City of Keene
New Hampshire

PLANNING, LICENSES AND DEVELOPMENT COMMITTEE MEETING MINUTES

Wednesday, February 12, 2025	**6:00 PM**	**Council Chambers, City Hall**

Members Present:
Kate M. Bosley, Chair
Philip M. Jones, Vice Chair
Andrew M. Madison
Robert C. Williams
Edward J. Haas

Members Not Present:
All Present

Staff Present:
Rebecca Landry, Deputy City Manager
Amanda Palmeira, Assistant City Attorney
Paul Andrus, Community Development Director
Mari Brunner, Senior Planner
Mike Hagan, Floodplain Manager/Code Enforcement Officer
Steven Tenney, Police Captain

Jay V. Kahn, Mayor

Chair Bosley called the meeting to order at 6:00 PM.

1) Councilor Williams - Request for Letter of Support - HB250 Enabling Local Governing Bodies to Regulate the Muzzling of Dogs

Chair Bosley welcomed comments from the petitioner, Councilor Bobby Williams. Councilor Williams stated that in 2024, he submitted a letter to the Council, trying to enact rules in the City for vicious dogs. Specifically, the goal was to say that dogs with a history of attacking other dogs would have to wear a muzzle for some—as yet unspecified—period of time. He said it would be a measure to protect small dogs from big dogs, ensure that the public is safe from dogs that may be considered vicious, and ensure that owners take responsibility for vicious dogs when they are in public. When this issue arose in 2024, the Committee learned that the existing NH law stated that dogs could only be muzzled in the case of a rabies outbreak, so the City could not require such muzzling. Fortunately, Councilor Williams said he worked with some very responsive State Legislators, including Representative Jodi Newell (Cheshire District 4) to bring House Bill 250 in front of the State House. Councilor Williams hoped it would pass and proceed through the Senate. HB250 would be in front of the Environment and Agriculture Committee soon. He said the proposed legislation would simply change the wording to enable the City, if it chooses, to include muzzling as one of the possible remedies for managing vicious dogs in Keene. Councilor Williams said several other State Representatives from Keene had signed onto the Bill, including Councilor Jones, who co-sponsored it. Councilor Williams' request was to have Mayor Kahn send a letter explaining the incident that occurred in Keene in 2024 that prompted this and to urge support for the legislation. Councilor Williams said that supporting his request would also empower the City Attorney to provide whatever testimony would be necessary. The Councilor wanted to hear what his colleagues thought.

Chair Bosley welcomed comments from Deb LeBlanc of 28B Union Street, who initially prompted this request in 2024 after her dog almost died after it was attacked by a vicious dog while walking in the City. Ms. LeBlanc thanked Councilor Williams for his amazing job helping to get her story out and for his action on HB250. When Ms. LeBlanc's dog was attacked, there were no laws to help. She said there is no way to know whether the dogs you walk past on the street have a bite history, so she thought people taking responsibility for their dogs was an important issue for Keene's downtown. If this law had been in place at the time, Ms. LeBlanc said her dog would not have been mauled. She was happy to see this moving forward.

Chair Bosley asked if there were staff comments. The Deputy City Manager, Rebecca Landry, stated that the Police Captain, Steve Tenney, was present if the Committee had specific questions.

Vice Chair Jones noted that HB250 would modify NH RSA 466:39 by inserting the word muzzling into the list of regulations that authorities could establish. He said HB250 would allow governing bodies to create reasonable bylaws and impose penalties for violations, with a maximum fine of $50.

Chair Bosley opened the floor to public comments.

Councilor Haas stated that another strike against self-governance is that the City is unable to write its own rules about these things without involving the State in such things.

Councilor Williams made the following motion, which was duly seconded by Vice Chair Jones.

On a vote of 5–0, the Planning, Licenses and Development Committee, recommends that the Mayor be authorized to write a letter to the State Legislature in support of HB250.

2) Sign Code Modifications - Animated Signs in the Industrial Zone - Requested by Mayor Kahn

Chair Bosley welcomed a presentation from Senior Planner, Mari Brunner, for a high-level overview of the City's Sign Code. Ms. Brunner recalled that the feather signs the Mayor referred to in his letter are also called "blade sales signs" or "feather flag signs," among other names.

Ms. Brunner reviewed the Sign Code, which is Article 10 of the Land Development Code, a part of the Zoning regulations:

- Sign Code Purpose: Establish a legal framework for a comprehensive and balanced system of signs (to achieve some specific objectives).
    - *Safety:* Helps to allow the free flow of traffic and protect the safety of pedestrians, bicyclists, and motorists, which may be impacted by cluttered, distracting, or illegible signage.
        - There is a section in the Sign Code that talks about construction and maintenance; and not obstructing the vision of or distracting motor vehicle drivers. As well as

not obstructing or interfering with any government, restrictive, or directional sign, for example.

- *Fair Competition:* Avoid excessive levels of visual clutter or distraction that are potentially harmful to property values, business opportunities, and community appearance.
  - A best practice is to have flexibility for different business sizes, such as provisions that allow for variations in signage based on the size and scale of the business.
- *Community Aesthetics:* Promote the use of signs that are aesthetically pleasing, of an appropriate scale, and integrated with the surrounding buildings and landscape.
  - Ms. Brunner showed examples of key streets in the City (West and Winchester Streets, and Optical Avenue), to demonstrate the use of signs that fit in with the context of the area.

Ms. Brunner went on to provide examples from the Sign Code relating to the various types of permitted and prohibited signage, as well as those that are exempt from the requirement to obtain a sign permit.

- Sign Code Sections:
  - *Permitted Signs*: Allowed with a Sign Permit.
    - Examples: Wall signs, projecting signs, marquee/awning/canopy signs, freestanding signs, development signs, drive-thru and changeable copy signs, portable signs, and temporary signs.
  - *Exempt Signs*: Can be erected at any time without a Sign Permit, though some may require a Building Permit.
    - Types: Signs required by law, signs in the public right-of-way (in City Code), government signs or flags, interior merchandise displays, bulletin boards (non-commercial), informational/directional signs, memorial signs or plaques, and political signs.
  - *Prohibited Signs*: Banned entirely.
    - Examples: Animated signs, signs greater than 200 square feet, electronic changeable copy signs, fluorescent signs, reflectorized signs, off-premises signs, roof signs, and snipe signs.

Next, Ms. Brunner specifically discussed features related to the feather signs under discussion, showing various pictures to the Committee. She said that feather signs—or blade sail signs—are used for advertising to draw the attention of foot and/or street traffic to an event or business location. The signs get their name from their featherlike or flaglike structure. They come in many sizes and in general, they are intended to last between six months and two or three years, depending heavily on the weather conditions and how well they are maintained. For example, depending on whether the owner brings the sign inside during icy winter conditions. Ms. Brunner reminded the Committee that under the City's existing Sign Code, feather signs were classified as animated signs because they are designed to move and attract attention. She explained that while it might seem quirky, even flags were considered

animated under Keene's Sign Code because they move in the wind and attract attention. At this time, animated signs were prohibited.

Ms. Brunner explained some things to consider about potentially allowing feather signs in the Sign Code. She noted that generally speaking, Keene's Sign Code enforcement is complaint-based; City staff do not drive around the City and look for violations. With this change, staff anticipated that there could potentially be an increase in complaints. Ms. Brunner said that enforcement with these types of signs could be tricky, so it would be important to set expectations. Additionally, she reiterated that feather signs are meant to be relatively temporary; they can degrade over time and if they are not installed properly, they could be a safety concern because they are meant to catch the wind, so they could blow over or fly away. Ms. Brunner hoped that all of those factors would be covered with the Sign Permit process.

Lastly, Ms. Brunner described potential changes to the Sign Code that staff had initially considered. She showed a map with locations where the feather signs would be allowed in the Industrial District and Industrial Park District. This would include areas along Rt-101, lower Winchester Street, off lower Main Street, Optical Avenue, and Rt-12 South. In response to the Chair, Ms. Brunner confirmed that the Mayor proposed *both* the Industrial District and Industrial Park District, but whether to include both was under discussion. Ms. Brunner continued explaining that to address this request, staff proposed to add an exemption to the "Animated Signs" entry of Table 10-2 of the Sign Code, so that where it says animated signs are prohibited, it would have an exemption stating: "1 feather sign per lot in the Industrial and Industrial Park Districts. Max sign face area – 18 SF (equivalent to a sign that is ~10 feet tall). Requires a Sign Permit." A definition for feather sign would also be added, and she provided an example: "A sign made of flexible material that is generally, but not always, rectangular in shape and attached to a pole on one side so the sign can move with the wind. Also known as feather flag, banner flag, bow flag, wind feather, and tear drop sign." Ms. Brunner hoped to find out if this met the Committee's expectations and to get further directions so staff could develop the draft Ordinance.

Chair Bosley said the only thing she did not see addressed from the last meeting was the Keene Sign Code's current definition of and regulations for temporary signs, because feather signs would not be fixed and would require maintenance. The Chair also asked if there would be a limitation on the number of days per year that a feather sign could be erected. Ms. Brunner said that staff were proposing to treat the feather signs more like permanent signs, with the owners maintaining and replacing them when degraded. However, if the will of the Committee was for them to be more temporary, Ms. Brunner said that staff could draft the Ordinance as such. Chair Bosley said she wanted to hear from the Committee about the permanent option. However, her concern was that—despite the past few easy winters—allowing these signs year-round and not requiring annual Permit renewal would risk disrepair that could be dangerous or threaten the public right-of-way. Chair Bosley had seen feather signs used long-term in other communities and if that would be the case in Keene, she hoped for maintenance and monitoring standards to avoid unintended consequences. Ms. Brunner said that Code Enforcement would require that the owners maintain the signs, but she reiterated that enforcement would be complaint-based. Because the signs are only meant to last between six months to a few years, she said staff could look at adding time restrictions or an annual renewal.

Chair Bosley welcomed the Code Enforcement Officer, Mike Hagan for some questions as this would be the first time these blade signs would be allowed in these Districts. Chair Bosley asked the following: Because the blade signs would not be permanent and would degrade over time, did the City's existing Code Enforcement have any restrictions for temporary sign placement if these were considered temporary signs? For example, could a sandwich board be outside every day all year? She also asked if owners with Sign Permits issued on an annual basis have their signs inspected annually by Code Enforcement. Mr. Hagan explained that temporary signs are treated differently. Every business can have up to four temporary signs per year, each displayed for up to 14 days, with at least 30 days required between the display of each sign. Recently, staff had streamlined that temporary sign process to allow businesses to apply for one permit throughout the year and list the dates for the four different sales events (14 days each), as long as they are separated by at least 30 days. Mr. Hagan said that Code Enforcement does inspect temporary signs once they are placed to ensure they are in the appropriate locations, set back from the road, meet the regulations, and are removed appropriately when the time comes. He explained that someone could have essentially as many temporary signs as they want (he mentioned 10, for example). Mr. Hagan noted that the sandwich board or A-frame signs that Chair Bosley mentioned can only be displayed during business hours. So, Mr. Hagan said the Council could place similar restrictions on the blade signs so that they would not be a distraction at night or during plowing hours, for example. He said some of the language that was in the Sign Code for the A-frame signs might fit for the blade signs, such as allowing them all year but only during business hours and not during high wind events. Mr. Hagan said his suggestion would be to list the blade signs in the Sign Code as a use similar to the A-frame signs as he described. He said the blade signs do not actually advertise events, so they would fit better in the A-frame section of the Sign Code.

Chair Bosley asked if there could be a way to permit a more permanent version of this flag sign for up to 12 months, with an annual reapplication, and Code Enforcement—with a permit requirement—could inspect the sign annually to make sure it is maintained. Mr. Hagan said there was not an existing program structured that way. If someone with a Sign Permit for an A-frame sign had it damaged or wanted to replace it, they would need to apply for a new Permit and Code Enforcement would inspect the new sign. However, he said that at this time, there was no annual re-inspection of the A-frame type signs by Code Enforcement after initial inspection such as what Chair Bosley described.

Vice Chair Jones asked about the examples that Ms. Brunner showed and the options to put out multiple signs. Ms. Brunner explained that when staff developed this proposal, they were thinking of these feather signs more as traditional permanent signs to advertise hiring or their open hours. Whereas for an event, she said it sounded like the Temporary Sign Permit for 14 days could allow for as many signs as someone wants.

Chair Bosley asked if blade signs were allowed in Keene as temporary signs at this time and Mr. Hagan said no. Chair Bosley asked if this Ordinance would change that. Ms. Brunner noted it potentially could, but that there was no Ordinance drafted yet as staff was looking for feedback from the Committee to draft the Ordinance. Mr. Hagan continued that if it was the will of the Committee, the blade signs could be treated as temporary signs, limited to four, 14-day events per year, which would address some of the

maintenance concerns. He said that then, there could also be a permanent blade sign option that would only be displayed during business hours like the A-frame option. Chair Bosley asked if research showed that most owners leave these blade signs displayed for many months or take them down nightly. Ms. Brunner said her sense was that many would leave the signs up long-term but bring them in during high wind events because they could blow away. She had read manufacturers' maintenance recommendations for some signs that claimed a lifespan of up to three years if you bring them in every time there is rain, snow, wind, etc. So, she thought it would depend on the owners' actions.

Councilor Williams shared that he was on a road trip with his son, saw many of these blade signs, and complained about how tacky they were. His son said, "Dad, just because they are tacky does not mean you should outlaw them." Councilor Williams said that his son was right; just because the Councilor does not like them, that does not mean people do not need to advertise. He supported a combination of temporary signs and one permanent. Councilor Williams was concerned about these blade signs becoming dangerous during windstorms, so he wondered what requirements could be incorporated in the ordinance for securing them.

Councilor Haas stated that he thought these should be temporary signs. So, he thought staff should look into a time limit for how long they would be deployed to ensure they remain standing and in good condition if an owner neglects to take care of them. Councilor Haas added that for security, owners usually stake or weigh down these signs, which would make it hard to take them inside on a regular basis; so, they could not be expected to be brought in overnight and thus, could not be temporary signs. Further, Councilor Haas stated that there were existing temporary signs in the Sign Code with permanent exemptions for one sign per lot, and he imagined more than one blade sign would be allowed per lot. Councilor Haas said he was looking for language in the ordinance regarding timing and security, so the signs stand properly and do not fly away.

Councilor Madison agreed with Councilor Williams' opinion that blade signs are ugly and tacky, noting how common they are at chain establishments in the Midwest. Still, Councilor Madison agreed with Councilor Williams that just because they are tacky that should not mean the Council should outlaw them. Councilor Madison also agreed with Councilor Haas that these are temporary signs, not permanent fixtures. Councilor Madison shared the concern about them blowing away during windstorms, which he said Keene was getting more of during the summer due to climate change. So, he agreed that there should be regulations for anchoring these signs, as well as for taking the signs down when the business is not open. Councilor Madison referred to a sample photo Ms. Brunner showed that was more like an "open" flag or a sign to advertise that a business is hiring or has a special, not something that should be up at all hours of the night year-round.

Councilor Haas added that this was being stipulated for the Industrial and Industrial Park Districts, so these signs would not be in front of establishments like McDonalds. There would be limitations. He thought they would be used less for the purposes of advertising and more for recruiting.

Vice Chair Jones asked to hear from the Mayor as to whether this vision aligned with what he had proposed to the City Council. Mayor Jay Kahn said he had considered a duration of 30 days. If a

business was celebrating an anniversary, for example, that would not be a one-day event. Also, a hiring event might be one per quarter, so in four quarters, his idea would give someone four opportunities to display. He also provided the examples of graduations and turn of a business cycle type events to illustrate that businesses might not always be able to predict the month. The Mayor agreed that these would be the best districts in the City for this use. Otherwise, Mayor Kahn said he felt the proposal from staff was reasonable. He agreed with the observations about securing the signs and welcomed industry guidance. He was unsure about the number of signs on a property, and he considered the districts that would be affected, like frontage on Optical Avenue; he thought whether one sign there would be just as impactful as 12. Regardless, the Mayor thought the City was moving in the right direction by allowing businesses their discretion for display, calling it a vast improvement over the existing prohibition.

Chair Bosley opened the floor to public comment.

Jared Goodell of 39 Central Square asked about his understanding of what he saw written and whether staff were proposing the installation of a permanent pole for the erection of temporary signs on it throughout the year. Chair Bosley explained that the Committee was not yet reviewing any draft ordinance. Staff were seeking feedback on how the Committee wanted the ordinance written. She said there would still probably be a few conversations between the Committee and staff before a formal Ordinance would be drafted. She said that what Mr. Goodell saw written currently could be an option but may not be the direction the Committee ultimately chooses. The Committee asked staff to come back with a temporary option, with a timeline for a certain number of events allowed for a certain number of days per year, mimicking the existing Sign Code but more expansive for this type of use. To Councilor Haas' observation, Mr. Goodell stated that at this time, the Sign Code stipulated one sign per lot, but Mr. Goodell noted that in the Industrial Districts, there could be multiple business per lot. So, he asked the Committee and staff to consider whether the intent would be to only permit one business per lot at any one time. He also referred to Councilors Williams and Madison's point about these signs often being in retail areas, and Mr. Goodell wondered if this consideration should be expanded to the Commerce District. He cited the debate in recent years on social media about food truck owners using these blade signs. While he agreed with not judging the aesthetics, he wondered if the Commerce District would be a good addition. Chair Bosley said the Committee had heard that feedback and the Mayor brought the proposal for these specific districts, but there was a plan in place to work on the Sign Code overall. So, they might look to expand the use with a plan that works.

Ms. Brunner summarized what she heard the Committee request:

- Treat blade signs like temporary signs. Four per year, 30 days each.
    - At this time, Ms. Brunner heard no limit on the number of signs per location during each event.
    - These signs would not need to be brought inside every night, they could be displayed for the entire 30 days.

Chair Bosley and Councilor Madison had no objections to what Ms. Brunner summarized. Councilors Haas and Williams discussed the number of signs per lot. Councilor Haas thought one per lot would not be realistic, but that having signs 3 feet apart down 100 feet of road frontage would not be realistic

either; he was unsure what an owner would want to invest for a single lot. He did not know what to suggest but trusted that staff would think about a limit on the number per lot and practical spacing that could solve the problem. Councilor Williams said that an alternate to number per lot could be number per 100 feet of frontage, for example.

The Assistant City Attorney, Amanda Palmeira, asked the Committee to clarify their meaning when indicating these signs should be "treated like temporary signs"; and questioned if their intent was to modify the "Temporary Signs" category to include blade signs. Chair Bosley said she would not want to do that because it would open-up some ambiguity for other people requesting these types of signs as temporary signs under the original temporary sign limitations. Chair Bosley thought the Committee wanted to associate these signs with only these industrial districts, with their own specific set of rules, just modeled similarly.

Ms. Brunner recalled several Committee members raising concerns about safety of the blade signs, especially in high wind conditions. She pointed out a more general section of the Sign Code that talks about signs needing to be safe and secured. When Code Enforcement inspects signs, she thought that was one thing they would look at. She asked if the Committee would want more specific requirements beyond that for these specific signs. Chair Bosley said that if in staff's research they were to find that these signs require specific parameters for safely affixing them then they could call it out specifically. Otherwise, it could fall back on the more general safety requirements.

Vice Chair Jones recalled when Home Depot was constructing their building and putting up their traditional orange siding, the City put up a Stop Work Order to not allow it, and he asked Mr. Hagan what the reasoning was. Mr. Hagan said that was a Planning Board architectural decision, not a decision regarding their signs. He explained that the only City district that regulates the color of signs is the downtown. In that instance, he said Home Depot had approval to build the building a certain way and chose to build it a different way with alternative materials, so the City made them aware that they needed to either adhere to what was approved or go back to the Planning Board for a new approval. Chair Bosley said it was more material-driven than color-driven and Mr. Hagan said that was correct, materials could be regulated by the Planning Board process. Ms. Brunner added that the Planning Board has a standard called Architecture and Visual Appearance. One of them is related to aggressive colors, with specific language about not allowing color schemes and architectural features that are just for branding and serve no functional purpose.

Vice Chair Jones stated that he would prefer for this to come back as a draft for discussion again, not as an ordinance for first reading.

Councilor Haas asked the current turnaround time for a Sign Permit from the City. Mr. Hagan said it depended on the type of sign. Temporary Sign Permits could typically be issued same-day or next-day. For a more complicated sign, like a free-standing sign, staff would need to look at things like the structural elements. The face replacement in an existing box sign for a new business could usually be issued the same day. He said the staff are very well trained. Some requests are very unique and require time to determine whether they fit within the Sign Code requirements. Overall, Mr. Hagan was proud to

say that at this time, Sign Permits or reviews (indicating what to address) were issued within seven to 10 business days of someone submitting an application.

Vice Chair Jones made the following motion, which was duly seconded by Councilor Madison.

On a vote of 5–0, the Planning, Licenses and Development Committee recommends that the City Manager be directed to prepare an application for submittal to the City Council requesting amendments to the Land Development Code relating to animated signs in the Industrial Zones.

3) **Amendment to Land Development Code - Minimum Lot Sizes (Public Hearing Date - 01/16/2025) - Ordinance O-2024-17-A**

Chair Bosley noted that there had already been a public hearing, so no further public comments would be accepted at this meeting.

Chair Bosley welcomed a summary from Senior Planner, Mari Brunner. Ms. Brunner recalled that this amendment to the Land Development Code for minimum lot sizes was about the density factor for three different Zoning districts in the City, two residential districts (Medium Density and High Density) and a downtown district (Downtown Transition). At this time, all three of those districts required a density factor—an extra area of land—for each additional dwelling unit past the first residential dwelling unit. The intent of the density factor is to limit the density of development that can occur, preventing someone from splitting the interior of a large house into multiple units without this arbitrary extra amount of land added on. Ms. Brunner said that staff proposed this change because it was identified as a barrier to housing development, to infill opportunities, and to redevelopment opportunities. She was clear that they did not propose to change the base minimum lot area for any of these districts.

Councilor Williams said that at some point, he hoped the City would look at the base minimum lot area. He said the lot his house is on is so small it is not legal anywhere in the City, but it works for him, and people can live on small lots.

Chair Bosley said this Committee and the Joint Committee of the Planning Board-PLD also had public hearings on this Ordinance. So, she felt that everyone was very familiar with this.

Councilor Haas made the following motion, which was duly seconded by Vice Chair Jones.

On a vote of 5–0, the Planning, Licenses and Development Committee recommends the adoption of Ordinance O-2024-17-A.

4) **Amendment to Land Development Code - Residential Parking Requirements (Public Hearing Date - 01/16/2025) - Ordinance O-2024-20-A**

Chair Bosley noted that there had already been a public hearing, so no further public comments would be accepted at this meeting.

Chair Bosley welcomed a summary from Senior Planner, Mari Brunner. Ms. Brunner recalled that the original proposal for this Ordinance was spurred when the State law changed to put limits on the amount of parking that municipalities can require. This change prompted the City to review its parking regulations and recommendations provided by a consultant through an investigation grant the City received in 2024. Based on that, staff brought forward a proposal to change from a per unit to a per bedroom calculation. However, Ms. Brunner said that at the public workshop, the public urged this body to go even further. Based on that feedback and in order to simplify it, the Ordinance before the Committee was back to a per unit calculation; one parking space per unit in general, with some slight deviations from that. For certain districts, it would be .9 spaces per unit, which does not mean a smaller parking space, it means that a larger development with more units would not have to provide an exact one-to-one ratio. Additionally, this Ordinance created two categories that did not exist before, including housing for older persons and workforce housing, with slightly reduced parking requirements as well. Ms. Brunner pointed out that staff noticed an omission from the list, single family dwellings, but staff were comfortable with the Ordinance moving forward through the process and they could submit another Ordinance to correct it. Another possible action was to send the Ordinance before them back through the process to consider a "B" version.

Chair Bosley looked at the agenda packet and said single family dwelling was under D in the Ordinance, but not in the chart below it, and asked if that was the issue. Ms. Brunner said yes, and she spoke with the City Attorney about it because the intent had always been for single family dwelling to be included in that table; it was listed in the staff report and mock-up pages for the Land Development Code, but not the actual Ordinance. Chair Bosley asked if the recommendation was to move forward with the Ordinance to have it adopted for any current projects and staff would come back with a revision. Ms. Brunner said staff were fine with that.

Vice Chair Jones said he agreed with the Chair's recommendation because this was a significant change, not just a typo or wordsmithing. Otherwise, it would have to go back through the Joint Committee and City Council for a public hearing. He agreed with staff bringing back a new Ordinance for the single-family residence at another time.

Chair Bosley thought it was important to get this change moving forward with construction season coming up, so that people could make plans for any potential upcoming developments with these new rules in place. The Deputy City Manager, Rebecca Landry, said that this process would actually be the same. She said it was only a matter of whether or not to move forward with the risk of no parking requirements for single family dwelling units as long as it would take to get the next ordinance through the process, versus putting this Ordinance back through the process. Chair Bosley said she was comfortable with that because she did not think there would be a lot of single-family homes that would be built without parking. She also thought that most of the homes that would potentially be built in the upcoming months before the new ordinance would be multi-family or some sort of modification to commercial buildings that there would be clear guidelines for. Chair Bosley stated that she was comfortable taking the risk.

Councilor Madison made the following motion, which Councilor Haas seconded.

On a vote of 5–0, the Planning, Licenses and Development Committee recommends the adoption of Ordinance O-2024-20-A.

5) Relating to Interior Side and Rear Setback Requirements in the Downtown Edge Zone (Public Hearing Date - 02/06/2025) - Ordinance O-2024-24-A

Chair Bosley noted that there had already been a public hearing, so no further public comments would be accepted at this meeting.

Chair Bosley welcomed a summary from Senior Planner, Mari Brunner. Ms. Brunner recalled that this Ordinance originally came from a member of the public, Mr. Jared Goodell. The original request was to remove the requirement for a 20-foot minimum interior side setback when a Downtown Edge District parcel directly abuts a parcel in the Downtown Transition District. During the public workshop, the Joint Committee of the Planning Board-PLD felt that it would make sense, for consistency's sake, to remove that same requirement from the rear setback as well. So, Ms. Brunner said that the "A" version of the Ordinance removed both the minimum interior side setback and the minimum rear setback, which would have required an additional 25-foot setback when adjacent to the Downtown Transition District. Chair Bosley said that through the public workshop process, the Joint Committee did not change these side or rear setbacks for the underlying district where it had abutted any other property; they were already set to 0 feet. Ms. Brunner said yes, the Ordinance would also maintain an increased side setback and a rear setback if adjacent to a residential district.

Councilor Williams made the following motion, which was duly seconded by Vice Chair Jones.

On a vote of 5–0, the Planning, Licenses and Development Committee recommends the adoption of Ordinance O-2024-24-A.

6) Relating to Floodplain Appeals and Variance Process - Ordinance O-2025-05

Chair Bosley welcomed Mike Hagan, the City's Floodplain Manager, for a presentation on the City's floodplain management history, appeals and variance process, and Ordinance O-2025-05 specifically.

Mr. Hagan explained that the City of Keene had participated in the National Flood Insurance Program (NFIP) since 1983. In 2002, the City decided to participate in the Community Rating System (CRS) program offered through the Federal Emergency Management Agency (FEMA) for communities that have higher than minimum NFIP regulatory standards. He said that through the Land Development Code Article 24, the City adopted additional regulations for the floodplain: elevating buildings there, compensatory storage, retaining the water on site versus sending it down to the next property, flood proofing, and more that help with mitigation during a flood event. Mr. Hagan explained that at this time, Keene was a CRS Class 8. The benefit to participating in the CRS is that property owners in Keene benefit from an insurance discount. A spot survey had indicated that at this time, depending on the

house, flood insurance rates in Keene were around $1,200/year vs. other towns without these regulatory standards with rates upward of $3,000/year. At this time, there was approximately $53 million of property insured in the City of Keene and over 500 policies through NFIP. With additional regulations and by addressing some concerns from the most recent annual review, he said the City hoped to move to a CRS Class 7.

Next, Mr. Hagan explained the reasons for the proposed changes to the Land Development Code. During the most recent CRS annual review, the NH Floodplain Coordinator, Jennifer Gilbert, noted that per NH RSA 674:56, Flood Hazards, the City is required to have a variance and appeals process. In this case, the Zoning Board of Adjustment (ZBA) would determine and render judgment on the appeals and variances. Like with any regulatory standard, someone should have the opportunity to appeal an ordinance interpretation or determination. He said that the variance is useful because the requirements in the regulations do not always apply in every situation for every parcel. The variance would provide an applicant with the opportunity to use engineering data and technical details to explain to the ZBA.

Mr. Hagan continued, explaining the proposed changes to three articles in the Land Development Code, referring the Committee to the detailed changes in the meeting packet:

- Article 24 Floodplain Regulations:
  - This change would codify the definition of the word "development," to align with the NFIP standards.
  - The second change would address the appeals and variance process, referencing Articles 26 and 27.
- Article 26 Application Procedures:
  - This is an entirely new section.
  - Includes the procedures for applying for a variance.
  - As opposed to Zoning, a FEMA variance process requires two additional things:
    - (1) if granted a variance, the ZBA must notify the applicant of their decision and that their insurance rate will be increased by the issuance of the variance, and
    - (2) the City must issue a letter to FEMA notifying them of the variance.
  - Would also include language directly from the FEMA regulations indicating that enforcement of the regulations would not result in unnecessary hardship: "The variance will not result in the increased flood heights, additional threats to public safety or extraordinary public expense," and, "That the variance is the minimum necessary, considering the flood hazard, to afford relief."
- Article 27 Appeals & Enforcement:
  - This section addresses how to appeal the administrative decision.

Chair Bosley said that the changes read concisely and made sense to her.

Councilor Williams asked about a line he saw, "no variances shall be granted in the floodway." He asked if people would have the ability to appeal the location of the floodway based on where the floods actually happen. Mr. Hagan replied that the last time the City adopted flood maps based on a study

conducted by FEMA was in 2006; those maps are used as a part of the NFIP. He said that some ways for providing additional data would be left up to the applicant. He said that these are predictions based on all the data collected/available to FEMA when it develops these maps; it is impossible to 100% predict the types of storms and how they will flood specific areas. More specifically to Councilor Williams' question, Mr. Hagan said there was a process for appealing the location of the floodway, noting that at this time, two properties had Letters of Map Amendments done for their properties. Letters of Map Amendments are appeals to FEMA, which reviews the applications with the technical data provided by the surveyors, allowing them to either develop or redevelop in the location in a floodway, floodplain, or special flood hazard area. So, Mr. Hagan said there is a process for issuing a variance for the location of the floodway. He explained the concept of the floodway is where all the water is going to flow and move based upon the maps that are provided to and identified by FEMA. He stated that the process to issue a variance to allow for more development in the floodway was already highly regulated and the City would want to limit that.

Vice Chair Jones talked about pervious and impervious surfaces upstream, which is not in this Ordinance currently, but he said could be one day; he was not looking for a change at this time. He also mentioned this at the February 04, 2025, Master Plan Steering Committee meeting, when Mr. Hagan also presented well on this topic. Vice Chair Jones discussed the use of pervious and impervious surfaces upstream, providing the example of the businesses at 800 Park Avenue that would often flood, but never used to when it was a lumber storage area. He explained that when Black Brook Corporate Park was built, a lot of impervious surfaces were installed, causing more water to run down the Black Brook and therefore, more flooding downstream in the Park Avenue area. Vice Chair Jones said that would be something for the City to address in the future. He did not think the technology was available when that Corporate Park was built, but he thought it was coming, which was why he was asking for it in the Master Plan. Mr. Hagan said he was familiar with that location, noting that portion the 500 Park Avenue property (back parking lot) was located within the Special Flood Hazard area. He said that any development requires some thought, noting that Keene's regulations go well beyond the minimum requirements to help mitigate some of the things the Vice Chair mentioned. So, Mr. Hagan said that redevelopments and new developments would use these regulations and standards that are higher than those nationally and in other communities. For example, Peterborough had used some of Keene's standards to add to their floodplain regulations. Mr. Hagan had presented the City's Floodplain Ordinance to other communities (with the NH Floodplain Coordinator present) as an example because of the City's experience with severe flooding.

Councilor Haas thanked Mr. Hagan for dealing with NFIP issues and FEMA mapping, noting that NFIP is a moving target every year and subject to continuing resolutions from the Federal Government. That said, Councilor Haas was pleased to see it becoming essentially more difficult to build in floodways. He was also glad that there were more conditions for going to the ZBA for any possible change, which he said would be a good thing for protecting the buildings, the development, and the environment.

There were no public comments.

Vice Chair Jones made the following motion, which was duly seconded by Councilor Madison.

On a vote of 5–0, the Planning, Licenses and Development Committee recommends the adoption of Ordinance O-2025-05.

7) Rules of Order - Section 15. - Voting and Conflict of Interest

Chair Bosley requested a recap from the Assistant City Attorney, Amanda Palmeira, who recalled that this discussion of Section 15 of the City Council's Rules of Order had been ongoing for some time. In December 2024, the Committee talked about changes to Section 15 that were introduced to the Council for first reading on January 16, 2025, and sent back for this Committee's review. In the committee's agenda packet were two versions of Rule 15: the clean version and one with the proposed strikethroughs. The Assistant City Attorney knew there had been questions about household members and what Substantial Interest meant. She took the Committee's direction on how to proceed. Chair Bosley welcomed Committee discussion.

Councilor Madison asked if the Council could, on its own authority, determine that a Councilor has a conflict of interest if the conflict does not meet one of the financial criteria listed in the Rule. Could a majority of the Council decide that a Councilor could not vote impartially or vote in the best interest of the City because of a personal relationship that is outside of marriage, or with an entity with which they have some non-fiduciary affiliation? The Assistant City Attorney said yes, and that it was a good question. She said that conflict of interest is a unique Rule in that it brings an existing, larger concept down to the City Council level and tries to make it articulable for how the City wants to understand it. However, she said that if something creates a conflict of interest pursuant to the larger concept of ethics and integrity of a democratic body, the Council could consider it. What was written in the Rule was just how it had been articulated for local understanding. The Assistant City Attorney added that to Councilor Madison's example, it could also be a conflict if the Councilor points out to the Council themselves if it does not arise under the strict reading of the Rule.

Councilor Haas said that from his understanding of how this had developed and in reading what was before the Committee, Special Interests were straightforward as defined by the items listed in Section 15. He said that with these changes, if a Special Interest exists, then a conflict exists, which he said eliminated the judgment of the Council. Of course, he said that the Council could still take an issue up as a matter of judgment if the Council thought it was that significant. Councilor Haas said he thought it was good to take the judgment out of it.

Councilor Williams said his concern continued to be with the household member portion. While he understood that this was one way to address the concern about potential corruption, he said that every concern needs to be balanced against other concerns. His concern was with publicly sharing personal data about people in his household, especially during a time of very inflamed politics when he felt that his family members could potentially be at risk. Councilor Williams said that if he was considering running for City Council, seeing this Rule of Order might give him pause. So, in the interest of balancing privacy with other considerations, Councilor Williams stated that he was still opposed to this amendment to Section 15.

Vice Chair Jones referred to the paragraph in Section 15 that began with, "'Substantial Interest' in an organization shall include…" followed by the six factors and asked if those addressed both for profit and nonprofit organizations. The Assistant City Attorney said yes. She explained that this was an example of how the Legislature tended to write things. The term "Substantial Interest" was defined in the paragraph the Vice Chair pointed out, but the term was only actually used in the Rule in Part ii above it, in reference to for profit and nonprofit organizations.

The Assistant City Attorney returned to Councilor Williams' point. In looking at how household members were discussed in the Rule, the Assistant City Attorney believed that it might not have been clear in how it was written. However, based on what she understood (in collaboration with the Clerk's office) of what would happen with the Council's Special Interest Form, she thought that listing what special interests exist for the Councilor and their household members would be more of a catch all portion. The specific Special Interests would not be attributed to each household member, so there would be a layer of anonymity.

Chair Bosley said it was interesting that the Assistant City Attorney made that point because Councilor Favolise contacted the Chair before the meeting asking what the Council's Special Interest Form would look like. She said Councilor Favolise wondered if the Council could suggest to—instead of identifying the specific Special Interests—have a block for the Special Interests of the Councilor that would include the Special Interests of the household members. That would create some anonymity for the household members. Councilor Williams said he still did not like that but thought it would be an improvement.

Councilor Haas said he appreciated Councilor Williams' concern, but he wanted to return to thinking about what citizens on the street would want to know. Councilor Haas said the citizens would want to know everything, and he thinks that is fair. Councilor Haas also complimented the City Attorney for clarifying that the Mayor would also be subject to the same Rules.

Chair Bosley recalled that the Mayor brought this reconsideration forward for review, so she asked if he had any comments. Mayor Jay Kahn clarified that this was an attempt to address concerns that members of the public had expressed to him about Councilors voting on issues for which their family members had interests that were not disclosed. He said that these changes would define household members, making it a modernization of terminology because people live with others who contribute to the economic interests of households; a partner is not necessarily a family member, though they have as much interest in the economic welfare of the household. So, the Mayor said this amendment would change the language from "family member" to "household member." He recalled that the amendment would also require disclosing organizations of affiliation for household members, not just Councilors, on the Council's annual Special Interest Form. He said this would not create a reporting burden on the City Council or Mayor that would be any greater than any other elected officials in this region because this language aligned with what the State Legislature had adopted. He said the amendment clarified what a Substantial Interest in an organization is. The Mayor also addressed Councilor Williams's concerns, stating that this was about disclosure by Councilors of "influences" (financial and otherwise) that the elected official may experience. The Mayor said the disclosure of interests would not be person-by-

person in the household. It would be a matter of identifying that the interest of the household member has an influence on the elected official, who has a responsibility to disclose that influence; he said this was the important point for the conflict of interest definition. The Mayor hoped that would address the anonymity of the household members.

Councilor Haas added that this amendment would define the "household," but the Council would always rely on the integrity and honesty of the individual Councilors to disclose any such interests or concerns, even if they do not list them all. Many influences outside of Councilors' households could come into play, so the Council would rely on integrity. Councilor Haas thought that listing everything as specified in the amendment was a step forward in showing that the Council has that integrity.

Vice Chair Jones thought Section 15 had come a long way. He recalled that he had opposed this change from the beginning but said there had been some great changes. He cited the State of NH's new three-page application with detailed questions about family members (e.g., Is your family associated with the insurance industry? Alcohol industry? Aviation industry? etc.) and thought the City's form would be simpler. Vice Chair Jones thought the answer to Councilor Haas' question was in the first paragraph of Section 15, where it explained that a Councilor must commit if they feel they think they have any conflict at all. The Vice Chair reiterated that he thought the amendment had come a long way and he hoped it would pass. He knew it might need updating again in the future as the Rules require at times.

Chair Bosley agreed with Vice Chair Jones that this Rule had come a long way, calling it a complete revision to something that the Council had been working on since she began on the Council. Chair Bosley agreed that often, revisions are needed as times and terminology change. She liked that households were identified to exclude persons with leasehold interests; she called it smart and thought it helped to get to the heart of defining a household member. She recalled the Council using Rule 15 clunkily many times; Councilors asking for financial commitments from the City for boards that they sat on had recused themselves but then voted on the permitting and licensing portion of that same board's request. Chair Bosley thought that this amendment would provide great grounding for the expectations of what each Councilor should and should not be disclosing. She liked the idea of the Council's Special Interest Form not attributing specifics to named household members, agreeing that it would be up to Councilors to be honest and hold themselves accountable when completing these forms. She said the forms would allow other Councilors to ask questions because otherwise, she would not know her fellow Councilors' special interests. So, she agreed that this change would provide a level of transparency that made her feel more comfortable, and she thought it would make the public feel more comfortable too. The Chair was ready to see it move forward to Council.

Councilor Haas made the following motion, which was duly seconded by Vice Chair Jones.

On a vote of 4–1, the Planning, Licenses and Development Committee recommends the adoption of the Rules of Order amendment – Section 15. "Voting and Conflict of Interest." Councilor Williams voted in opposition.

8) <u>Adjournment</u>

There being no further business, Chair Bosley adjourned the meeting at 7:34 PM.

Respectfully submitted by,
Katryna Kibler, Minute Taker

Edited by,
Patty Little, City Clerk
Kathleen Richards, Deputy City Clerk