



# CITY OF KEENE

In the Year of Our Lord Two Thousand and Twenty-Five

AN ORDINANCE Relating to Amendments to the Planning Board Regulations and Application Procedures

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

That Chapter 100 of the Code of Ordinances of the City of Keene, New Hampshire, as amended, is hereby further amended by deleting the stricken text and adding the bolded and underlined text, as follows.

1. Amend Section 20.2.5 of the Subdivision Regulations to include language from Section 23.3.2 "Lot Monuments," as follows. The intent of this proposed change is to ensure consistency between the Subdivision Regulations administered by the Planning Board and the public infrastructure standards administered by the Public Works Department.

## 20.2.5 Monumentation

The owner or developer shall provide permanent reference monuments in accordance with Article 23 of this LDC and final subdivision plans shall not be signed and recorded until after the monuments have been installed by the developer and verified by the Public Works Director, or security in an amount deemed satisfactory to the Public Works Director is posted ensuring the monuments will be set.

2. Amend Section 25.5 of the Earth Excavation Regulations to reflect the Planning Board's decision to delegate its authority with respect to investigating and resolving complaints to Code Enforcement Staff, as follows.

## 25.5 ENFORCEMENT

- A. After a duly noticed public hearing, the Planning Board or its duly authorized agent may suspend or revoke the earth excavation permit of any person who has violated any provision of the permit, this Article, NH RSA 155-E, or of any person who made a material misstatement in the application upon which their permit was issued. Such suspension or revocation shall be subject to a motion for rehearing thereon and appeal in accordance with this article and NH RSA 677.
- B. Any violation of the requirements of these regulations shall also be subject to the enforcement procedures detailed in NH RSA 676.
- C. In accordance with NH RSA 155-E:10, the Planning Board hereby designates code enforcement staff to act as its duly authorized agent with respect to investigating and resolving complaints regarding Earth Excavation operations.

3. Amend the submittal requirements for subdivision applications in Section 26.10.5.2 and the submittal requirements for site plan applications in 26.12.5 to require two instead of 7 copies of complete plan sets on 22-in by 34-in paper or larger size. In addition, amend these sections to clarify that electronic copies shall be submitted as flattened PDF files (i.e. without layers and free of PDF comments or annotations), as follows:

#### 26.10.5 Submittal Requirements

2. A complete plan set signed and stamped by a NH licensed surveyor. **The plan set shall be submitted in both paper format** (72-copies on 22-in by 34-in paper or larger size; 1-copy on 11-in by 17-in paper); and, **an electronic format (flattened pdf file), which and** shall include the following materials.

#### 26.12.5 Submittal Requirements

- B. A complete plan set signed and stamped by a NH licensed engineer or architect. **The plan set shall be submitted in both paper format** (72-copies on 22-in by 34-in paper or larger size; 1-copy on 11-in by 17-in paper); and, **an electronic format (flattened pdf file), which and** shall include the following materials.

4. Amend the submittal requirements for subdivision and boundary line adjustment applications in Section 26.10.5.B.2.c by adding a new sub-section “v” to require that proposed plans display the basic zone dimensional requirements for the underlying zoning district in which they are located as well as the existing and proposed zone dimensional information for the subject parcels, as follows. The intent of this proposed change is to make it easier to verify whether applications meet zoning or whether zoning relief is required earlier in the application review process.

**v. The basic zone dimensional requirements of the underlying zoning district(s) and the existing and proposed basic zone dimensional information for the subject parcels.**

5. Amend Section 26.10.8.B.2 to clarify that an updated survey must provide the metes and bounds for any revised parcel boundaries and not necessarily for the entirety of the subject parcels, as follows. The intent of this proposed change is to reduce unnecessary costs for the applicant and reduce the number of waivers requested from this section.

2. An updated survey showing the boundary line adjustment, and all metes and bounds of the revised parcels **portions of the parcel boundaries** shall be prepared by the applicant following approval from the Planning Board, and shall be filed with the Community Development Department for recording in the County Registry of Deeds.

6. Amend Section 26.10.11.C and Section 26.12.11.C to modify the timeframe for “Active and Substantial Development” for Subdivision and Site Plan applications, respectively, as follows. The intent of this proposed change is to align the LDC with recent changes to state law that increased the timeframe for active and substantial development from two to three years and clarify when the timeframe officially starts.

C. Active & Substantial Development. Active and substantial development of an approved project shall be completed within 23-years, starting the day following the Board's decision to grant final approval of the project or conditionally approve the application. Plans approved in phases shall be subject to a determination of active and substantial development for the current phase. For purposes of this Section, active and substantial development shall include all of the following.

7. Add a new Section "D" after Section 26.10.11.C entitled "Substantial Completion" to clarify when the rights of the owner or the owner's successor in interest shall vest with respect to subdivision plans and align the code with recent changes to state law, which increased the timeframe for substantial completion from 5 to 7 years.

**D. Substantial Completion. In accordance with NH RSA 674:39 et seq., Substantial Completion of an approved project shall occur within 7-years, starting the day following the Board's decision to grant final approval, at which point the rights of the owner or owner's successor shall vest. Plans approved in phases shall be subject to a determination of substantial completion for the current phase. For purposes of this Section, substantial completion shall include all of the following.**

1. All roadways shown on the approved plan are installed and paved through base course. If such road is intended to be public, the road must meet the conditions for final acceptance described in Article 23 of this LDC, as determined by the Public Works Director.
2. All utilities shown on the approved plan are installed and ready for hook-up.
3. All lot monuments, driveways and other site features shown on the approved plan are installed or completed.
4. All on-site stormwater management, low impact design features, and permanent erosion control measures shown on the approved plan are installed and operational.
5. All new buildings and structures shown on the approved plan are completed and are capable of being used for their intended purpose(s).
6. All off-site improvements specified on the approved plan are completed or financial security in a format and amount acceptable to the Community Development Director has been posted with the City to ensure completion of such improvements.

8. Add a new Section "D" after Section 26.12.11.C entitled "Substantial Completion" to clarify when the rights of the owner or the owner's successor in interest shall vest with respect to site plans and align the code with recent changes to state law, which increased the timeframe for substantial completion from 5 to 7 years.

**D. Substantial Completion. In accordance with NH RSA 674:39 et seq., Substantial Completion of an approved project shall occur within 7-years, starting the day following the Board's decision to grant final approval, at which point the rights**

of the owner or owner's successor shall vest. Plans approved in phases shall be subject to a determination of substantial completion for the current phase. For purposes of this Section, substantial completion shall include all of the following.

1. All roadways shown on the approved plan are installed and paved through base course. If such road is intended to be public, the road must meet the conditions for final acceptance described in Article 23 of this LDC, as determined by the Public Works Director.
2. All utilities shown on the approved plan are installed and ready for hook-up.
3. All on-site stormwater management, low impact design features, and permanent erosion control measures shown on the approved plan are installed and operational.
4. All new buildings and structures shown on the approved plan are completed and are capable of being used for their intended purpose(s).
5. All major on-site improvements shown on the approved plan, including landscaping, lighting, screening, on-site pedestrian and bicycle infrastructure, and parking areas are completed.
6. All off-site improvements specified on the approved plan are completed or financial security in a format and amount acceptable to the Community Development Director has been posted with the City to ensure completion of such improvements.

9. Amend the Site Plan Review Thresholds in Section 26.12.3 to raise the threshold for projects that involve new additions to go to Major Site Plan Review, create thresholds for projects that involve the creation, modification, or removal of street access, and create thresholds for projects that involve the creation of new residential units, as follows.

### **26.12.3 Applicability**

**A. Site Plan Review Thresholds.** Site plan review is required for the following types of improvements described in Sections 26.12.3.A.1 (Major Site Plan) and 26.12.3.A.2 (Minor Site Plan). It shall not be required for single-family and two-family dwellings or their associated accessory uses, provided such dwellings are not attached to a mixed-use building or located on a mixed-use lot containing non-residential or multifamily residential uses.

1. **Major Site Plan.** Major site plan review is required for any proposal that meets or exceeds any of the below thresholds.
  - a. New principal buildings or structures greater than 5,000 sf in gfa.
  - b. Additions to existing buildings or structures
    1. In the Downtown Districts, additions that are greater than 15% of the gfa of the existing principal building.

2. In all other Districts, additions that are greater than 25% of the gfa of the existing principal building.
  - c. Projects that involve the creation of 25 or more new residential dwelling units in one year.
    - d. Change or increase of vehicle trips per day of 100, or per peak hour of 50.
    - e. Installation of impervious surfaces (e.g. pavement or gravel) that exceeds 10,000 sf in contiguous area.
    - f. Land disturbance that impacts 1-acre or greater of land area.
  - g. New street access where an exception is requested from the street access permit criteria in Article 23.
    - h. Modifications to the site or building (e.g. lighting, landscaping, façade alteration, etc.), which, at the discretion of the Community Development Director, or their designee, warrants major site plan review.
    - i. Change of use, which at the discretion of the Community Development Director, or their designee, warrants major site plan review. Such determination shall be based on an evaluation of the impacts of the proposed use on both the subject parcel and the surrounding neighborhood.
2. **Minor Site Plan.** Minor site plan review is required for any proposal that meets any of the below thresholds.
  - a. New principal buildings or structures that are between 1,000 and 5,000 sf in gfa.
  - b. Additions to existing buildings or structures
    1. In the Downtown Districts, additions that are between 10% and 15% of the gfa of the existing principal building
    2. In all other districts, additions that are between 15% and 25% of the gfa of the existing principal building.
  - c. Projects that involve the creation of 15 to 24 new dwelling units.
    - d. Installation of impervious surfaces (e.g. pavement or gravel) that are 10,000 sf or less in contiguous area, which, at the discretion of the Community Development Director, or their designee, and based on the nature of the proposal, warrants minor site plan review.
    - e. Land disturbance that impacts less than 1-acre of land area, which, at the discretion of the Community Development Director, or their designee, and based on the nature of the proposal, warrants minor site plan review.
    - f. Modifications to the site or building (e.g. lighting, landscaping, façade alteration, etc.), which, at the discretion of the Community Development Director, or their designee, warrants minor site plan review.
  - g. New street access or requests to widen existing street access.

- h. Change of use, which at the discretion of the Community Development Director, or their designee, warrants minor site plan review. Such determination shall be based on an evaluation of the impacts of the proposed use on both the subject parcel and the surrounding neighborhood.
- B. **Administrative Planning Review.** Proposed development or redevelopment, including change of use, associated with uses other than single-family and two-family dwellings that does not meet the thresholds for major or minor site plan review shall be reviewed by the Community Development Director, or their designee, to verify compliance with the Site Development Standards in Article 21 of this LDC prior to the issuance of a building permit. Proposed modifications to commercial or multifamily street access that do not meet the threshold for minor or major site plan review shall be referred to the City Engineer for review prior to issuing a decision. The application and review procedures associated with Administrative Planning Review are described in Section 26.13.
- C. Unless otherwise noted in this Section, the Community Development Director, or their designee, has the authority to determine, on a case-by-case basis, based on the nature of the proposal, whether the proposed work requires review by the Planning Board, Minor Project Review Committee, or City staff, or whether any review is necessary.

10. Amend Section 26.12.8.A.8 to articulate the process by which the Minor Project Review Committee may refer Minor Site Plan projects to the Planning Board for Major Site Plan Review, as follows.

- 8. Public Hearing. Upon reaching a finding that an application is complete, the Minor Project Review Committee may open the public hearing for the application. If at any point during the public hearing process it is determined that the Minor Project Review Committee does not have jurisdiction over the project for any reason (e.g., nonconformance with zoning, nonconformance with Site Development Standards, etc.), the Minor Project Review Committee shall refer the project to the appropriate decision-making authority for review. In the case where the appropriate decision-making authority is determined to be the Planning Board, new notice shall not be required, provided that the public hearing is continued to a specified date, time and location.

11. Amend Section 26.12.9.B to specify that final plans shall include all necessary professional stamps, as follows.

- B. Prior to the signature of the Chair or Vice Chair of the respective decision-making authority on an approved site plan, the applicant shall:
  1. Demonstrate to the satisfaction of the Community Development Director, or their designee, that all conditions of approval have been met as specified by the respective decision-making authority; and,
  2. Provide complete copies of the approved plan set in a number and form as specified by the Community Development Department. Such plans shall be stamped by all licensed professionals who prepared the plans.

12. Amend Section 26.12.13.A.4.a to require the submittal of a flattened PDF copy of as-built plans in addition to paper and electronic geodatabase file formats, as follows.

a. After a project is completed and prior to release of any security, applicants shall provide **two paper copies of** the complete set of "As-Built" plans on 22-in by 34-in paper or larger size, **a flattened pdf file**, and as an electronic file in .dwg, .dxf, .shp or geodatabase format.

13. Amend Section 26.14.11.A to clarify that there may be instances where a separate section of the LDC applies, as follows.

A. **Unless otherwise specified in this LDC, a** Applicants for a conditional use permit seeking a waiver from conditional use permit standards in the Zoning Regulations of this LDC, shall apply to the Zoning Board of Adjustment for a variance.

14. Amend the Earth Excavation Application Submittal Requirement Exemptions in Section 26.19.5 to correct the "Submittal Requirements" section reference, as follows.

#### 26.19.5 Submittal Requirement Exemptions

An applicant for an Earth Excavation permit may request the Community Development Director, or their designee, to exempt their application from any of the submission requirements referenced in Section 26.19.4.

15. Amend Section 26.19.14 of the Earth Excavation Application Procedures to specify acceptable forms of security, as follows.

#### 26.19.14 Security

Prior to the issuance of any earth excavation permit or to the removal of topsoil or other overburden material from any land area that has not yet been excavated, the applicant shall submit security in a form and amount acceptable to the City Engineer and the Community Development Director to be sufficient to guarantee compliance with the permit, **and shall be either a certified check made out to the City of Keene or a letter of credit.**

**1. Performance Bonds shall not be an acceptable form of security.**

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Jay V. Kahn, Mayor