changes proposed above would need to be incorporated into the Planning Board's regulations. As the Planning Board recently amended these regulations in February and voted to incorporate them into the proposed Land Development Code (O-2020-10A and O-2020-11A), which has been submitted to City Council for a public hearing on April 15, 2021, it will not be possible for this amendment to be reviewed and acted on by the Planning Board prior to the City Council vote on the proposed Land Development Code. These proposed changes may be considered and potentially incorporated by the Planning Board post adoption of the Land Development Code (if it is adopted by the City Council).

- **Fence Standards:** A question was raised at the March meeting about the applicability of the proposed amendment to prohibit new fences that are made of chain link fencing or chain link fencing with slats. It was noted that some site features may require chain link fencing for security purposes such as propane tanks. In response to this comment, staff are proposing to add the following to the list of exemptions in Section 21.3 of the proposed Historic District Commission Regulations: “**Security fencing required per the building, fire or life safety codes.**”
- **Mural Standards:** Some members of the Commission questioned whether Section 21.6.1.B.5.c of the proposed Art standards in the proposed Land Development Code should be removed. This section states that murals in the Historic District shall “showcase images of local places, people, and/or products that have historic significance to Keene and/or the surrounding region.” Staff are proposing the following amendments to Section 21.6.1.B for the Commission to consider.

“21.6.1.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.
 - ~~e) 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 a ~~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~~ **façade of a building or structure.**
 - g) Surface treatments that are appropriate for historic brick or stone masonry materials shall be used.
 - i. Waterproof coatings are prohibited.”
- **Window Standards:** Staff introduced amendments proposed to the window standards (Section XV.B.5 of the Historic District Regulations) for consideration by the Commission at the meeting. Based on the feedback received at the March meeting, staff are proposing the following amendments to the existing Window Standard. Text that is bolded and underlined is proposed new language, and text that is stricken through is proposed to be removed.

“2. Any ~~windows which are approved for replacement shall~~ **historic or architecturally significant window that is proposed for replacement shall be replaced with a window**

- that** conveys the same visual appearance in terms of overall dimensions and shape, size of glazed areas, muntin arrangement, and other design details as the windows to be replaced. In addition, **they it** shall have clear-paned, non-tinted glass (except to replace historic stained or other types of translucent or opaque glass); 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 prohibited**.
- a. **Windows shall be considered historic or architecturally significant if they are either original to the building; reflect the original design intent of the building; reflect changes to the building resulting from major periods or events; or are examples of exceptional craftsmanship or design. The Commission shall evaluate the significance of windows proposed for replacement on a case-by-case basis.**
 - b. If the historic **or architecturally significant** 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.
3. **Where the building has been altered to have several types of windows of differing age and character, any window that is proposed for replacement should be consistent with either the predominant window design (e.g. overall dimensions and shape, size of glazed areas, muntin arrangement, and other design details) of the building or the original historic windows.**
 4. **If more than 50% of the existing windows on a primary elevation are proposed for replacement, the replacement windows shall be consistent with the historic windows based on physical, documentary, or pictorial evidence.**
 - a) **If such evidence of the historic windows is not available, the applicant may propose a style and pattern of window that is appropriate to the architectural style and period of the building.**
- **Other Edits:** In addition to the proposed amendments described above, staff are proposing the following edits to standards related to building rehabilitation and construction of new additions. The section references provided below refer to the numbering of the Historic District Regulations within the proposed Land Development Code.
 - Add the following language to Section 21.6.3.A which is related to specific standards for building rehabilitation of Primary and Contributing Resources:
“4. Alterations shall not 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.”
 - Add the following language to Section 21.8.1 which is related to standards for construction of new additions to Primary and Contributing Resources:
“i. Additions shall reflect the context of surrounding historic buildings or structures and not detract from the overall character of the Historic District.”

CITY OF KEENE
NEW HAMPSHIRE

MEMORANDUM

Date: May 10, 2021

To: Planning, Licenses and Development Committee

From: Tara Kessler, Senior Planner

Re: Proposed changes to O-2020-10A Related to the Land Development Code

Included below is a summary of proposed amendments to O-2020-10A related to the proposed Land Development Code for the City of Keene for the consideration of the Planning, Licenses and Development (PLD) Committee. If the PLD is supportive of these amendments, they would need to be incorporated into a B-version of O-2020-10A. Items that are underlined represent additions to the proposed Code and items that are stricken through represent language that is proposed to be removed.

A. PROPOSED AMENDMENTS TO ARTICLE 21 “HISTORIC DISTRICT REGULATIONS” OF THE PROPOSED LAND DEVELOPMENT CODE:

1. **Fence Standards:** Add the following to the list of exemptions in Section 21.3 of the proposed Historic District Commission Regulations: “**Fencing required for public safety per the state building codes and state fire codes.**”

2. **Mural Standards:** Include the following amendments to Section 21.6.1.B.
 - i. “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.~~
 - c. The mural will be designed by a professional mural artist or sign painter.
 - d. The mural is not located on ~~a~~ **the** primary elevation of a Primary or Contributing Resource.
 - e. The mural will not cover more than 40% of the surface area of a ~~building or structure façade~~ **façade of a building or structure.**
 - f. Surface treatments that are appropriate for historic brick or stone masonry materials shall be used.
 - a. Waterproof coatings are prohibited.”

3. **Window Standards:** Incorporate the amendments proposed below to the window standards (Section 21.6.3.D of the Historic District Regulations).

- a. ~~“2. Any windows which are approved for replacement shall historic or architecturally significant window that is proposed for replacement shall be replaced with a window that~~ conveys the same visual appearance in terms of overall dimensions and shape, size of glazed areas, muntin arrangement, and other design details as the windows to be replaced. In addition, ~~they it~~ shall have clear-paned, non-tinted glass (except to replace historic stained or other types of translucent or opaque glass); 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~~ **prohibited**.
 - a. **Windows shall be considered historic or architecturally significant if they are either original to the building; reflect the original design intent of the building; reflect changes to the building resulting from major periods or events; or are examples of exceptional craftsmanship or design. The Commission shall evaluate the significance of windows proposed for replacement on a case-by-case basis.**
 - b. If the historic **or architecturally significant** 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.
3. **Where the building has been altered to have several types of windows of differing age and character, any window that is proposed for replacement should be consistent with either the predominant window design (e.g. overall dimensions and shape, size of glazed areas, muntin arrangement, and other design details) of the building or the original historic windows.**
 4. **If more than 50% of the existing windows on a primary elevation are proposed for replacement, the replacement windows shall be consistent with the historic windows based on physical, documentary, or pictorial evidence.**
 - a. **If such evidence of the historic windows is not available, the applicant may propose a style and pattern of window that is appropriate to the architectural style and period of the building.”**
4. Add the following language to Section 21.6.3.A which is related to specific standards for building rehabilitation of Primary and Contributing Resources: **“4. Alterations shall not 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.”**
 5. Add the following language to Section 21.8.1 which is related to standards for construction of new additions to Primary and Contributing Resources: **“i. Additions shall reflect the context of surrounding historic buildings or structures and not detract from the overall character of the Historic District.”**

B. PROPOSED AMENDMENTS TO ARTICLE 25 “APPLICATION PROCEDURES”:

1. To amend the language related to the requirements for an abutters list as part of an application for a Zoning Variance (Section 25.5.4.C), Zoning Special Exception (Section 25.6.4.C), Expansion or Enlargement of a Nonconforming Use (Section 25.7.4.C), Equitable Waiver of Zoning Dimensional Requirements (Section 25.8.4.C), Subdivision (Section 25.10.5.B.5), Site Plan Review (Section 25.12.5.G), and Exceptions to Street Access Standards (Section 25.16.9) as follows:

- ***Proposed Language:*** “A list of abutters and others requiring notification. This list shall include the name, mailing address, street address, and tax map parcel number for: all owners of property that directly abuts and/or is directly across the street or stream from the subject parcel; all owners of property located within 200-ft of the subject parcel; and, any holders of conservation, preservation or agricultural preservation restrictions. The list shall also include the name and mailing address of the applicant.”
 - ***Current Language to be removed:*** ~~“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; the applicant; and holders of conservation, preservation, or agricultural preservation restrictions. 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.”~~
2. To amend the language related to the requirements for an abutters list as part of an application for a Historic District Commission Certificate of Appropriateness for Major Projects (Section 25.15.5.I) as follows:
- ***Proposed Language:*** “Major project applications shall include a list of abutters and others requiring notification. This list shall include the name, mailing address, street address, and tax map parcel number for: all owners of property that directly abuts and/or is directly across the street or stream from the subject parcel; and, any holders of conservation, preservation or agricultural preservation restrictions. The list shall also include the name and mailing address of the applicant.”
 - ***Current Language to be removed:*** ~~“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 and all owners of property located within 200-ft of the subject property; the applicant; and holders of conservation, preservation, or agricultural preservation restrictions. 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.”~~

C. OTHER PROPOSED AMENDMENTS

1. To replace the phrase “**certified by**” in reference to plans that need to be prepared by a professional licensed or certified in the State of New Hampshire with the phrase “**signed and stamped by**” throughout the proposed Land Development Code.



April 21, 2021

TO: Mayor and Keene City Council
FROM: Planning, Licenses and Development Committee
ITEM: 9.

SUBJECT: Relating to Ch. 46 Licenses and Permits – Social Service and Congregate Care

COUNCIL ACTION:

In City Council May 6, 2021.
More time granted.

RECOMMENDATION:

On a vote of 5-0, the Planning, Licenses, and Development Committee placed Ordinance O-2021-04 on more time in order to coordinate its adoption with the Land Use Code Ordinances.

BACKGROUND:

Chair Bosley stated that she thinks they discussed a lot of the merits of what they want to accomplish tonight. They are trying to line this back up with the B. version of the Land Development Code. Ms. Kessler replied that is correct.

Chair Bosley asked if there is anything else to add or discuss tonight, related to this. Ms. Kessler replied that she is happy to provide some background if needed. She continued that the ordinance that is before the committee tonight formalizes and puts more context to the process that was discussed at the committee's March 24 meeting on a congregate living and social services license. The only content change would be the dates that are proposed for renewal of licenses for those uses. Staff made changes based on feedback from the Fire Department, which does annual inspections on some of these uses today and also feedback provided by members of the committee at the March meeting, regarding the timing of when licenses would be up for renewal. Other than that, she believes everything that was presented at the March meeting related to content, and also previous meetings to the Joint Committee in the public workshop process, has been brought into this ordinance that is before the PLD Committee tonight.

Chair Bosley asked if the committee had any questions. She asked if everyone recalls the content of that original ordinance they discussed. Hearing no questions, she asked if members of the public had any questions or comments. Hearing none, she asked for a motion.

Councilor Greenwald made the following motion, which was seconded by Councilor Jones.

On a vote of 5-0, the Planning, Licenses, and Development Committee placed Ordinance O-2021-04 on more time in order to coordinate its adoption with the Land Use Code Ordinances.



CITY OF KEENE

Ordinance O-2021-04

Twenty One

In the Year of Our Lord Two Thousand and

AN ORDINANCE Relating to Chapter 46 Licenses and Permits

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

That the Code of Ordinances of the City of Keene, New Hampshire, as amended, is hereby further amended as follows.

I. Add the following section to Article V “Boards and Commissions” to Chapter 2 “Administration” of the City Code of Ordinances:

“Division 24. - Congregative Living and Social Services Licensing Board.

Sec. 2-1111. - Membership.

The congregate living and social services licensing board shall consist of five regular members. At least three of the regular members shall be residents of Keene. One member shall be an administrative official of the City who need not be a resident of the City of Keene. In no instance shall City staff in a code enforcement or law enforcement role serve on this board. One member may be a member of the Planning Board.

Sec. 2-1112. - Terms.

Each regular member of the congregate living and social services licensing board shall be appointed for a term of three years. Except when required to fill vacancies, the terms of regular members shall be staggered so that no more than two appointments occur annually, and the terms of alternate members shall be staggered so that no more than one occurs annually. Vacancies in the board's membership occurring other than through the expiration of a term shall be filled for the remainder of the unexpired term. Regular members may serve up to three consecutive terms.

Sec. 2-1113. - Powers, duties and guidelines.

In accordance with applicable laws and this code, the congregate living and social services licensing board shall have the authority to do the following.

1. Make decisions on applications for congregate living and social services licenses in accordance with Chapter 46 Article X. “Congregative Living and Social Services License.”
2. Suspend, revoke, or make provisional previously approved congregate living and social services licenses in accordance with Section 46-567 of this Code.
3. Shall hear and decide motions to rehear decisions of the board, and to accept, hear and decide appeals to the board taken by any person aggrieved.

II. Amend Chapter 46. Article I. “In General.” Section 46-1. “Definitions.” as follows:

~~“Lodginghouse means any dwelling for more than four persons, which lets sleeping accommodations for a transient or permanent basis, without personal care services, with~~

~~or without meals, but without separate cooking facilities for individual occupants. For purposes of this article the term lodging house shall not include a hotel or motel.~~

III. Amend Chapter 46. Article II. “Licensing Generally.” Section 46-63. “Designated licensing officials.” as follows:

Lodging house	City council
<u>Congregate Living and Social Services</u>	<u>Congregate Living and Social Services Licensing Board</u>

IV. Amend Appendix B. “Fee Schedule.” of the City Code of Ordinances as follows:

~~“§46-593. Lodginghouse license fee.....165.00~~ §46-569. Congregate Living and Social Services license fee.....\$165.00”

V. Replace Chapter 46. Article X. “Lodginghouses” with the full text included below.

“ARTICLE X. CONGREGATE LIVING AND SOCIAL SERVICES LICENSE

Section 46-561. - Applicability.

From and after the effective date of the ordinance from which this article derives no person shall allow or operate any of the following congregative living or social services uses as defined in Chapter 100, Article 8 of the City Code of Ordinances without first having obtained, and having maintained, a congregative living and social services license from the congregative living and social services licensing board (the licensing authority specified in Section 46-63 of this Chapter) for each property location.

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

Section 46-562. - Application and License Renewal Requirements.

In addition to the application requirements of Division 4 of Chapter 46 of the City Code of Ordinances, the following information shall be required of an applicant for a congregate living and social services license and may be used by the licensing board in evaluation of an application and annual renewal for such license.

1. Description of the property location including street address and tax map parcel number.
2. Description of the client population to be served, including a description of the services provided to the clients or residents of the facility and of any support or personal care services provided on- or off-site.
3. Description of the size and intensity of the facility, including information about: the number of occupants, including residents, clients, staff, visitors, etc.; maximum number of beds or persons that may be served by the facility; hours of operation; size and scale of buildings or structures on the site; and size of outdoor areas associated with the use.
4. For congregate living uses, the average length of stay for residents/occupants of the facility.
5. Name, phone number, and address of the property owner.
6. Name, phone number, and address of a person acting as the operator, if not the owner, who will serve as a point of 24-hour contact for the public and the City.
7. Evidence that all required licenses, permits or authority to operate have been obtained.
8. An operations and management plan, which shall be based on industry standard "Best Management Practices" and, at a minimum, shall address the following.
 - a. A security plan that includes provisions for onsite security including lighting, security cameras, and/or other measures appropriate to provide for adequate health and safety of clients and management.
 - b. A life safety plan that demonstrates compliance with the State Minimum Building Code and Fire Codes.
 - c. Staff training and procedures plan.
 - d. Health and safety plan.
 - e. An emergency response plan that establishes procedures for addressing emergency situations and for coordinating with local emergency service providers.
 - f. A neighborhood relations plan that includes provisions for communicating with adjacent property owners and the City of Keene, including the Keene Police Department.
 - g. Building and site maintenance procedures.
 - h. In addition to the materials listed above, homeless shelters shall be required to submit the following information as part of an operations and management plan.
 - i. Rules of conduct and registration system for guests, including procedures for screening registered sex offenders and for separating individual guests and families with children.
 - ii. Policies and procedures for denying access to the homeless shelter when at maximum capacity or the determination that a person is unsuited for the facility, and how the immediate sheltering needs of individuals who may be turned away from the shelter will be handled.

Section 46-563. - Public Hearing.

Within 30-calendar days of receiving a complete congregate living and social services license application, as determined by the licensing board or their designee, the licensing board shall hold a public hearing on the application. Notice of the date, time and place of the public hearing will be posted in accordance with NH RSA 91-A:2(II).

Section 46-564. - Inspections.

Prior to the issuance of an initial license, and prior to the renewal of an annual license, all appropriate City regulatory and enforcement officers shall make or cause to be made an inspection to determine if all applicable laws, ordinances, codes, permits, rules and regulations have been complied with.

Section 46-565. – Licensing Board Review Procedures.

1. The licensing board shall consider the following criteria when evaluating whether to approve, renew, or deny a congregate living and social services license application.
 - a. The use is found to be in compliance with the submitted operations and management plan, including but not limited to compliance with all applicable building, fire, and life safety codes.
 - b. The use is of a character that does not produce noise, odors, glare, and/or vibration that adversely affects the surrounding area.
 - c. The use does not produce public safety or health concerns in connection with traffic, pedestrians, public infrastructure, and police or fire department actions.
2. The licensing board may require conditions on a license as reasonably necessary to insure compliance with the requirements of this article.
 - a. Failure of any licensee to comply with such conditions shall be considered a violation of the license.
 - b. Such conditions may include restrictions on the operation of the use (e.g. reduced hours of operation, limits on occupancy), and may include limits on the term of the license to a period less than 1-year.
3. The licensing board shall provide notice of its decision on the application in writing to the applicant. In the event that the application is denied, the licensing board shall provide a written statement to the applicant stating the specific reasons for the denial.

Section 46-566. – License Expiration and Renewal.

Licenses issued under this article shall expire in the year following the initial issuance date on the date specified in the list below for the category of use specific to the license; unless, conditions placed on the license require an earlier timeframe for license expiration and renewal. No postponements of the expiration date shall be granted except for good cause shown and as determined by the licensing authority; provided that the license has been applied for prior to the annual expiration date.

1. Residential Care Facility – April 1
2. Residential Drug/Alcohol Treatment Facility – April 1
3. Drug Treatment Clinic – May 1
4. Group Resource Center – May 1
5. Group Home, Large – June 1
6. Group Home, Small – June 1
7. Homeless Shelter – October 1
8. Lodginghouse – November 1
9. Fraternity/Sorority – November 1

Section 46-567. – Provisional License Status, Suspension or Revocation.

1. The licensing board, following notice to the licensee and a public hearing, may place the license on provisional status, or suspend or revoke any license issued under this article after it has been issued, when any one or more of the following grounds are found to exist.
 - a. Fraud, misrepresentation, or false statement contained in the license application.
 - b. Fraud, misrepresentation, or false statement made in the course of carrying on the use for which the license is issued.
 - c. Substantial violations of the terms of Chapter 46.
 - d. Any substantial violation of applicable municipal building, zoning, health, police and fire rules, regulations, and ordinances, and applicable statutes, rules and regulations of the state.
 - e. Any violation of a restriction or condition placed on the license.
 - f. The licensee is determined to be routinely conducting the use in such a manner as to be a substantial or unreasonable nuisance to the public health, safety, or welfare.
 - g. Refusal to permit an inspection by a duly authorized City regulatory or enforcement officer while in the performance of their duties in making such inspections required by this article.

2. Unless the circumstances otherwise justify, the licensing board shall hold a public hearing at the earliest possible date upon a credible allegation submitted in writing that a licensee is not in compliance with the terms of the license or that one or more of the grounds noted in Section 46-567(1) is found to exist.
 - a. Notice to the licensee of the public hearing shall be sufficient if sent by certified mail to the property owner and operator of the facility at the addresses listed on the license application form at least 10 calendar days prior to the public hearing. Such notice shall specify the time and place of the public hearing and shall state the specific purpose of the hearing.
 - b. The licensing board may act in any of the following ways.
 - i. Place the license on provisional status for a definite period of not more than 180-days, as determined by the licensing board. Under a provisional license, the licensee may continue to operate the use under certain conditions as determined by the board, and shall demonstrate that they have either met the conditions and/or have been found by the applicable regulatory or enforcement authority and by the licensing board to be in compliance with the terms of their license and any applicable regulations prior to the expiration of their provisional license status, failing which the licensing board may either suspend or revoke the license.
 - ii. Suspend the license for a definite period, not to exceed 1-year, as determined by the licensing board. Under suspension, the licensee may not operate the use and will not be able to resume operation of the use until any conditions as determined by the board are met and/or the licensee has been found by the applicable regulatory or enforcement authorities and by the licensing board to be in compliance with the terms of their license and any applicable regulations.
 - iii. Revoke the license. Under revocation, the licensee may no longer operate the use. A license that has been revoked shall not be subject to renewal or restoration except that an application for a new license may be presented and acted upon in accordance with this article.
 - c. In making a determination of whether to place a license on provisional status, or to suspend or revoke a license, the licensing board shall consider all of the following factors.
 - i. The circumstances leading to the violation and the owner/operator's history of violations.

- ii. The extent of deviation from the terms and conditions of the issued license and the licensee's approved operation and management plan.
 - iii. The severity of the violation on public health, safety and welfare, including the degree of impact to the clients of the use and/or the surrounding neighborhood or area.
 - iv. The duration and frequency of the violation, and the owner and operator's efforts to comply with the licensing requirements.
- 3. Following a decision of the licensing board on the license, the licensee shall be notified of the licensing board's decision. Such notice shall state the specific basis for decision, the necessary corrective action to be taken (if applicable), and the effective dates of the provisional license status, suspension or revocation.
- 4. A congregate living and social services license may be suspended immediately if the licensing authority determines that immediate harm will otherwise occur and the suspension is required to protect public health, safety and welfare.

Section 46-568. Appeal.

- 1. Motion for Rehearing. For the purposes of this article, any person aggrieved by the decision of the licensing board shall first file a motion for a rehearing to the board within 30 calendar days after the date of the licensing board decision. For purposes of this section, "person aggrieved" includes any license applicant, or any person or entity directly affected by the licensing board decision.
 - a. The motion for rehearing shall fully set forth every ground upon which it is claimed that the decision rendered is unlawful or unreasonable. No ground not set forth in the motion for rehearing shall be urged, relied on, or given any consideration by the City Council on an appeal to the City Council, unless the City Council for specific good cause shown, shall allow the moving person aggrieved to specify additional grounds.
 - b. The licensing board shall deliberate the motion for rehearing within 30 calendar days of the date of the filing of the motion.
 - c. If the licensing board grants a motion for rehearing, the new public hearing shall be held within 30 calendar days of the decision to grant the rehearing and be subject to the procedures as stated in this article.
 - d. If a motion for rehearing is denied by the licensing board, the person aggrieved may appeal to the City Council within 30 calendar days after the date upon which the licensing board voted to deny the motion for rehearing.
 - i. The person aggrieved shall fully set forth in the appeal every ground which the person claimed to the licensing board in the motion for rehearing that the board's decision was unlawful or unreasonable. The appeal shall be filed with the Office of the City Clerk, with a copy of the appeal provided by the person aggrieved to the licensing board.
 - ii. The licensing board shall transfer to the City Clerk the complete record of the proceedings held before the licensing board. The City Clerk shall place the appeal on the City Council agenda, and transmit the record of the licensing board to the City Council.
- 2. Appeal to City Council. For the purposes of this article, any appeal of a final decision of the licensing board to occur before the City Council shall be in accordance with the process described below.

- a. The City Council shall hold a hearing on the appeal within 30 calendar days of the receipt of the appeal by the City Clerk, unless extended by the City Council for good cause shown.
- b. The burden of proof shall be upon the person aggrieved. All findings of the licensing board upon all questions of fact properly before the City Council shall be considered lawful and reasonable by the City Council. The decision appealed from shall not be denied, modified or vacated by the City Council, except for errors of law, unless the City Council is persuaded that the decision is otherwise unreasonable.
- c. The City Council shall allow the person aggrieved or the person's representative, to present the appeal before the City Council; provided, however, that the City Council shall decide the matter based on the record before it.
- d. The filing of an appeal shall not stay any enforcement proceedings upon the decision appealed from, and shall not have the effect of suspending the decision of the licensing board.
- e. The City Council may deny the appeal and affirm the decision of the licensing board; or vacate the decision complained of in whole or in part and remand the matter to the licensing board for further consideration with a written decision stating the specific basis for the remand. The decision of the City Council shall be final.

Section 46-569. Transferability.

Licenses issued pursuant to this article shall not be transferable or assignable without the prior approval of the licensing board.

Section 46-570. Enforcement.

For the purposes of this article, where compliance with zoning, building, plumbing, electrical and housing codes may be concerned, the enforcement officer shall be the Building and Health Official, and where fire and life safety codes may be concerned, the enforcement officer shall be the Fire Chief.

Section 46-571. Penalties.

Any person who operates a congregate living or social services use listed in Section 46-561 of this article without having first obtained a congregate living and social services license in accordance with this article, or who operates such a use without a valid license, shall be subject to a violation in accordance with City Code, Section 1-15 and subject to a fine of \$250.00 for each day that the violation continues.

Section 46-572. Fee.

The fee for each congregate living and social services license application shall be as set forth in the schedule of fees in Appendix B of the City Code of Ordinances.

Secs. 46-573 - 46-620. - Reserved.”

In City Council April 15, 2021.
Referred to the Planning, Licenses
and Development Committee.

Effective Date of this Ordinance: September 1, 2021


Assistant City Clerk

George Hansel, Mayor