Effective September 1, 2021; Last Amended November 2022

CITY OF KEENE, NH
LAND DEVELOPMENT CODE

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1.1 TITLE, PURPOSE & APPLICABILITY

1.1.1 Title

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

1.1.2 Purpose & Intent

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

A. Protect, promote, and improve the public health, safety and general welfare of the City of Keene and its inhabitants.

B. Facilitate orderly development and the compatible use of land that will result in a strong viable economy, enhance the attractiveness of the community, preserve the quality and function of natural systems and maintain and enhance quality of life in the City of Keene, while not imposing unreasonable costs upon the City.

1.1.3 Effective Date

This LDC was adopted on May 20, 2021 and became effective on September 1, 2021 by Ordinance O-2020-10B.

1.1.4 Applicability

A. To the extent allowed by law, the provisions of this LDC shall apply to all land, buildings, structures, and uses located within the jurisdiction of the City of Keene, NH.

B. Except for non-conformances allowed pursuant to Article 18, no structure may be erected, converted, enlarged, reconstructed, moved or altered; no land or structures may be used or changed; and no lots of record established by subdivision or otherwise, that do not conform with all applicable regulations of this LDC.

1.1.5 Minimum Requirements

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

1.1.6 Conflicting Provisions

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

1.1.7 Severability

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

1.2 RULES OF INTERPRETATION

1.2.1 Definitions

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

A. For the purposes of determining the commonly accepted meaning of any term, reference may be made to the latest edition of Webster's Dictionary.

B. Terms not otherwise defined in this LDC that are defined in NH Revised Statutes Annotated (RSAs) may take on the statutory definition.

C. The definitions of this LDC shall take precedence over any conflicting definitions, if such conflict arises.

1.2.2 Lists & Examples

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

1.2.3 Time Computation

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

1.2.4 Conjunctions

A. "And" indicates that all connected words or provisions apply.

B. "Or" indicates that the connected words or provisions may apply singly or in any combination.

C. "Either [...] or" indicates that the connected words or provisions apply singly, but not in combination.

1.2.5 Mandatory, Prohibitory, & Permissive Terms

A. "Must," "will," and "shall" are mandatory terms that express a requirement.

B. "Must not," "will not," "shall not," and "may not" are terms that express a prohibition.

C. "Should" is a term that expresses a suggestion or recommendation.

D. "May" is permissive term.

1.2.6 Current Versions & Citations

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

1.2.7 Graphics, Illustrations, & Flowcharts

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

1.2.8 Common Abbreviations

A. "ft" is an abbreviation for "feet."

B. "in" is an abbreviation for "inch."

C. "Max" is an abbreviation for "maximum."

D. "Min" is an abbreviation for "minimum."

E. "sf" is an abbreviation for "square feet" or "square foot."

F. "e.g." is used interchangeably with "for example" or "such as."

G. "gfa" is an abbreviation for "gross floor area."

1.3 RULES OF MEASUREMENT & EXCEPTIONS

1.3.1 Lot Dimensions

A. Lot Area. The total area within the boundary lines of a lot, excluding any public right-of-way open to public use.

B. Lot Line, Front. The boundary line separating a lot from a street right-of-way or, for a corner lot, the line separating the narrower street frontage of the lot from the street right-of-way.

C. Lot Line, Rear. The boundary line most distant and opposite from the front lot line or, where the lot is irregular, a line parallel to the front lot line and at least 10-ft long within the lot.

D. Lot Line, Side. The boundary lines connecting the front and rear lot lines.

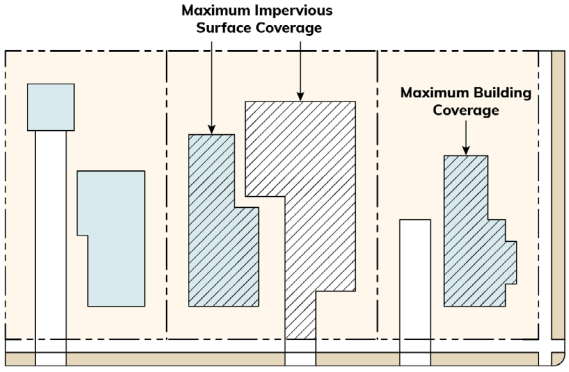
E. Lot Width at Building Line. The horizontal distance between side lot lines measured at the building line.

F. Road Frontage. The continuous portion of a lot fronting on a public right-of-way. The minimum frontage shall mean the smallest width, measured along the lot line that abuts a public right-of-way to which access may be permitted.

1.3.2 Lot Coverage

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

B. Building Coverage. Maximum area of a lot that is permitted to be covered by buildings or structures, which is measured by dividing the total area of building footprints (as measured from the outside ground wall and floor wall lines) of all principal and accessory structures by the total lot area.



1.3.3 Setbacks & Build-To Dimensions

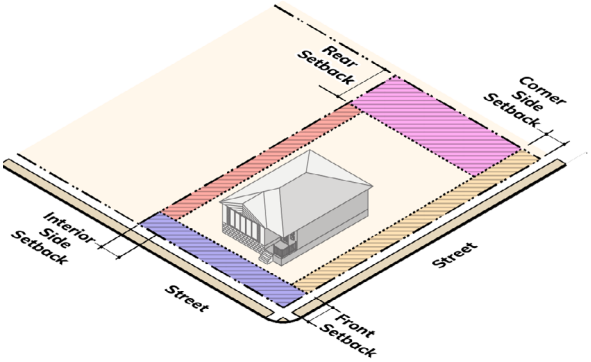
A. Building Setback. The required minimum or maximum distance a building or structure must be located from a lot line, which is unoccupied and unobstructed by any portion of a building or structure, unless expressly permitted by this LDC.

1. **Front Setback.** The required minimum or maximum distance that a building or structure must be located from the front lot line.

2. **Rear Setback.** The required minimum or maximum distance that a building or structure must be located from the rear lot line.

3. **Side Setback.** The required minimum or maximum distance that a building or structure must be located from the side lot line. A side setback may be measured perpendicular to the interior side setback or to the corner side lot line.

    a. In residential zoning districts, the corner side lot line shall be measured from the property line adjacent to the street, and shall be 10-ft greater than the minimum side setback required in the zoning district.



4. Structure Setback Exceptions.

a. The following may be excluded from required setbacks.

i. Steps and stairs necessary to provide access to a building or structure

ii. Access landings up to 25-sf

iii. Structures necessary to afford access for persons with physical disabilities

iv. Canopies and awnings

v. One detached utility accessory building of less than 125-sf (e.g. garden shed)

vi. Fences

vii. Signs as regulated by Article 10

b. Paved and unpaved parking lots and associated travel surfaces associated with all uses other than single- and two-family dwellings shall comply with the setback requirements in Section 9.4 of this LDC.

c. Driveways and parking spaces associated with single- and two-family dwellings shall comply with the setback requirements in Section 9.3 of this LDC.

d. If a front building setback extends beyond the front of a legally nonconforming building, an accessory use or structure may occupy the portion of the front setback beyond the front of the building.

e. The following structures may encroach up to 10-ft from the rear lot line of lots in residential zoning districts.

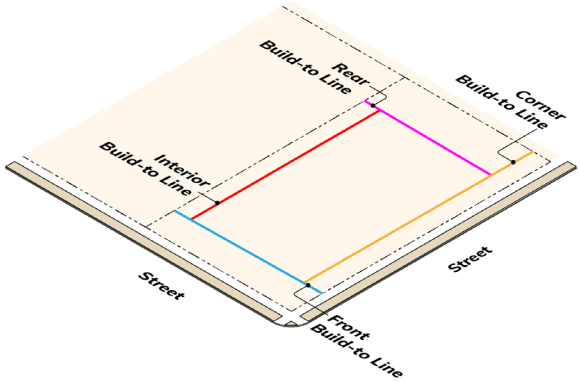
i. Pools, either above- or in-ground

ii. Decks, either detached or attached

iii. Garages, either detached or attached

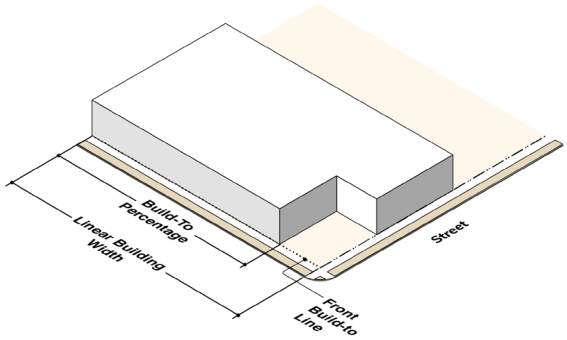
B. Building Façade Line. The vertical plane along a lot where the building's façade is located. Upper story building façade lines relate to that part of the façade that requires a stepback.

C. Build-To Line (BTL). A build-to line (BTL) is a set line on a lot, measured perpendicularly from the applicable lot line, where a structure must be located. The building façade line of a structure must be located on the build-to line. Façade articulation (e.g. window or wall recesses and projections) are not counted as the building façade line, which begins at the applicable façade wall.

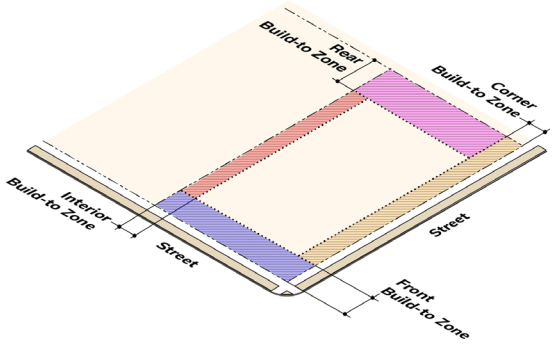


D. Build-To Percentage. A build-to percentage specifies the percentage of the building façade that must be located within the build-to zone or at the build-to line. Façade articulation (e.g. window or wall recesses and projections) do not count against the required build-to percentage. Plazas, outdoor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

Build-to percentage is calculated by building façade, not lot width.



E. Build-To Zone (BTZ). A build-to zone (BTZ) is the area on a lot, measured perpendicularly from the lot line, within which a structure must locate. A BTZ sets a minimum and maximum dimension within which the building façade line must be located (e.g. 0-5-ft). Façade articulation (e.g. window or wall recesses and projections) are not counted as the building façade line, which begins at the applicable façade wall.



1.3.4 Building Height

A. Building Height, Feet. The vertical distance measured from the grade plane of the lot grade to the highest point of the roof or structure.

B. Building Height, Stories. The vertical distance measured from the finished ground floor level to the surface of the second floor, or, in the case of a one-story building, from the finished ground floor level to the surface of the roof. Each upper story of a structure is measured from the surface of the floor to the surface of the floor above it, or, if there is no floor above, from the surface of the floor to the surface of the roof above it.

1. When building height allows for half-stories, the half-story is calculated as the space under a sloping roof where the line of intersection of roof decking and exterior wall face is no more than 5-ft above the top floor level.

2. Attics, habitable attics, and basements are not counted as stories.

C. Height, Ground Floor. Ground floor height is the measurement of height for the first story of a structure, calculated as the height from the grade plane to the floor of the second story.

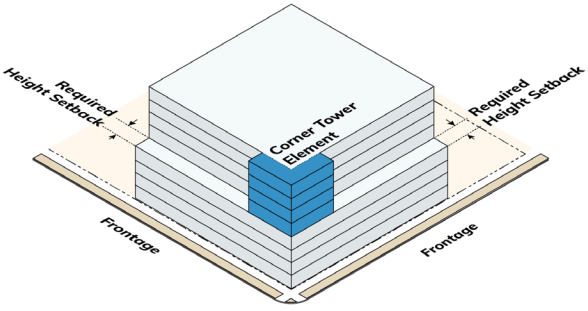
D. Story, Above Grade. Any story having its finished floor surface entirely above grade, except that a basement shall be considered as a story above grade when the finished surface of the floor above the basement is:

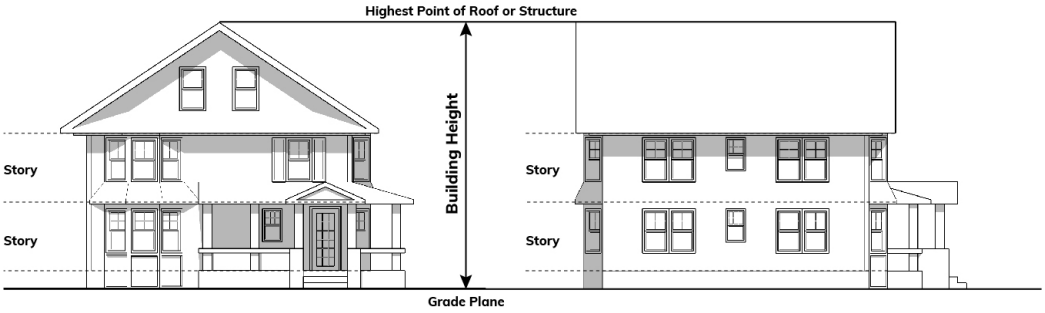
1. More than 6-ft above grade plane;

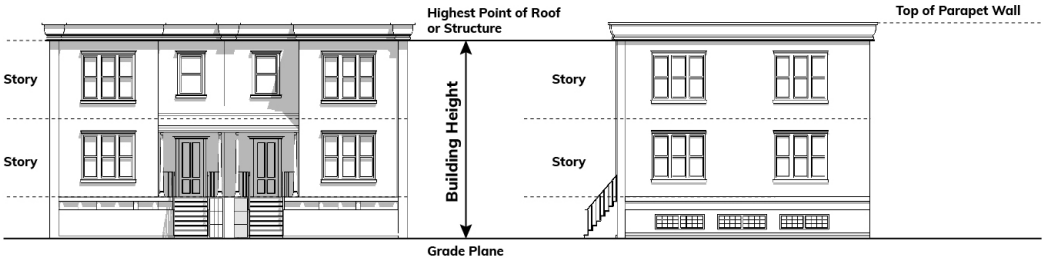
2. More than 6-ft above the finished ground level for more than 50% of the total building perimeter; or

3. More than 12-ft above the finished ground level at any point.

E. Optional Corner Tower Element. A corner tower element is an accentuated vertical element located on a building corner at a street intersection that can be located within a required stepback. In no case may the corner tower element exceed the building's overall height.







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

G. Building Height Exceptions.

1. The following structures and features may extend above the building height and number of story limitations set forth in this LDC, but only if it is necessary for their function and proper operations. Unless otherwise specified, in no case may these excepted structures exceed 60-ft or 4-stories, whichever is less.

a. Chimneys, ventilators, tanks, bulkheads, and other accessory features required above the roof.

b. Towers, spires, domes, and similar ornamental features, if not used for living purposes.

c. Roof-mounted solar energy systems. Such systems may exceed the maximum building height by up to 8-ft.

d. Parapet walls may exceed the maximum building height by up to 3-ft.

2. The following structures may extend above the building height and story limitations set forth in this LDC, only if it is necessary for their function and proper operation, and if a special exception is granted by the Zoning Board of Adjustment.

a. Towers, spires, domes, and similar ornamental features, if not used for living purposes.

b. Barns, silos, and other farm buildings and structures required for agricultural purposes.

c. Towers for transmission and communication lines, radio towers, fire towers, water towers, and airplane beacons.

1.3.5 Gross Floor Area (GFA)

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

1.3.6 Grade Plane

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

1.3.7 Pedestrian Access

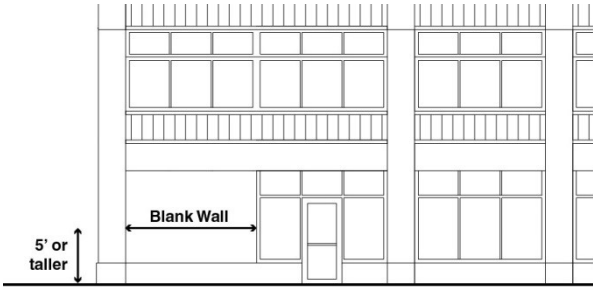
A. Building Length. Building length is measured as the length of the façade abutting a street. Pedestrian passages, breezeways, and similar building connections are included in the calculation of total building length.

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

1.3.8 Transparency

A. Blank Wall, Ground Floor. The horizontal linear dimension of contiguous building wall that does not contain fenestration, doors, or decorative elements (e.g. banding, medallions), artwork (e.g. murals and mosaics), change in wall plane of at least 3-in, or other architectural or material embellishment. Any wall less than 5-ft in height is not considered to be a blank wall.

B. Blank Wall, Upper Floor. The horizontal or vertical linear dimension of contiguous building wall that does not contain fenestration, doors, or decorative elements (e.g. banding, medallions), artwork (e.g. murals and mosaics), change in wall plane of at least 3-in, or other architectural or material embellishment. Any wall with a minimum dimension of less than 5-ft (height or width) is not considered to be a blank wall.



C. Transparency. Transparency is the required amount of window area as a percentage of the specified façade area. Doors are included in ground floor transparency when such doors are designed with glass or other transparent materials. To qualify as transparent for the calculation, the glazing must meet the following standards.

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

ARTICLE 2. ESTABLISHMENT OF ZONING REGULATIONS & DISTRICTS

2.1 TITLE 2-2

2.2 AUTHORITY 2-2

2.3 ESTABLISHMENT OF DISTRICTS 2-2

2.4 ZONING MAP 2-2

2.5 OVERLAY DISTRICTS 2-3

2.1 TITLE

Articles 2 through 18 of this LDC shall constitute the official Zoning Ordinance for the City of Keene, as may be amended, in accordance with state law. For the purposes of this LDC, the Zoning Ordinance, shall be referred to as the Zoning Regulations.

2.2 AUTHORITY

It shall be the authority of the City Council to adopt or amend the Zoning Regulations, including amendments to the official Zoning Map in accordance with Article 25.3 of this LDC. The Zoning Administrator shall have the authority to administer and make interpretations of the Zoning Regulations.

2.3 ESTABLISHMENT OF DISTRICTS

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

Table 2-1: City of Keene Zoning Districts

Residential Districts		
R	Rural	Sec. 3.1
RP	Residential Preservation	Sec. 3.2
LD	Low Density	Sec. 3.3
LD-1	Low Density 1	Sec. 3.4
MD	Medium Density	Sec. 3.5
HD	High Density	Sec. 3.6
HD-1	High Density 1	Sec. 3.7
Downtown Districts		
DT-C	Downtown Core	Sec. 4.2
DT-G	Downtown Growth	Sec. 4.3
DT-L	Downtown Limited	Sec. 4.4
DT-E	Downtown Edge	Sec. 4.5
DT-T	Downtown Transition	Sec. 4.6
DT-I	Downtown Institutional Campus	Sec. 4.7
Commercial Districts		
COM	Commerce	Sec. 5.1
CL	Commerce Limited	Sec. 5.2
NB	Neighborhood Business	Sec. 5.3
BGR	Business, Growth & Reuse	Sec. 5.4
O	Office	Sec. 5.5
Industrial Districts		
CP	Corporate Park	Sec. 6.1
I	Industrial	Sec. 6.2
IP	Industrial Park	Sec. 6.3
Special Purpose Districts		
HC	Health Care	Sec. 7.1
A	Agriculture	Sec. 7.2
C	Conservation	Sec. 7.3

2.4 ZONING MAP

2.4.1 Official Zoning Map

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

2.4.2 Interpretation of Map Boundaries

A. Where uncertainty exists as to the boundaries of any zoning district shown on the Zoning Map, the precise location is to be determined as follows.

1. Where zoning district boundary lines are shown on the Zoning Map within the street lines of public or private streets or ways, the centerlines of such streets or ways shall be the boundary lines.

2. Where zoning district boundary lines are shown approximately on the location of property lot lines and the exact location of such boundary lines is not indicated by means of figures, distances, or otherwise, the property lot lines shall be the boundary lines.

3. Zoning district boundary lines located outside of street lines and shown approximately parallel thereto shall be regarded as parallel to such street lines, and figures placed upon the map between such boundary lines and the street lines shall be the distances in feet of such boundary lines from the street lines, such distances being measured at right angles to the street lines, unless otherwise indicated.

4. In all cases which are not covered by this section, the location of zoning district boundary lines shall be determined by the distances in feet, if given, from other lines upon the map or, if no distances are given, by the scale of the map.

B. Whenever any uncertainty exists as to the exact location of a boundary line, the location of such line shall be determined by the Zoning Administrator upon review of the official Zoning Map. This administrative determination may be appealed to the Zoning Board of Adjustment.

2.5 OVERLAY DISTRICTS

A. The overlay districts listed in Table 2-2 are established and applied to property as set forth on the official zoning map.

B. An overlay district establishes regulations to combine with the regulations of an underlying zoning district. The purposes of overlay districts are to prohibit uses otherwise allowed in the underlying zoning district, to establish additional or different conditions for such uses, or to authorize special uses, together with standards for such uses, not otherwise allowed in the underlying zoning district.

Table 2-2: City of Keene Overlay Zoning Districts

Surface Water Protection	Article 11
Hillside Protection	Article 12
Telecommunications	Article 13
Sustainable Energy Efficient Development (SEED)	Article 14

ARTICLE 3. RESIDENTIAL ZONING DISTRICTS

3.1 RURAL (R) 3-2

3.2 RESIDENTIAL PRESERVATION (RP) 3-3

3.3 LOW DENSITY (LD) 3-4

3.4 LOW DENSITY 1 (LD-1) 3-5

3.5 MEDIUM DENSITY (MD) 3-6

3.6 HIGH DENSITY (HD) 3-7

3.7 HIGH DENSITY 1 (HD-1) 3-8

3.1 RURAL (R)

3.1.1 Purpose

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

3.1.2 Dimensions & Siting

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

3.1.3 Buildout

Max Building Coverage	10%
Max Impervious Coverage	20%

3.1.4 Height

Max Stories Above Grade	2
Max Building Height	35 ft

3.1.5 Permitted Uses

RESIDENTIAL USES		**SECTION**
Dwelling, Manufactured Housing	P[1]	8.3.1.B
Dwelling, Single-Family	P	8.3.1.D
Dwelling, Two-Family	CRD	8.3.1.E
Dwelling, Multifamily	CRD	8.3.1.C
Manufactured Housing Park	P	8.3.1.F
COMMERCIAL USES		**SECTION**
Animal Care Facility	P	8.3.2.B
Bed and Breakfast	SE	8.3.2.G
Greenhouse / Nursery	P	8.3.2.L
Kennel	P	8.3.2.P
CONGREGATE LIVING / SOCIAL SERVICES USES		**SECTION**
Group Home, Small	CUP	8.3.4.F
OPEN SPACE USES		**SECTION**
Cemetery	P	8.3.6.A
Community Garden	P	8.3.6.B
Conservation Area	P	8.3.6.C
Farming	P	8.3.6.D
Golf Course	P[1]	8.3.6.E
Gravel Pit	SE	8.3.6.F
INFRASTRUCTURE USES		**SECTION**
Solar Energy System (Small-Scale)	P[1]	8.3.7.A
Solar Energy System (Medium-Scale)	CUP	8.3.7.B
Solar Energy System (Large-Scale)	CUP	8.3.7.C
Telecommunications Facilities	P[1]	8.3.7.E

P = Permitted
P[1] = Permitted with limitations per Article 8.
SE = Permitted by Special Exception
CUP = Permitted by Conditional Use Permit
CRD = Permitted by Conservation Residential Development

3.2 RESIDENTIAL PRESERVATION (RP)

3.2.1 Purpose

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

3.2.2 Dimensions & Siting

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

3.2.3 Buildout

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

3.2.4 Height

Max Stories Above Grade	2
Max Building Height	35 ft

3.2.5 Permitted Uses

RESIDENTIAL USES		**SECTION**
Dwelling, Single-Family	P	8.3.1.D
COMMERCIAL USES		**SECTION**
Bed and Breakfast	SE	8.3.2.G
CONGREGATE LIVING / SOCIAL SERVICES USES		**SECTION**
Group Home, Small	CUP	8.3.4.F
OPEN SPACE USES		**SECTION**
Community Garden	P	8.3.6.B
Conservation Area	P	8.3.6.C
INFRASTRUCTURE USES		**SECTION**
Telecommunications Facilities	P[1]	8.3.7.E

P = Permitted
P[1] = Permitted with limitations per Article 8.
SE = Permitted by Special Exception
CUP = Permitted by Conditional Use Permit

3.3 LOW DENSITY (LD)

3.3.1 Purpose

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

3.3.2 Dimensions & Siting

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

3.3.3 Buildout

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

3.3.4 Height

Max Stories Above Grade	2
Max Building Height	35 ft

3.3.5 Permitted Uses

RESIDENTIAL USES		**SECTION**
Dwelling, Single-Family	P	8.3.1.D
Dwelling, Two-Family	CRD	8.3.1.E
Dwelling, Multifamily	CRD	8.3.1.C
CONGREGATE LIVING / SOCIAL SERVICES USES		**SECTION**
Group Home, Small	CUP	8.3.4.F
OPEN SPACE USES		**SECTION**
Community Garden	P	8.3.6.B
Conservation Area	P	8.3.6.C
INFRASTRUCTURE USES		**SECTION**
Telecommunications Facilities	P[1]	8.3.7.E

P = Permitted
P[1] = Permitted with limitations per Article 8.
CUP = Permitted by Conditional Use Permit
CRD = Permitted by Conservation Residential Development

3.4 LOW DENSITY 1 (LD-1)

3.4.1 Purpose

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

3.4.2 Dimensions & Siting

Lots Without City Water Service	
Min Lot Area	1 acre
Min Lot Width at Building Line	75 ft
Min Road Frontage	100 ft
Min Road Frontage (For lots fronting on a cul-de-sac)	60 ft
Min Front Setback	15 ft
Min Rear Setback	20 ft
Min Side Setback	10 ft

Lots With City Water Service	
Min Lot Area	20,000 sf
Min Lot Width at Building Line	75 ft
Min Road Frontage	75 ft
Min Road Frontage (For lots fronting on a cul-de-sac)	60 ft
Min Front Setback	15 ft
Min Rear Setback	20 ft
Min Side Setback	10 ft

3.4.3 Buildout

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

3.4.4 Height

Max Stories Above Grade	2
Max Building Height	35 ft

3.4.5 Permitted Uses

RESIDENTIAL USES		**SECTION**
Dwelling, Single-Family	P	8.3.1.D
Dwelling, Two-Family	CRD	8.3.1.E
Dwelling, Multifamily	CRD	8.3.1.C
CONGREGATE LIVING / SOCIAL SERVICES USES		**SECTION**
Group Home, Small	CUP	8.3.4.F
OPEN SPACE USES		**SECTION**
Community Garden	P	8.3.6.B
Conservation Area	P	8.3.6.C
INFRASTRUCTURE USES		**SECTION**
Telecommunications Facilities	P[1]	8.3.7.E

P = Permitted
P[1] = Permitted with limitations per Article 8.
CUP = Permitted by Conditional Use Permit
CRD = Permitted by Conservation Residential Development

3.5 MEDIUM DENSITY (MD)

3.5.1 Purpose

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

3.5.2 Dimensions & Siting

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

3.5.3 Buildout

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

3.5.4 Height

Max Stories Above Grade	2
Max Building Height	35 ft

3.5.5 Permitted Uses

RESIDENTIAL USES		**SECTION**
Dwelling, Above Ground Floor	P	8.3.1.A
Dwelling, Multifamily	P[1]	8.3.1.C
Dwelling, Single-Family	P	8.3.1.D
Dwelling, Two-Family / Duplex	P	8.3.1.E
CONGREGATE LIVING / SOCIAL SERVICES USES		**SECTION**
Domestic Violence Shelter	P[1]	8.3.4.A
Group Home, Small	CUP	8.3.4.F
OPEN SPACE USES		**SECTION**
Community Garden	P	8.3.6.B
Conservation Area	P	8.3.6.C
INFRASTRUCTURE USES		**SECTION**
Telecommunications Facilities	P[1]	8.3.7.E

P = Permitted
P[1] = Permitted with limitations per Article 8.
CUP = Permitted by Conditional Use Permit

3.6 HIGH DENSITY (HD)

3.6.1 Purpose

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

3.6.2 Dimensions & Siting

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

3.6.3 Buildout

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

3.6.4 Height

Max Stories Above Grade	2
Max Building Height	35 ft

3.6.5 Permitted Uses

RESIDENTIAL USES		**SECTION**
Dwelling, Above Ground Floor	P	8.3.1.A
Dwelling, Multifamily	P	8.3.1.C
Dwelling, Single-Family	P	8.3.1.D
Dwelling, Two-Family / Duplex	P	8.3.1.E
COMMERCIAL USES		**SECTION**
Bed and Breakfast	SE	8.3.2.G
Neighborhood Grocery Store	SE	8.3.2.U
INSTITUTIONAL USES		**SECTION**
Senior Center	SE	8.3.3.G
CONGREGATE LIVING / SOCIAL SERVICES USES		**SECTION**
Domestic Violence Shelter	P[1]	8.3.4.A
Group Home, Large	CUP	8.3.4.E
Group Home, Small	CUP	8.3.4.F
Lodginghouse	CUP	8.3.4.I
Residential Care Facility	CUP	8.3.4.J
OPEN SPACE USES		**SECTION**
Community Garden	P	8.3.6.B
Conservation Area	P	8.3.6.C
INFRASTRUCTURE USES		**SECTION**
Telecommunications Facilities	P[1]	8.3.7.E

P = Permitted
P[1] = Permitted with limitations per Article 8.
SE = Permitted by Special Exception
CUP = Permitted by Conditional Use Permit

3.7 HIGH DENSITY 1 (HD-1)

3.7.1 Purpose

A. The High Density 1 (HD-1) District is intended to provide for high intensity residential development. All uses in this district shall have city water and sewer service.

B. Lots in this district shall have frontage on the following list of street locations, and all vehicle access, except for gated emergency access, shall be from the following streets.

1. Court St (on the west side from Westview St to Maple Ave, and on the east side from Evergreen Ave to Maple Ave)
2. Maple Ave
3. Marlboro St (from Main St to Eastern Ave)
4. Park Ave
5. Washington St
6. West St (from Central Square to Park Ave)
7. Winchester St

3.7.2 Dimensions & Siting

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

3.7.3 Buildout

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

3.7.4 Height

Max Stories Above Grade	3
Max Building Height	50 ft

3.7.5 Permitted Uses

RESIDENTIAL USES		**SECTION**
Dwelling, Above Ground Floor	P	8.3.1.A
Dwelling, Multifamily	P	8.3.1.C
Dwelling, Single-Family	P	8.3.1.D
Dwelling, Two-Family / Duplex	P	8.3.1.E
COMMERCIAL USES		**SECTION**
Bed and Breakfast	SE	8.3.2.G
CONGREGATE LIVING / SOCIAL SERVICES USES		**SECTION**
Group Home, Large	CUP	8.3.4.E
Group Home, Small	CUP	8.3.4.F
Residential Care Facility	CUP	8.3.4.J
OPEN SPACE USES		**SECTION**
Community Garden	P	8.3.6.B
Conservation Area	P	8.3.6.C
INFRASTRUCTURE USES		**SECTION**
Telecommunications Facilities	P[1]	8.3.7.E

P = Permitted
P[1] = Permitted with limitations per Article 8.
SE = Permitted by Special Exception
CUP = Permitted by Conditional Use Permit

ARTICLE 4. DOWNTOWN ZONING DISTRICTS

4.1 GENERAL....4-2

4.2 DOWNTOWN CORE (DT-C) 4-6

4.3 DOWNTOWN GROWTH (DT-G)....4-8

4.4 DOWNTOWN EDGE (DT-E) 4-10

4.5 DOWNTOWN LIMITED (DT-L) 4-12

4.6 DOWNTOWN TRANSITION (DT-T) 4-14

4.7 DOWNTOWN INSTITUTIONAL CAMPUS (DT-I) 4-16

4.1 GENERAL

4.1.1 Purpose

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

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

A. Downtown Core (DT-C)

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

B. Downtown Growth (DT-G)

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

C. Downtown Edge (DT-E)

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

D. Downtown Limited (DT-L)

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

E. Downtown Transition (DT-T)

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

F. Downtown Institutional Campus (DT-I)

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

4.1.2 Street Types

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

A. Establishment of Street Types

1. **Type A Streets** are those streets and/or pedestrian rights-of-way designated as areas of greater focus on the design and placement of structures to ensure a consistent, walkable pedestrian orientation.

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

B. Street Types Map

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

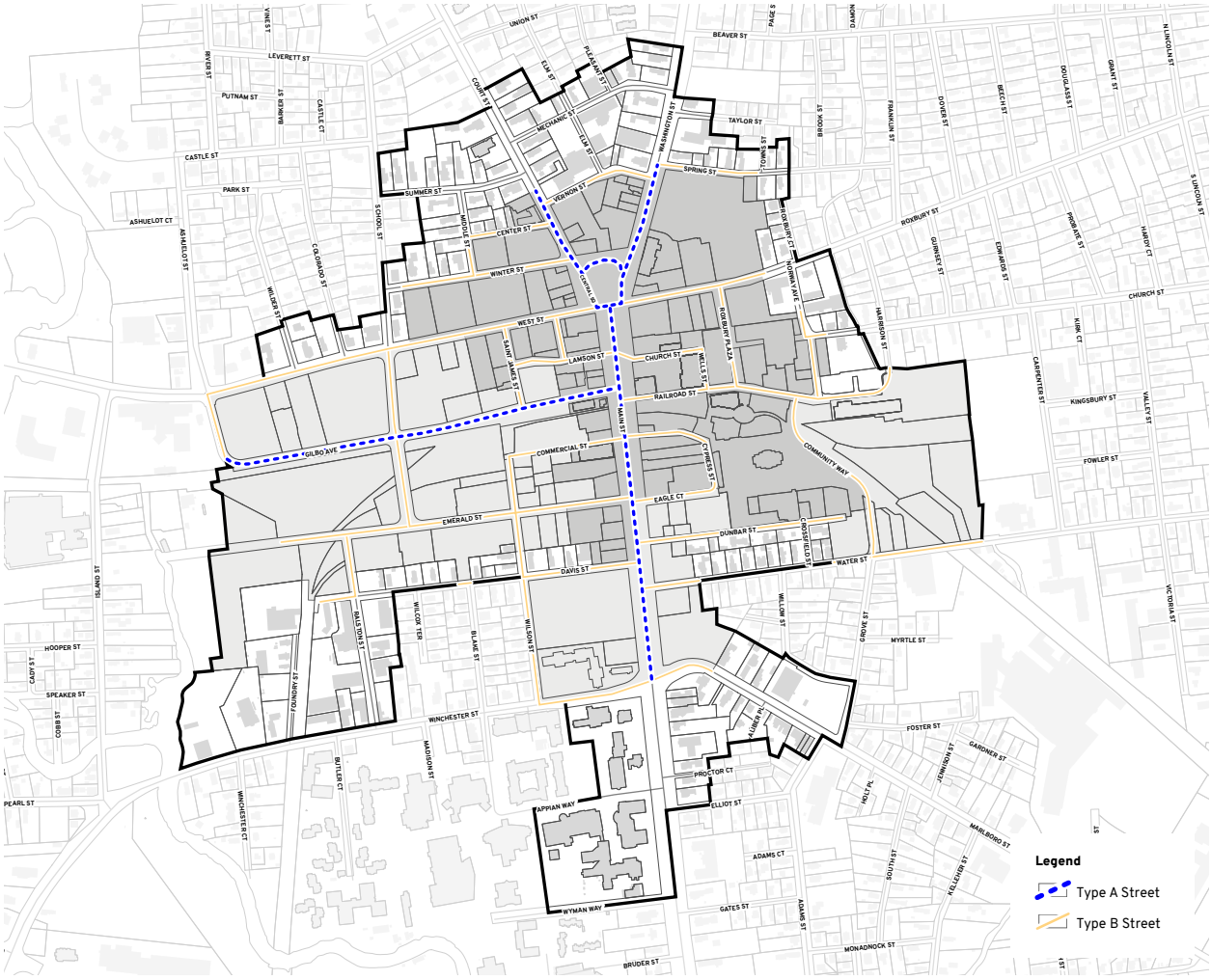


Figure 4-1: *Downtown Street Types Map*

4.1.3 Permitted Uses

Table 4-1: Downtown Districts Permitted Uses identifies the principal uses permitted within the Downtown Districts.

A. A "P" within the table indicates that the use is permitted by-right in the district indicated.

B. An "P[1]" within the table indicates that the use is permitted with limitations in the district indicated. Use specific standards are located in Section 8.3 of this LDC, underneath the definition for the use.

C. An "SE" within the table indicates that the use requires approval by the Zoning Board of Adjustment as a Special Exception in the district indicated.

D. A "CUP" within the table indicates that the use requires a Conditional Use Permit from the Planning Board in the district indicated.

E. A " - " within the table indicates the use is not allowed in the district indicated.

Table 4-1: Downtown Districts Permitted Uses

RESIDENTIAL USES	DT-C	DT-G	DT-E	DT-L	DT-T	DT-I	SECTION
Dwelling, Above Ground Floor	P	P	P	P	P	P	8.3.1.A
Dwelling, Multifamily	P[1]	P	P	P	P	-	8.3.1.C
Dwelling, Single-Family	-	-	-	-	P	-	8.3.1.D
Dwelling, Two-Family / Duplex	-	-	P	P	P	-	8.3.1.E
COMMERCIAL USES	**DT-C**	**DT-G**	**DT-E**	**DT-L**	**DT-T**	**DT-I**	**SECTION**
Animal Care Facility	-	P	P	P	-	-	8.3.2.B
Art Gallery	P	P	P	P	-	P	8.3.2.C
Art or Fitness Studio	P	P	P	P	-	P	8.3.2.D
Banking or Lending Institution	P	P	P	P	-	P	8.3.2.E
Bar	P	P	-	-	-	-	8.3.2.F
Bed and Breakfast	-	-	-	-	P[1]	-	8.3.2.G
Car Wash	-	-	SE	-	-	-	8.3.2.H
Clinic	P	P	P	P	-	P	8.3.2.I
Event Venue	-	P	-	-	-	P	8.3.2.J
Funeral Home	-	P	P	P	P	-	8.3.2.K
Health Center / Gym	P	P	P	P	-	P	8.3.2.M
Hotel/Motel	P	P	-	-	-	P	8.3.2.O
Micro-Brewery/Micro-Distillery/Micro-Winery	P	P	-	-	-	-	8.3.2.Q-S
Motor Vehicle Dealership	-	-	P	-	-	-	8.3.2.T
Neighborhood Grocery Store	P	P	P	P	-	-	8.3.2.U
Office	P	P	P	P	P	P	8.3.2.V
Personal Service Establishment	P	P	P	P	-	P	8.3.2.W
Private Club / Lodge	P	P	P	P	SE	-	8.3.2.X
Recreation/Entertainment Facility - Indoor	P	P	-	-	-	P	8.3.2.Y
Recreation/Entertainment Facility - Outdoor	-	P	-	-	-	P	8.3.2.Z
Research and Development	SE	P	-	-	-	P	8.3.2.AA
Restaurant	P	P	P	P	-	P	8.3.2.AB
Retail Establishment, Light	P	P	P	P	-	P	8.3.2.AD
Self Storage Facility - Interior Access	-	SE	P	-	-	-	8.3.2.AF
Specialty Food Service	P	P	P	P	-	P	8.3.2.AH

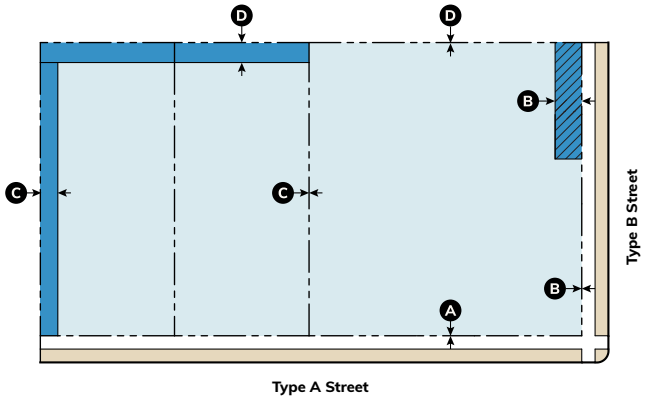
Table 4-1: Downtown District Permitted Uses

Vehicle Repair Facility – Minor	-	P[1]	P[1]	-	-	-	8.3.2.AL
INSTITUTIONAL USES	**DT-C**	**DT-G**	**DT-E**	**DT-L**	**DT-T**	**DT-I**	**SECTION**
Community Center	P[1]	P[1]	P[1]	P[1]	SE	P[1]	8.3.3.A
Cultural Facility	P[1]	P[1]	P[1]	P[1]	SE	P[1]	8.3.3.B
Day Care Center	P	P	P	SE	SE	P	8.3.3.C
Hospital	-	-	-	-	-	-	8.3.3.D
Place of Worship	P[1]	P[1]	P[1]	P[1]	-	P[1]	8.3.3.E
Private School	P[1]	P[1]	P[1]	-	-	P[1]	8.3.3.F
Senior Center	P[1]	P[1]	P[1]	P[1]	SE	-	8.3.3.G
CONGREGATE LIVING / SOCIAL SERVICES USES	**DT-C**	**DT-G**	**DT-E**	**DT-L**	**DT-T**	**DT-I**	**SECTION**
Domestic Violence Shelter	P[1]	P[1]	P[1]	P[1]	-	-	8.3.4.A
Drug Treatment Clinic	-	CUP	-	-	-	-	8.3.4.B
Fraternity/Sorority	-	-	-	-	-	CUP	8.3.4.C
Food Pantry	P	P	P	P	-	-	8.3.4.D
Group Home, Large	CUP	CUP	-	CUP	-	-	8.3.4.E
Group Home, Small	CUP	CUP	-	CUP	CUP	-	8.3.4.F
Group Resource Center	CUP	CUP	CUP	CUP	-	CUP	8.3.4.G
Homeless Shelter	-	CUP	-	-	-	-	8.3.4.H
Lodginghouse	CUP	CUP	CUP	CUP	-	-	8.3.4.I
Residential Care Facility	CUP	CUP	CUP	CUP	-	-	8.3.4.J
Residential Drug/Alcohol Treatment Facility	-	CUP	-	CUP	-	-	8.3.4.K
INDUSTRIAL USES	**DT-C**	**DT-G**	**DT-E**	**DT-L**	**DT-T**	**DT-I**	**SECTION**
Artisanal Production	P[1]	P[1]	P[1]	SE	-	P[1]	8.3.5.A
Data Center	-	P	P	-	-	-	8.3.5.C
Industrial, Light	-	SE	-	-	-	-	8.3.5.E
OPEN SPACE USES	**DT-C**	**DT-G**	**DT-E**	**DT-L**	**DT-T**	**DT-I**	**SECTION**
Community Garden	P	P	P	P	P	-	8.3.6.B
INFRASTRUCTURE USES	**DT-C**	**DT-G**	**DT-E**	**DT-L**	**DT-T**	**DT-I**	**SECTION**
Solar Energy System (Small-Scale)	-	-	P[1]	-	-	P[1]	8.3.7.A
Solar Energy System (Medium-Scale)	-	-	-	-	-	CUP	8.3.7.B
Telecommunications Facilities	P[1]	P[1]	P[1]	P[1]	P[1]	P[1]	8.3.7.E
TRANSPORTATION USES	**DT-C**	**DT-G**	**DT-E**	**DT-L**	**DT-T**	**DT-I**	**SECTION**
Parking Lot (Principal Use)	-	SE	-	-	-	P[1]	8.3.8.A
Parking – Structured Facility (Principal Use)	P[1]	P[1]	P[1]	P[1]	-	P[1]	8.3.8.B

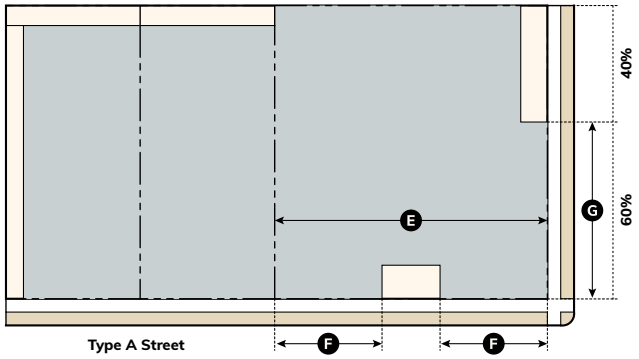
P = Permitted
P[1] = Permitted with limitations per Article 8.
SE = Permitted by Special Exception
CUP = Permitted by Conditional Use Permit

4.2 DOWNTOWN CORE (DT-C)

4.2.1 Dimensions and Siting



4.2.2 Buildout



Dimensions and Siting

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

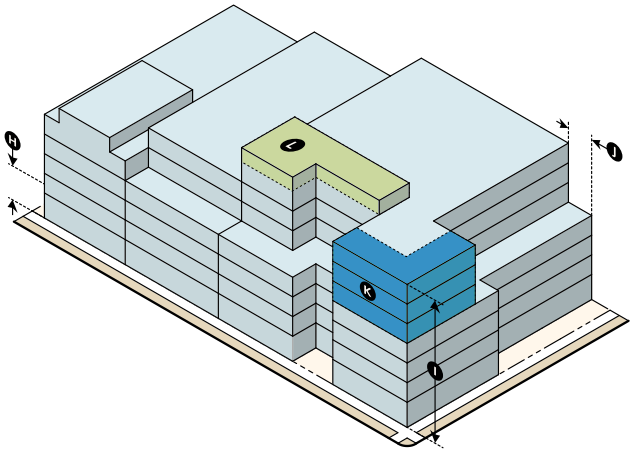
1 *When the front lot line intersects or overlaps with the right-of way line, the required build-to line or build-to zone is measured from a line representing the average location of front lot lines along the same block. In no case shall a building be placed forward of this line.*

Buildout

E	Max Building Length	250 ft
F	Min Type A Street Build-to Percentage	80%
G	Min Type B Street Build-to Percentage [1]	60%

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

4.2.3 Height



Building Height

H	Min Building Height	18 ft
I	Max Building Height	85 ft & 7 Stories
J	Min Height Stepback	15 ft

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

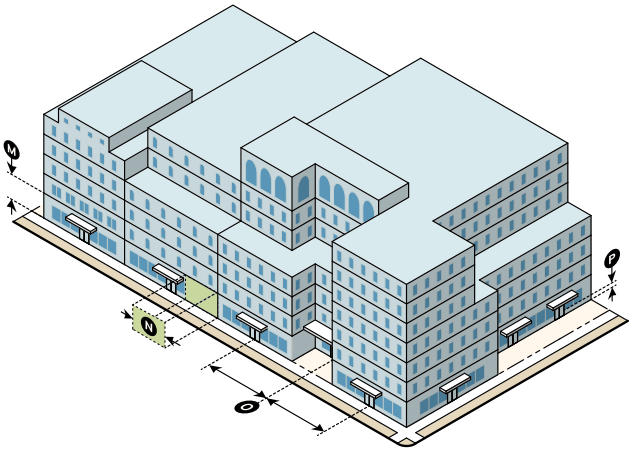
K Optional Corner Tower Element

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

L Permitted Height Exception

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

4.2.4 Activation

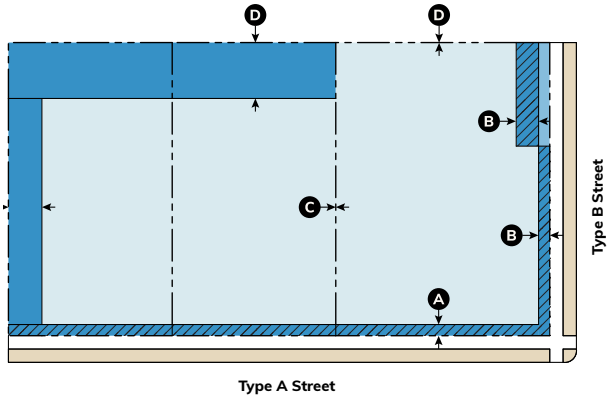


Building Activation

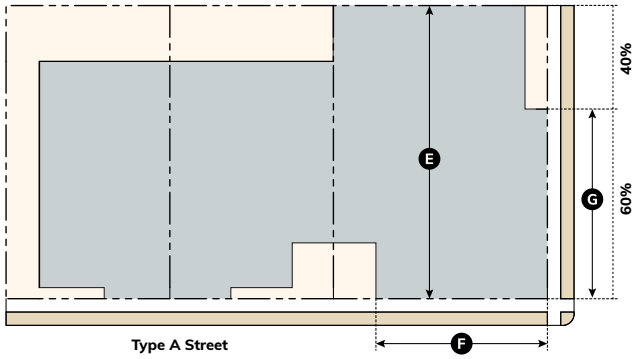
M	Min Ground Floor Height	14 ft
N	Max Blank Wall Area	20 ft
O	Max Building Entry Spacing	Type A Street: 50 ft Type B Street: None
P	Max Height of Building Entry Threshold Above Sidewalk	3 ft
	Min Ground Floor Transparency	50%
	Min Upper Floor Transparency	15%

4.3 DOWNTOWN GROWTH (DT-G)

4.3.1 Dimensions and Siting



4.3.2 Buildout



Dimensions and Siting

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

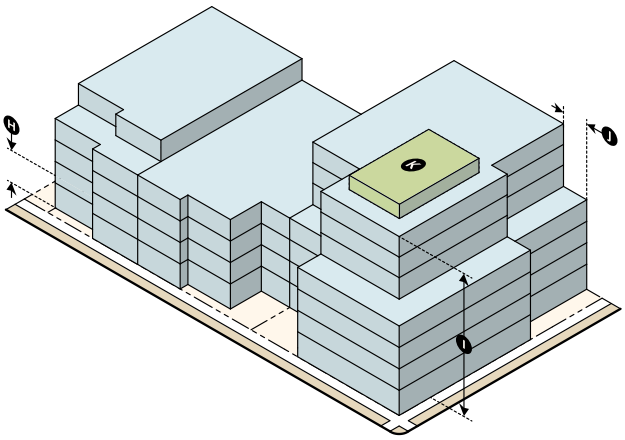
1 *When the front lot line intersects or overlaps with the right-of way line, the required build-to zone is measured from a line representing the average location of front lot lines along the same block. In no case shall a building be placed forward of this line.*

Buildout

E	Max Building Length	350 ft, Unless a pedestrian passage is provided, then 500 ft
F	Min Type A Street Build-to Percentage	80%
G	Min Type B Street Build-to Percentage [1]	60%

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

4.3.3 Height



Building Height

H	Min Building Height	24 ft
I	Max Building Height	85 ft & 7 Stories
J	Min Height Stepback	15 ft

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

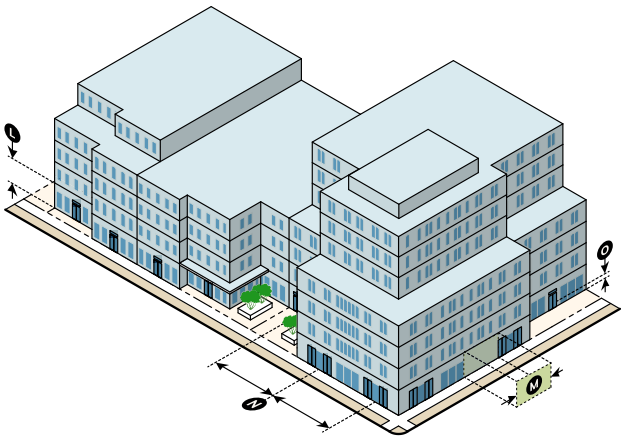
K	Permitted Height Exception	

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

Optional Corner Tower Element

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

4.3.4 Activation

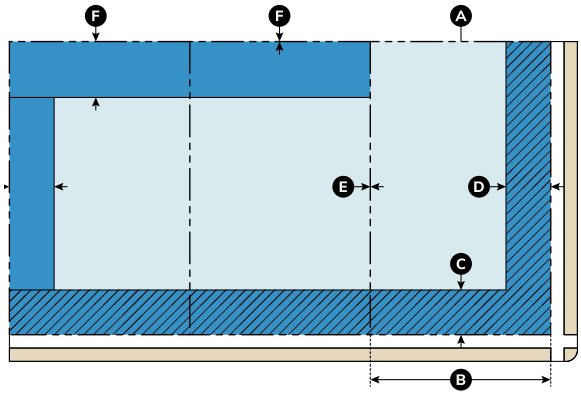


Building Activation

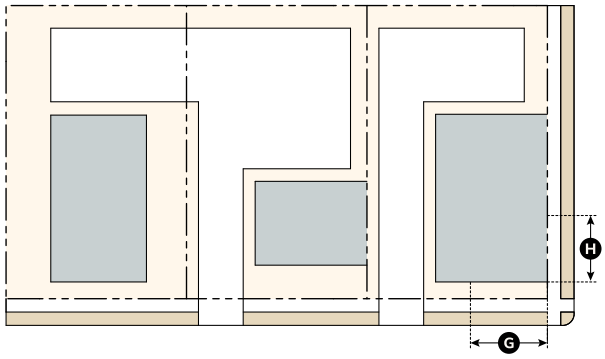
L	Min Ground Floor Height	14 ft
M	Max Blank Wall Area	30 ft
N	Max Building Entry Spacing	Type A Street: 75 ft Type B Street: None
O	Max Height of Building Entry Threshold Above Sidewalk	3 ft
	Min Ground Floor Transparency	Type A Street: 50% Type B Street: 40%
	Min Upper Floor Transparency	15%

4.4 DOWNTOWN EDGE (DT-E)

4.4.1 Dimensions and Siting



4.4.2 Buildout



Dimensions and Siting

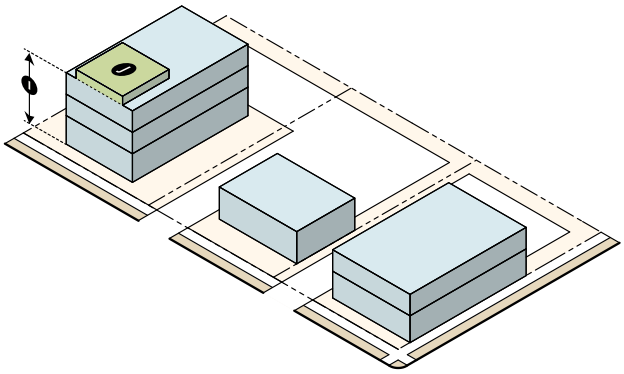
A	Min Lot Area	10,000 sf
B	Min Lot Width	50 ft
C	Front Setback [1]	0-20 ft Build-to Zone
D	Corner Side Setback [1]	0-20 ft Build-to Zone
E	Min Interior Side Setback	0 ft, unless abutting residential district or DT-T District, then 20 ft
F	Min Rear Setback	0 ft, unless abutting residential district or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

1 *When the front or corner side lot line intersects or overlaps with the right-of way line, the required build-to zone is measured from a line representing the average location of front lot lines along the same block. In no case shall a building be placed forward of this line.*

Buildout

G	Min Front Build-to Percentage	60%
H	Min Corner Side Build-to Percentage	40%

4.4.3 Height

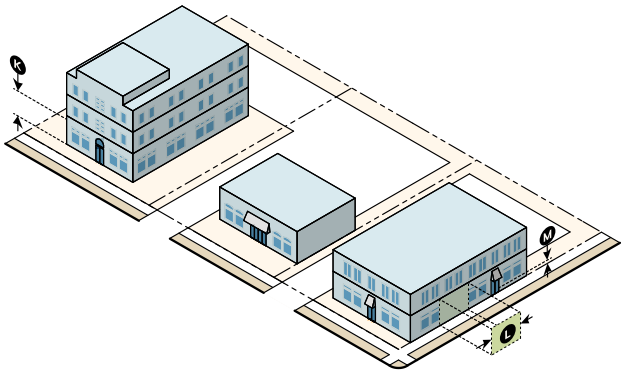


Building Height

	Min Building Height	None
I	Max Building Height	40 ft & 3 Stories
J	Permitted Height Exception	

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

4.4.4 Activation

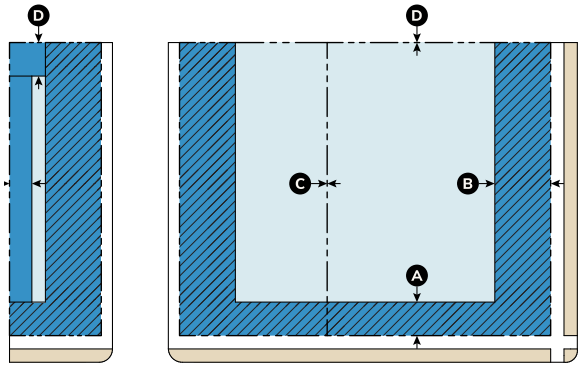


Building Activation

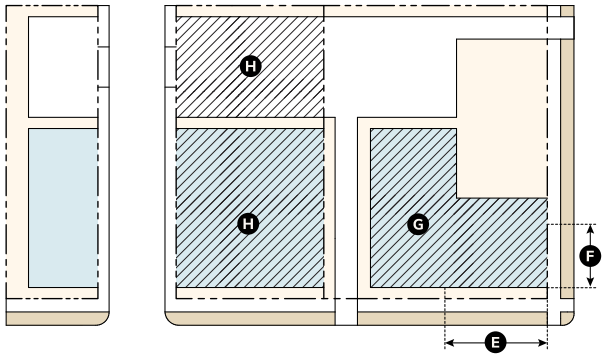
K	Min Ground Floor Height	12 ft
L	Max Blank Wall Area	30 ft
M	Max Height of Building Entry Threshold Above Sidewalk	18 in
	Min Ground Floor Transparency	30%
	Min Upper Floor Transparency	15%

4.5 DOWNTOWN LIMITED (DT-L)

4.5.1 Dimensions and Siting



4.5.2 Buildout



Dimensions and Siting

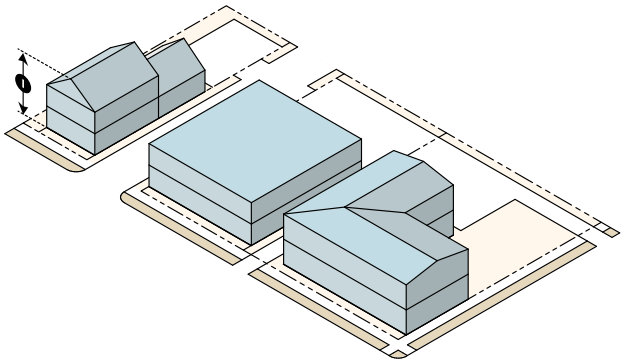
	Min Lot Area	None
	Min Lot Width	None
A	Front Setback [1]	0-15 ft Build-to Zone
B	Corner Side Setback [1]	0-25 ft Build-to Zone
C	Min Interior Side Setback	0 ft, unless abutting residential district or DT-T District, then 10 ft
D	Min Rear Setback	0 ft, unless abutting residential district or DT-T District, then 15 ft

1 *When the front or corner side lot line intersects or overlaps with the right-of way line, the required build-to zone is measured from a line representing the average location of front lot lines along the same block. In no case shall a building be placed forward of this line.*

Buildout

E	Min Front Build-to Percentage	60%
F	Min Corner Side Build-to Percentage	40%
G	Max Building Coverage	65%
H	Max Impervious Surface Coverage	80%

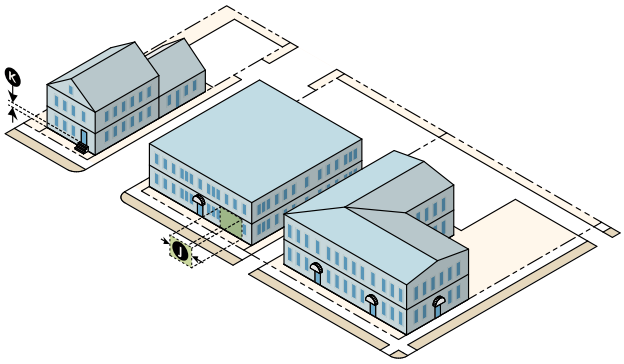
4.5.3 Height



Building Height

	Min Building Height	None
I	Max Building Height	35 ft & 2.5 Stories

4.5.4 Activation

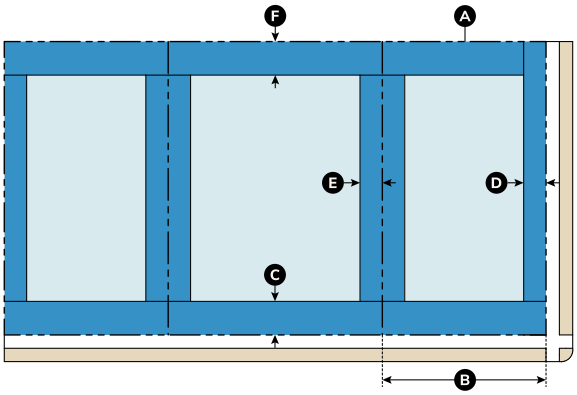


Building Activation

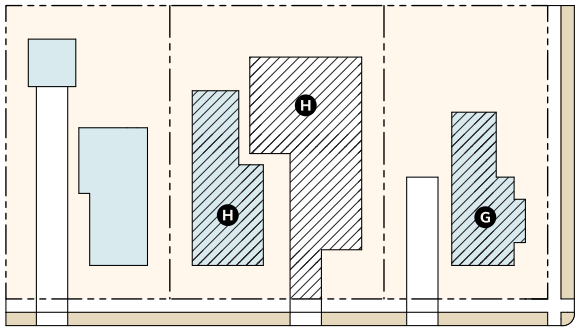
J	Max Blank Wall Area	20 ft
K	Max Height of Building Entry Threshold Above Sidewalk	4 ft
	Min Ground Floor Transparency	30%
	Min Upper Floor Transparency	15%

4.6 DOWNTOWN TRANSITION (DT-T)

4.6.1 Dimensions and Siting



4.6.2 Buildout



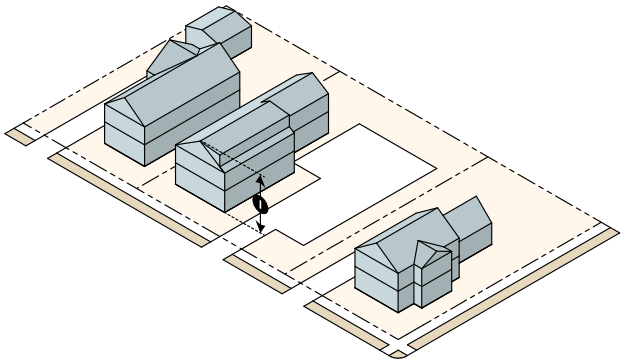
Dimensions and Siting

	Min Road Frontage	50 ft
A	Min Lot Area	8,000 sf
	Min lot area for single dwelling unit	8,000 sf
	Min lot area for each additional dwelling unit	5,400 sf
B	Min Lot Width	60 ft
C	Min Front Setback	15 ft
D	Min Corner Side Setback [1]	10 ft
E	Min Interior Side Setback	10 ft
F	Min Rear Setback	15 ft

Buildout

G	Max Building Coverage	50%
H	Max Impervious Surface Coverage	70%
	Min Green/Open Sapce	30%

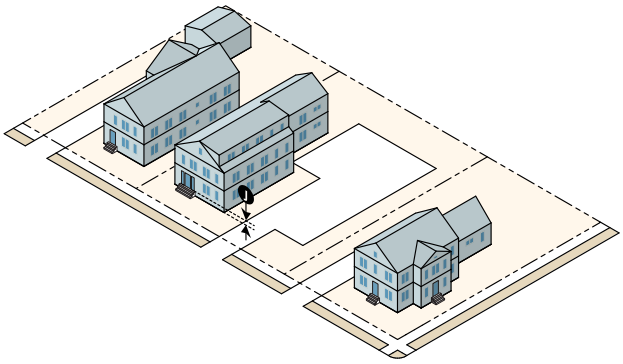
4.6.3 Height



Building Height

	Min Building Height	None
I	Max Building Height	40 ft & 3 Stories

4.6.4 Activation

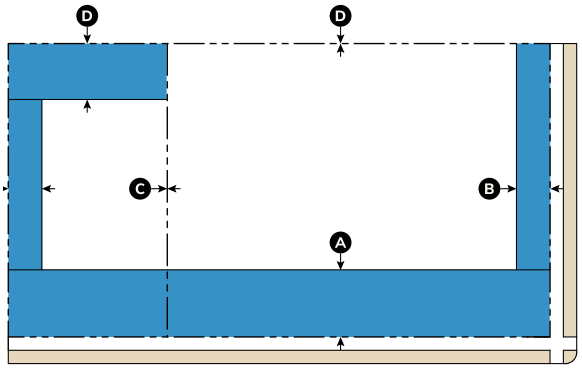


Building Activation

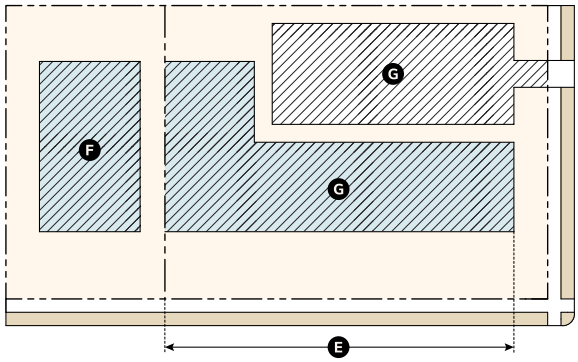
J	Max Height of Building Entry Threshold Above Sidewalk	Multi-Family + Nonresidential Uses: 5 ft
	Min Ground Floor Transparency	Multi-Family + Nonresidential Uses: 25%
	Min Upper Floor Transparency	Multi-Family + Nonresidential Uses: 10%

4.7 DOWNTOWN INSTITUTIONAL CAMPUS (DT-I)

4.7.1 Dimensions and Siting



4.7.2 Buildout



Dimensions and Siting

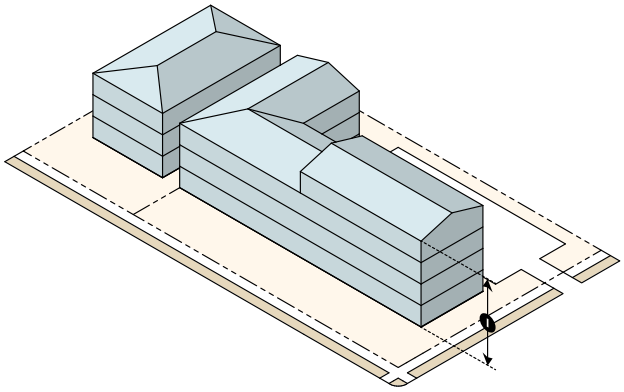
	Min Lot Area	None
	Min Lot Width	None
A	Min Front Setback [1]	30 ft
B	Min Corner Side Setback [1]	15 ft
C	Min Interior Side Setback	0 ft, unless abutting residential district or DT-T District, then 15 ft
D	Min Rear Setback	0 ft, unless abutting residential district or DT-T District, then 25 ft

1 *When the front or corner side lot line intersects or overlaps with the right-of way line, the required build-to zone is measured from a line representing the average location of front lot lines along the same block. In no case shall a building be placed forward of this line.*

Buildout

E	Max Building Length	350 ft, unless a pedestrian passage is provided, then 500 ft
F	Max Building Coverage	50%
G	Max Impervious Surface Coverage	75%

4.7.3 Height



Building Height

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

ARTICLE 5. COMMERCIAL ZONING DISTRICTS

5.1 COMMERCE (COM) 5-2

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

5.3 NEIGHBORHOOD BUSINESS (NB) 5-6

5.4 BUSINESS GROWTH & REUSE (BGR).....5-7

5.5 OFFICE (O) 5-8

5.1 COMMERCE (COM)

5.1.1 Purpose

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

5.1.2 Dimensions & Siting

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

5.1.3 Buildout

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

5.1.4 Height

Max Stories Above Grade[a,b]	2
[a] *With an additional 10-foot front and side building setback, or a building height stepback of at least 10 feet. Stepback must occur above the ground floor.*	3
[b] *With an additional 20-foot front and side building setback, or a building height stepback of at least 20 feet. Stepback must occure above the ground story and no higher than the third story.*	4
Max Building Height[a,b]	35 ft
[a] *With an additional 10-foot front and side building setback, or a building height stepback of at least 10 feet. Stepback must occur above the ground floor.*	42 ft
[b] *With an additional 20-foot front and side building setback, or a building height stepback of at least 20 feet. Stepback must occure above the ground story and no higher than the third story.*	56 ft

5.1.5 Permitted Uses

RESIDENTIAL USES		
Dwelling, Multi-family	P[1]	8.3.1.C
COMMERCIAL USES		**SECTION**
Animal Care Facility	P	8.3.2.B
Art Gallery	P	8.3.2.C
Art or Fitness Studio	P	8.3.2.D
Banking or Lending Institution	P	8.3.2.E
Bar	P	8.3.2.F
Car Wash	P	8.3.2.H
Clinic	P	8.3.2.I
Event Venue	P	8.3.2.J
Funeral Home	P	8.3.2.K
Greenhouse / Nursery	P	8.3.2.L
Health Center / Gym	P	8.3.2.M
Hotel/Motel	P	8.3.2.O
Micro-Brewery/Micro-Distillery/ Micro-Winery	P	8.3.2.Q-S
Motor Vehicle Dealership	P	8.3.2.T
Neighborhood Grocery Store	P	8.3.2.U
Office	P	8.3.2.V
Personal Service Establishment	P	8.3.2.W
Private Club / Lodge	P	8.3.2.X
Recreation/Entertainment Facility - Indoor	P	8.3.2.Y
Recreation/Entertainment Facility - Outdoor	P	8.3.2.Z
Research and Development	P	8.3.2.AA
Restaurant	P	8.3.2.AB
Retail Establishment, Heavy	P	8.3.2.AC
Retail Establishment, Light	P	8.3.2.AD
Self Storage Facility - Exterior Access	P	8.3.2.AE
Self Storage Facility - Interior Access	P	8.3.2.AF
Sexually Oriented Business	P[1]	8.3.2.AG
Specialty Food Service	P	8.3.2.AH
Vehicle Fueling Station	P[1]	8.3.2.AI
Vehicle Rental Service	P	8.3.2.AJ
Vehicle Repair Facility – Major	P[1]	8.3.2.AK
Vehicle Repair Facility – Minor	P[1]	8.3.2.AL
INSTITUTIONAL USES		**SECTION**
Community Center	P[1]	8.3.3.A
Cultural Facility	P[1]	8.3.3.B
Day Care Center	P	8.3.3.C
Place of Worship	P[1]	8.3.3.E

Private School	P[1]	8.3.3.F
Senior Center	P[1]	8.3.3.G
CONGREGATE LIVING / SOCIAL SERVICES USES		**SECTION**
Domestic Violence Shelter	P[1]	8.3.4.A
Drug Treatment Clinic	CUP	8.3.4.B
Food Pantry	P	8.3.4.D
Group Resource Center	CUP	8.3.4.G
Homeless Shelter	CUP	8.3.4.H
Lodginghouse	CUP	8.3.4.I
Residential Care Facility	CUP	8.3.4.J
Residential Drug/Alcohol Treatment Facility	CUP	8.3.4.K
INDUSTRIAL USES		**SECTION**
Artisanal Production	P[1]	8.3.5.A
Data Center	P	8.3.5.C
Industrial, Light	SE	8.3.5.E
Outdoor Storage Yard	P	8.3.5.F
OPEN SPACE USES		**SECTION**
Conservation Area	P	8.3.6.C
INFRASTRUCTURE USES		**SECTION**
Solar Energy System (Small-Scale)	P[1]	8.3.7.A
Solar Energy System (Medium-Scale)	CUP	8.3.7.B
Telecommunications Facilities	P[1]	8.3.7.E
TRANSPORTATION USES		**SECTION**
Parking Lot (Principal Use)	P[1]	8.3.8.A
Parking – Structured Facility (Principal Use)	P[1]	8.3.8.B

P = Permitted
P[1] = Permitted with limitations per Article 8.
SE = Permitted by Special Exception
CUP = Permitted by Conditional Use Permit

5.2 COMMERCE LIMITED (CL)

5.2.1 Purpose

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

5.2.2 Dimensions & Siting

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

5.2.3 Buildout

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

5.2.4 Height

Max Stories Above Grade	2
Max Building Height	35 ft

5.2.5 Permitted Uses

COMMERCIAL USES		SECTION
Animal Care Facility	P	8.3.2.B
Art Gallery	P	8.3.2.C
Art or Fitness Studio	P	8.3.2.D
Banking or Lending Institution	P	8.3.2.E
Bar	P	8.3.2.F
Car Wash	P	8.3.2.H
Clinic	P	8.3.2.I
Funeral Home	P	8.3.2.K
Greenhouse / Nursery	P	8.3.2.L
Health Center / Gym	P	8.3.2.M
Heavy Rental & Service Establishment	P	8.3.2.N
Micro-Brewery/Micro-Distillery/ Micro-Winery	P	8.3.2.Q-S
Motor Vehicle Dealership	P	8.3.2.T
Office	P	8.3.2.V
Personal Service Establishment	P	8.3.2.W
Private Club / Lodge	P	8.3.2.X
Recreation/Entertainment Facility - Indoor	P	8.3.2.Y
Recreation/Entertainment Facility - Outdoor	P	8.3.2.Z
Research and Development	P	8.3.2.AA
Restaurant	P	8.3.2.AB
Retail Establishment, Heavy	P	8.3.2.AC
Retail Establishment, Light	P	8.3.2.AD
Self Storage Facility - Exterior Access	P	8.3.2.AE
Self Storage Facility - Interior Access	P	8.3.2.AF
Specialty Food Service	P	8.3.2.AH
Vehicle Fueling Station	P[1]	8.3.2.AI
Vehicle Rental Service	P	8.3.2.AJ
Vehicle Repair Facility – Major	P[1]	8.3.2.AK
Vehicle Repair Facility – Minor	P[1]	8.3.2.AL
INSTITUTIONAL USES		**SECTION**
Day Care Center	P	8.3.3.C
INDUSTRIAL USES		**SECTION**
Artisanal Production	P[1]	8.3.5.A
Bulk storage & distribution, excluding flammable material	P	8.3.5.B
Data Center	P	8.3.5.C
Industrial, Light	SE	8.3.5.E
Outdoor Storage Yard	P	8.3.5.F
Warehouse & Distribution	P	8.3.5.G

Wholesale	P	8.3.5.H
OPEN SPACE USES		**SECTION**
Community Garden	P	8.3.6.B
Conservation Area	P	8.3.6.C
INFRASTRUCTURE USES		**SECTION**
Solar Energy System (Small-Scale)	P[1]	8.3.7.A
Solar Energy System (Medium-Scale)	CUP	8.3.7.B
Public Utility Facilities	SE	8.3.7.D
Telecommunications Facilities	P[1]	8.3.7.E
TRANSPORTATION USES		**SECTION**
Parking Lot (Principal Use)	P[1]	8.3.8.A
Parking – Structured Facility (Principal Use)	P[1]	8.3.8.B

P = Permitted
P[1] = Permitted with limitations per Article 8.
SE = Permitted by Special Exception
CUP = Permitted by Conditional Use Permit

5.3 NEIGHBORHOOD BUSINESS (NB)

5.3.1 Purpose

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

5.3.2 Dimensions & Siting

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

5.3.3 Buildout

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

5.3.4 Height

Max Stories Above Grade	2
Max Building Height	35 ft

5.3.5 Permitted Uses

RESIDENTIAL USES		**SECTION**
Dwelling, Above Ground Floor	P	8.3.1.A
Dwelling, Multifamily	P	8.3.1.C
Dwelling, Single-Family	P	8.3.1.D
Dwelling, Two-Family / Duplex	P	8.3.1.E
COMMERCIAL USES		**SECTION**
Art Gallery	P	8.3.2.C
Art or Fitness Studio	P	8.3.2.D
Banking or Lending Institution	P	8.3.2.E
Bed and Breakfast	SE	8.3.2.G
Funeral Home	P	8.3.2.K
Neighborhood Grocery Store	P	8.3.2.U
Office	P[1]	8.3.2.V
Personal Service Establishment	P	8.3.2.W
Restaurant	P[1]	8.3.2.AB
Retail Establishment, Light	P[1]	8.3.2.AD
Specialty Food Service	P	8.3.2.AH
INSTITUTIONAL USES		**SECTION**
Day Care Center	SE	8.3.3.C
CONGREGATE LIVING / SOCIAL SERVICES USES		**SECTION**
Group Home, Small	CUP	8.3.4.F
Residential Care Facility	CUP	8.3.4.J
OPEN SPACE USES		**SECTION**
Community Garden	P	8.3.6.B
Conservation Area	P	8.3.6.C
INFRASTRUCTURE		**SECTION**
Telecommunications Facilities	P[1]	8.3.7.E

P = Permitted
P[1] = Permitted with limitations per Article 8.
SE = Permitted by Special Exception
CUP = Permitted by Conditional Use Permit

5.4 BUSINESS GROWTH & REUSE (BGR)

5.4.1 Purpose

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

5.4.2 Dimensions & Siting

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

5.4.3 Buildout

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

5.4.4 Height

Max Stories Above Grade	3
Max stories above grade with first floor parking	4

5.4.5 Permitted Uses

RESIDENTIAL USES		**SECTION**
Dwelling, Above Ground Floor	P	8.3.1.A
Dwelling, Multifamily	P	8.3.1.C
COMMERCIAL USES		**SECTION**
Art Gallery	P	8.3.2.C
Art or Fitness Studio	P	8.3.2.D
Bed and Breakfast	P[1]	8.3.2.G
Greenhouse / Nursery	P	8.3.2.L
Health Center / Gym	P	8.3.2.M
Neighborhood Grocery Store	P	8.3.2.U
Office	P[1]	8.3.2.V
Personal Service Establishment	P	8.3.2.W
Research and Development	P	8.3.2.AA
Restaurant	P[1]	8.3.2.AB
Specialty Food Service	P	8.3.2.AH
Recreation/Entertainment Facility - Indoor	P	8.3.2.Y
INSTITUTIONAL USES		**SECTION**
Community Center	SE	8.3.3.A
Cultural Facility	P[1]	8.3.3.B
Day Care Center	P	8.3.3.C
Private School	P[1]	8.3.3.F
Senior Center	SE	8.3.3.G
CONGREGATE LIVING / SOCIAL SERVICES USES		**SECTION**
Residential Care Facility	CUP	8.3.4.J
INDUSTRIAL USES		**SECTION**
Artisanal Production	P[1]	8.3.5.A
Data Center	P	8.3.5.C
Industrial, Light	P[1]	8.3.5
Warehouse & Distribution	P[1]	8.3.5
Wholesale	P[1]	8.3.5
OPEN SPACE USES		**SECTION**
Community Garden	P	8.3.6.B
Conservation Area	P	8.3.6.C
INFRASTRUCTURE USES		**SECTION**
Solar Energy System (Small-Scale)	P[1]	8.3.7.A
Solar Energy System (Medium-Scale)	CUP	8.3.7.B
Solar Energy System (Large-Scale)	CUP	8.3.7.C
Telecommunications Facilities	P[1]	8.3.7.E

P = Permitted
P[1] = Permitted with limitations per Article 8.
SE = Permitted by Special Exception
CUP = Permitted by Conditional Use Permit

5.5 OFFICE (O)

5.5.1 Purpose

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

5.5.2 Dimensions & Siting

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

5.5.3 Buildout

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

5.5.4 Height

Max Stories Above Grade	2
Max Building Height	35 ft

5.5.5 Permitted Uses

RESIDENTIAL USES		**SECTION**
Dwelling, Above Ground Floor	P	8.3.1.A
Dwelling, Multifamily	P	8.3.1.C
Dwelling, Single-Family	P	8.3.1.D
Dwelling, Two-Family / Duplex	P	8.3.1.E
COMMERCIAL USES		**SECTION**
Bed and Breakfast	P[1]	8.3.2.G
Funeral Home	P	8.3.2.K
Office	P	8.3.2.V
Private Club / Lodge	SE	8.3.2.X
INSTITUTIONAL USES		**SECTION**
Community Center	SE	8.3.3.A
Cultural Facility	SE	8.3.3.B
Day Care Center	SE	8.3.3.C
Senior Center	SE	8.3.3.G
CONGREGATE LIVING / SOCIAL SERVICES USES		**SECTION**
Group Home, Small	CUP	8.3.4.F
INFRASTRUCTURE USES		**SECTION**
Telecommunications Facilities	P[1]	8.3.7.E

P = Permitted
P[1] = Permitted with limitations per Article 8.
SE = Permitted by Special Exception
CUP = Permitted by Conditional Use Permit

ARTICLE 6. INDUSTRIAL ZONING DISTRICTS

6.1 CORPORATE PARK (CP) 6-2

6.2 INDUSTRIAL (I) 6-3

6.3 INDUSTRIAL PARK (IP) 6-4

6.1 CORPORATE PARK (CP)

6.1.1 Purpose

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

6.1.2 Dimensions & Siting

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

[1]One side setback may be reduced to 40-ft with no parking on this side of the building

6.1.3 Buildout

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

6.1.4 Height

Max Building Height	60 ft

6.1.5 Additional Site Requirements

A. Curb cuts onto arterial roadways within this district shall be at least 1,000-ft apart.

B. No more than 100 tractor-trailer vehicle trips per day shall be permitted for any use in this district.

6.1.6 Permitted Uses

COMMERCIAL USES		**SECTION**
Office	P[1]	8.3.2.V
Research and Development	P	8.3.2.AA
INSTITUTIONAL USES		**SECTION**
Day Care Center	P	8.3.3.C
INDUSTRIAL USES		**SECTION**
Data Center	P	8.3.5.C
Industrial, Light	P	8.3.5.E
Warehouse & Distribution	P	8.3.5.G
INFRASTRUCTURE USES		**SECTION**
Solar Energy System (Small-Scale)	P[1]	8.3.7.A
Solar Energy System (Medium-Scale)	CUP	8.3.7.B
Solar Energy System (Large-Scale)	CUP	8.3.7.C
Public Utility Facilities	SE	8.3.7.D
Telecommunications Facilities	P[1]	8.3.7.E
TRANSPORTATION USES		**SECTION**
Parking Lot (Principal Use)	P[1]	8.3.8.A
Parking – Structured Facility (Principal Use)	P[1]	8.3.8.B

P = Permitted
P[1] = Permitted with limitations per Article 8.
SE = Permitted by Special Exception
CUP = Permitted by Conditional Use Permit

6.2 INDUSTRIAL (I)

6.2.1 Purpose

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

6.2.2 Dimensions & Siting

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

6.2.3 Buildout

Max Building Coverage	80%
Max Impervious Coverage	80%

6.2.4 Height

Max Stories Above Grade*	2
***With Special Exception**	3.5
Max Building Height*	35 ft
***With Special Exception**	50 ft

6.2.5 Permitted Uses

COMMERCIAL USES		SECTION
Art or Fitness Studio	P	8.3.2.D
Car Wash	P	8.3.2.H
Greenhouse / Nursery	P	8.3.2.L
Health Center / Gym	P	8.3.2.M
Heavy Rental & Service Establishment	P	8.3.2.N
Office	SE	8.3.2.V
Research and Development	P	8.3.2.AA
Self Storage Facility - Exterior Access	P	8.3.2.AE
Self Storage Facility - Interior Access	P	8.3.2.AF
Vehicle Repair Facility – Major	P[1]	8.3.2.AK
Vehicle Repair Facility – Minor	P[1]	8.3.2.AL
INSTITUTIONAL USES		**SECTION**
Day Care Center	SE	8.3.3.C
INDUSTRIAL USES		**SECTION**
Artisanal Production	P	8.3.5.A
Bulk storage & distribution of goods, including flammable material	P	8.3.5.B
Bulk storage & distribution, excluding flammable material	P	8.3.5.B
Data Center	P	8.3.5.C
Industrial, Heavy	P	8.3.5.D
Industrial, Light	P	8.3.5.E
Outdoor Storage Yard	P	8.3.5.F
Warehouse & Distribution	P	8.3.5.G
Wholesale	P	8.3.5.H
OPEN SPACE USES		**SECTION**
Conservation Area	P	8.3.6.C
INFRASTRUCTURE USES		**SECTION**
Solar Energy System (Small-Scale)	P[1]	8.3.7.A
Solar Energy System (Medium-Scale)	P[1]	8.3.7.B
Solar Energy System (Large-Scale)	P[1]	8.3.7.C
Public Utility Facilities	P	8.3.7.D
Telecommunications Facilities	P[1]	8.3.7.E

P = Permitted
P[1] = Permitted with limitations per Article 8.
SE = Permitted by Special Exception
CUP = Permitted by Conditional Use Permit

6.3 INDUSTRIAL PARK (IP)

6.3.1 Purpose

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

6.3.2 Dimensions & Siting

Min Lot Area	4 acres
Min Road Frontage	50 ft
Min Front Setback	50 ft
Min Rear Setback	50 ft
Min Side Setback	30 ft

6.3.3 Buildout

Max Building Coverage	25%
Max Impervious Coverage	70%

6.3.4 Height

Max Stories Above Grade*	2
***With Special Exception**	3.5
Max Building Height*	35 ft
***With Special Exception**	50 ft

6.3.5 Permitted Uses

COMMERCIAL USES		**SECTION**
Office	SE	8.3.2.V
Research and Development	P	8.3.2.AA
INSTITUTIONAL USES		**SECTION**
Day Care Center	P	8.3.3.C
INDUSTRIAL USES		**SECTION**
Data Center	P	8.3.5.C
Industrial, Light	P	8.3.5.E
OPEN SPACE USES		**SECTION**
Conservation Area	P	8.3.6.C
INFRASTRUCTURE USES		**SECTION**
Solar Energy System (Small-Scale)	P[1]	8.3.7.A
Solar Energy System (Medium-Scale)	CUP	8.3.7.B
Solar Energy System (Large-Scale)	CUP	8.3.7.C
Telecommunications Facilities	P[1]	8.3.7.E

P = Permitted
P[1] = Permitted with limitations per Article 8.
SE = Permitted by Special Exception
CUP = Permitted by Conditional Use Permit

ARTICLE 7. SPECIAL PURPOSE ZONING DISTRICTS

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

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

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

7.1 REGIONAL HEALTH CARE (HC)

7.1.1 Purpose

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

7.1.2 Dimensions & Siting

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

7.1.3 Buildout

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

7.1.4 Height

Max Stories Above Grade	4
Max Building Height	55 ft

7.1.5 Permitted Uses

COMMERCIAL USES		**SECTION**
Clinic	P	8.3.2.I
Health Center / Gym	P	8.3.2.M
Office	P	8.3.2.V
Personal Service Establishment	P	8.3.2.W
Research and Development	P	8.3.2.AA
Retail Establishment, Light	P	8.3.2.AD
INSTITUTIONAL USES		**SECTION**
Day Care Center	P	8.3.3.C
Hospital	P[1]	8.3.3.D
CONGREGATE LIVING / SOCIAL SERVICES USES		**SECTION**
Drug Treatment Clinic	CUP	8.3.4.B
Group Resource Center	CUP	8.3.4.G
Residential Care Facility	CUP	8.3.4.J
Residential Drug/Alcohol Treatment Facility	CUP	8.3.4.K
OPEN SPACE USES		**SECTION**
Conservation Area	P	8.3.6.C
INFRASTRUCTURE USES		**SECTION**
Solar Energy System (Small-Scale)	P[1]	8.3.7.A
Solar Energy System (Medium-Scale	CUP	8.3.7.B
Telecommunications Facilities	P[1]	8.3.7.E
TRANSPORTATION USES		**SECTION**
Parking Lot (Principal Use)	P[1]	8.3.8.A
Parking – Structured Facility (Principal Use)	P[1]	8.3.8.B

P = Permitted
P[1] = Permitted with limitations per Article 8.
SE = Permitted by Special Exception
CUP = Permitted by Conditional Use Permit

7.2 AGRICULTURE (A)

7.2.1 Purpose

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

7.2.2 Dimensions & Siting

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

7.2.3 Buildout

Max Building Coverage[1]	10%
Max Impervious Coverage[1]	20%

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

7.2.4 Height

Max Stories Above Grade	2
Max Building Height	35 ft

7.2.5 Permitted Uses

RESIDENTIAL USES		**SECTION**
Dwelling, Above Ground Floor	P	8.3.1.A
Dwelling, Single-Family	P	8.3.1.D
Dwelling, Two-Family / Duplex	SE	8.3.1.E
COMMERCIAL USES		**SECTION**
Agricultural-Related Educational & Recreational Activity as a Business	P[1]	8.3.2.A
Animal Care Facility	P	8.3.2.B
Bed and Breakfast	SE	8.3.2.G
Event Venue	SE	8.3.2J
Greenhouse / Nursery	P	8.3.2.L
Kennel	P	8.3.2.P
Recreation/Entertainment Facility - Outdoor	SE	8.3.2.Z
OPEN SPACE USES		**SECTION**
Cemetery	P	8.3.6.A
Community Garden	P	8.3.6.B
Conservation Area	P	8.3.6.C
Farming	P	8.3.6.D
Golf Course	P[1]	8.3.6.E
INFRASTRUCTURE USES		**SECTION**
Telecommunications Facilities	P[1]	8.3.7.E

P = Permitted
P[1] = Permitted with limitations per Article 8.
SE = Permitted by Special Exception
CUP = Permitted by Conditional Use Permit

7.3 CONSERVATION (C)

7.3.1 Purpose

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

7.3.2 Dimensions & Siting

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

7.3.3 Buildout

Max Building Coverage	10%
Max Impervious Coverage	20%

7.3.4 Height

Max Stories Above Grade	2
Max Building Height	35 ft

7.3.5 Permitted Uses

OPEN SPACE USES		**SECTION**
Cemetery	P	8.3.6.A
Conservation Area	P	8.3.6.C
INFRASTRUCTURE USES		**SECTION**
Telecommunications Facilities	P[1]	8.3.7.E

P = Permitted
P[1] = Permitted with limitations per Article 8.
SE = Permitted by Special Exception
CUP = Permitted by Conditional Use Permit

ARTICLE 8. PERMITTED USES

8.1 GENERAL.....8-2

8.2 INSTITUTIONAL USE STREET LIST 8-3

8.3 PRINCIPAL USES 8-4

8.4 ACCESSORY USES & STRUCTURES..... 8-22

8.1 GENERAL

8.1.1 Applicability

A. The use of all land or structures in the City shall be in accordance with the standards of this Article.

B. No land or structure in the City shall be used for any purpose or in any manner other than that which is permitted in the zoning district in which it is located.

8.1.2 Principal Uses

A principal use is the main or primary use conducted on a lot or located within a building or structure, as distinguished from an accessory use. Table 8-1, which is located at the end of this Article, includes the list of principal uses permitted by zoning district in the City.

8.1.3 Multiple Principal Uses

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

8.1.4 Accessory Uses

A. An accessory use is any use subordinate in both purpose and size to, and is incidental to and customarily associated with, any principal use located on the same lot.

B. Accessory uses may be allowed in conjunction with a permitted principal use as set forth in Section 8.4.

8.1.5 Use Categories

Categories of principal uses have been established in Table 8-1 and in Section 8.3 of this Article to provide a structure for organizing land uses and activities based on common functional or physical characteristics.

8.1.6 Unlisted Uses

If a use is not listed in Table 8-1, the Zoning Administrator may interpret the use as permitted in accordance with Section 8.1.7 Use Determination.

8.1.7 Use Determination

A. When determining whether a proposed use is similar in nature and impact to a listed use, the Zoning Administrator will consider each of the following criteria. An applicant seeking a use determination shall submit a written narrative addressing these criteria with supporting materials to the Zoning Administrator in accordance with Section 25.9 of this LDC.

1. How the proposed use aligns with the intent of the zoning district.
2. The actual or projected characteristics of the proposed use.
3. The relative amount of site or floor area and equipment devoted to the proposed use.
4. The anticipated impacts (e.g. noise, sewer/water demand) of the proposed use on the surrounding environment, abutting properties, city infrastructure, and city services.
5. The anticipated number of employees.
6. Hours of operation.
7. Types of vehicles used and their parking requirements.
8. The number of vehicle trips generated.
9. Whether the activity is likely to be found independent of the other activities on the site.
10. Any additional supporting information deemed necessary by the Zoning Administrator.

8.1.8 Principal Use Table

A. Table 8-1 identifies the principal uses allowed by zoning district. This Table includes cross references to the definition of each use, and to any use-specific standards that may apply.

B. The key for Table 8-1 is as follows:

1. **P** = Permitted Use. Indicates that the use is allowed by right in the zoning district.
2. **P**[1] = Permitted Use with Limitations. Indicates that the use, while allowed by right in the zoning district, must meet standards associated with the specific use. These use-specific standards are located in Section 8.3, underneath the definition for the use.
3. **CUP** = Conditional Use Permit. Indicates uses that may be allowed in the district following the issuance of a Conditional Use Permit from the Planning Board. Use-specific standards may also apply.
4. **SE** = Special Exception. Indicates that the use requires approval by the Zoning Board of Adjustment as a special exception before it is allowed in the zoning district. Use-specific standards may also apply.
5. **-** = Use Not Permitted. Indicates that a use is not permitted in the zoning district.

8.2 INSTITUTIONAL USE STREET LIST

Uses grouped under the category of Institutional in Table 8-1 or Section 8.3 of this LDC, shall be allowed on the following road sections in the City of Keene, in addition to any zoning district where they are expressly permitted either as a permitted use, permitted use with limitations, by special exception, or by conditional use permit.

A. Arch St, from Park Ave to Whitcomb Mill Rd

B. Court St, on the west side from Westview St to Maple Ave and on the east side from Evergreen Ave to Maple Ave

C. Hastings Ave, on the west side from Trowbridge Rd to Evans Ln

D. Main St, on the east side from Central Square to the Swanzey townline and on the west side from Central Square to Greenwood Ave

E. Maple Ave

F. Marlboro St, from Main St to Eastern Ave

G. Park Ave

H. Base Hill Rd on the east side, from the south edge of the right-of-way of NH Route 9 southerly, a distance of approximately 800-ft

I. Summit Rd, from Park Ave to the intersection of Maple Ave and Hastings Ave, and continuing northerly on the west side of Summit Rd for a distance of approximately 1,000-ft

J. Washington St

K. West St, from the intersection of NH Routes 9/10/12 to Park Ave

L. Winchester St

M. Wyman Rd, on both sides of the road, from the north edge of the right-of-way of NH Route 12 northerly to the northeasterly boundaries of the lots with tax map parcel numbers #210-010-000-000-000 and #221-019-000-000-000, with said boundaries being approximately 230-ft northeasterly of Black Brook

8.3 PRINCIPAL USES

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

8.3.1 Residential Uses

A. Dwelling, Above Ground Floor

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

B. Dwelling, Manufactured Housing

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

C. Dwelling, Multi-family

1. **Defined.** A structure containing 3 or more dwelling units located on a single lot, with dwelling units either stacked or attached horizontally, which is designed, occupied, or intended for occupancy by 3 or more separate families.
2. **Use Standards**
   - **a.** In the Medium Density District, no more than 3 dwelling units are allowed per lot.
   - **b.** In the Downtown Core District, Downtown Growth District, and Commerce District, dwelling units shall be located above the ground floor.

D. Dwelling, Single-Family

1. **Defined.** A free-standing building containing only 1 dwelling unit on a single lot, which is designed, occupied, or intended for occupancy by 1 family.

E. Dwelling, Two-Family / Duplex

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

F. Manufactured Housing Park

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

8.3.2 Commercial Uses

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

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

2. **Use Standards**

   a. There shall be no outdoor display of equipment for sale.

   b. Adequate road access to the site shall be available.

   c. All parking, including special event parking, shall be on-site with screening from roads and adjacent properties.

   d. Roadside spectator parking is prohibited and shall be controlled by directional/informational signage, fencing, and/or providing traffic control personnel.

   e. On-site water storage may be required to ensure adequate fire protection if city water service of adequate volume and pressure is not available at the site.

   f. Toilet facilities for employees and visitors, which are deemed satisfactory by the City's Building and Health Official, shall be provided within 300-ft of the primary activity area.

   g. Adequate solid waste disposal and recycling facilities shall be provided, which are screened from the road and adjacent properties.

   h. Areas of special environmental sensitivity (e.g. surface waters, floodplains, wellfields, or steep slopes) shall be adequately protected.

   i. No outdoor activities requiring artificial lighting shall be held after 10:00 pm.

   j. No more than 100 visitors shall be allowed for outdoor functions after 10:00 pm.

   k. There shall be no more than 400 persons on the property at any one time, nor shall the site be visited by more than 250 vehicles within any 24-hour period, unless an Outdoor Event License has been obtained from the City Clerk in accordance with Chapter 46 of the City Code of Ordinances.

B. Animal Care Facility

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

C. Art Gallery

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

D. Art or Fitness Studio

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

E. Banking or Lending Institution

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

F. Bar

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

G. Bed and Breakfast

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

H. Car Wash

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

I. Clinic

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

J. Event Venue

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

K. Funeral Home

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

L. Greenhouse / Nursery

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

M. Health Center / Gym

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

N. Heavy Rental and Service Establishment

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

O. Hotel/Motel

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

in the Commerce District.

P. Kennel

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

Q. Micro-Brewery

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

R. Micro-Distillery

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

S. Micro-Winery

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

T. Motor Vehicle Dealership

1. **Defined.** An establishment that sells or leases new or used automobiles, vans, trucks, motorcycles, recreational vehicles or other similar motorized transportation vehicles, with outdoor storage and/or display of such vehicles on-site. Motor vehicle dealerships do not include sales of commercial vehicles or heavy equipment, which are considered heavy retail establishments.

U. Neighborhood Grocery Store

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

V. Office

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

2. **Use Standards**

   a. In the Corporate Park District and Industrial District, a building occupied by a single office use shall be a minimum of 10,000-sf gross floor area, and a building that includes 2 or more office uses shall be a minimum of 20,000-sf gross floor area.

   b. In the Neighborhood Business District, an office use shall occupy less than 5,000-sf of gross floor area.

   c. In the Business Growth and Reuse District, an office use shall occupy less than 20,000-sf of gross floor area, unless granted a special exception from the Zoning Board of Adjustment.

W. Personal Service Establishment

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

X. Private Club Lodge

1. **Defined.** A facility operated by an organization or association for a common purpose including, but not limited to, a meeting hall for a fraternal or social organization. Private club / lodge does not

include any organization or group that is primarily organized to render a service customarily carried on as a business.

2. **Use Standard.** In the Office District and Downtown Transition District, primary access to the site of the private club / lodge shall be via an arterial roadway.

Y. Recreation / Entertainment Facility - Indoor

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

Z. Recreation / Entertainment Facility - Outdoor

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

AA. Research and Development.

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

AB. Restaurant

1. **Defined.** An establishment where the primary purpose is the sale and provision of food to the public for on-premises consumption by seated patrons.

2. **Use Standards**

   a. In the Business Growth and Reuse District, a restaurant shall have less than 50-seats.

   b. In the Neighborhood Business District, a restaurant shall occupy less than 3,500-sf in gross floor area.

AC. Retail Establishment, Heavy

1. **Defined.** Retail centers of a heavier- and larger-scale commercial character that typically require permanent outdoor storage areas or partially enclosed structures. Examples of this use include, but are not limited to, large-scale home improvement centers with outdoor storage and display, lumberyards, and sales of heavy equipment. Wholesale establishments that sell to the general public, including those establishments where membership is required, are considered heavy retail establishments.

AD. Retail Establishment, Light

1. **Defined.** An establishment that provides physical goods, products, or merchandise directly to the consumer, where such goods are typically available for immediate purchase and removal from the premises by the purchaser. A retail goods establishment does not include specialty food service.

2. **Use Standard.** In the Neighborhood Business District, light retail establishments shall occupy less than 3,500-sf in gross floor area.

AE. Self-Storage Facility – Exterior Access

1. **Defined.** A facility for the storage of personal property, where individual renters control and access individual storage spaces, and where each storage unit has individual access from the outdoors. Outdoor storage of materials is prohibited.

AF. Self-Storage Facility – Interior Access

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

AG. Sexually Oriented Business

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

    a. Adult bookstore and adult video store, which mean a business that devotes more than 15% of the total display, shelf, rack, table, stand or floor area for the display, sale and/or rental of the following.

        i. Books, magazines, periodicals or other printed matter or photographs, films, motion pictures, videocassettes, slides, tapes, records, computer disks, CD-ROMs or other forms of visual or audio representations which meet the definition of "harmful to minors" and/or "sexual conduct" as set forth in NH RSA 571-B:1; or

        ii. Instruments or devices which are designed for use in connection with "sexual conduct" as defined by NH RSA 571-B:1, other than birth control devices.

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

    b. Adult cabaret means a bar, restaurant, or similar establishment which, during a substantial portion of the total presentation time, features live performances that meet the definition of "harmful to minors" and/or "sexual conduct" as set forth in NH RSA 571-B:1 and/or features, films, motion pictures, videocassettes, CD-ROMs, computer displays, slides, audio tapes, or other audio or photographic reproductions, a substantial portion of the total presentation time of which is devoted to showing of material that meets the definition of "harmful to minors" and/or "sexual conduct" as set forth in NH RSA 571-B:1.

    c. Adult drive-in theater means an open lot or part thereof, with appurtenant facilities devoted primarily to the presentation of motion pictures, films, theatrical productions and other forms of visual productions for any form of consideration to persons in motor vehicles or on outdoor seats, in which a substantial portion of the total presentation time being presented for observation by patrons is devoted to the showing of material that meets the definition of "harmful to minors" and/or "sexual conduct" as set forth in NH RSA 571-B:1.

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

RSA 571-B:1.

e. Adult motion picture arcade means any place to which the public is permitted or invited wherein coin- or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, computers, projectors or other image-producing devices are maintained to show images to 5 or fewer persons per machine at any one time, in which a substantial portion of the total presentation time of the images so displayed is devoted to the showing of material that meets the definition of "harmful to minors" and/or "sexual conduct" as set forth in NH RSA 571-B:1.

f. Adult motion picture theater means an establishment with a capacity of 5 or more persons where for any form of consideration are shown films, motion pictures, videocassettes, slides, CD-ROMs, computer displays or similar photographic reproductions, and in which substantial portions of the total presentation is devoted to the showing of material that meets the definition of "harmful to minors" and/or "sexual conduct," as set forth in NH RSA 571:B-1, for observation by patrons.

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

h. Nude model studio means a place where a person who appears in a state of nudity or displays male genitals in a state of sexual arousal and/or the vulva or more intimate parts of the female genitals and is observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons, who pay money or any form of consideration of such display, or where such display is otherwise characterized by an emphasis on activities that meet the definition of "harmful to minors" and/or "sexual conduct" as set forth in NH RSA 571-B:1.

i. Sexual encounter center means a business or commercial enterprise that as one of its primary business purposes offers for any form of consideration: (i) physical contact in the form of wrestling or tumbling between persons of the opposite sex; or (ii) activities between male and female persons and/or persons of the same sex when one or more persons is in the state of nudity; or where the activity in (i) or (ii) is characterized by an emphasis on activities that meet the definition of "harmful to minors" and/or "sexual conduct" as set forth in NH RSA 571-B:1.

2. Use Standards

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

i. Land with frontage on West St. The storefront of such business shall face West St or be in a shopping center/plaza with the storefront facing a parking area that has a common boundary with West St.

ii. Land with frontage on the portion of Winchester St south of Island St and north of NH Route 101. The storefront of such business shall face Winchester St or be in a shopping center/plaza with the

storefront facing a parking area that has a common boundary with Winchester St.

iii. Land with frontage on Ashbrook Rd, north of NH Route 9 and west of the NH Route 9/10/12 intersection. The storefront of such business shall face Ashbrook Rd or be in a shopping center/plaza with the storefront facing a parking area having a common boundary with Ashbrook Rd.

b. All sexually oriented businesses shall be subject to the following distance requirements, which shall be measured in a straight line, without regard to intervening structures from the property line of any site, to the closest exterior wall of the sexually oriented business.

i. No sexually oriented business shall be permitted within 1,000-ft of another sexually oriented business, which is either existing as of September 15, 1994 or one for which a building permit has been applied for.

ii. No sexually oriented business shall be permitted within a building, premises, structure or other facility that contains another sexually oriented business.

iii. No sexually oriented business shall be permitted within 500-ft of any place of worship, community center, government building, child day care center, or public or private school.

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

AH. Specialty Food Service

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

AI. Vehicle Fueling Station

1. Defined. A commercial establishment primarily engaged in the retail sales of vehicle fuels, traditional and alternative fuel types (e.g. electric-charging stations, ethanol, natural gas, propane, solar, etc.), lubricants, parts, and accessories. This use may include retail establishments (e.g. convenience stores). This use does not include stand-alone, alternative-fuel charging units for vehicles, which are permitted as an accessory use in all districts.

2. Use Standards

a. Pump islands and charging stations shall be located not less than 20-ft from all lot lines.

b. If the use adjoins a residential use or a residential zoning district, an open and unused space of not less than 10-ft in width shall be maintained between any buildings or structures associated with the vehicle fueling station and the adjacent residential use and/or residential zoning district.

c. No merchandise shall be displayed within the required front and side setbacks.

AJ. Vehicle Rental Service

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

AK. Vehicle Repair Facility - Major

1. Defined. A facility that offers major vehicle repairs and services including, but not limited to, engine rebuilding; reconditioning of worn or damaged motor vehicles or trailers; towing and collision service; bodywork, welding, and painting; and, repair to commercial vehicles or heavy equipment. A major vehicle repair facility may also include minor vehicle repair services.

2. Use Standards

a. All making of repairs, except emergency repairs, shall be conducted entirely within a building sufficiently insulated to confine noise, flashing, fumes and odors to the premises.

b. No display of merchandise or outside storage of vehicles, vehicle parts or equipment shall be permitted within the required front and side yard setbacks.

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

AL. Vehicle Repair Facility - Minor

1. Defined. A facility that offers minor repairs and services to passenger vehicles, light and medium trucks, and other consumer motor vehicles (e.g. motorcycles). Minor vehicle services or repairs may include, but are not limited to: lubrication services; minor scratch and repair; glass repair or replacement; replacement of systems for cooling, electrical, fuel and exhaust; brake adjustments; tire replacements; and, wheel servicing, alignment, and balancing. Minor repair work does not include replacement of engines or transmissions, or major body work.

2. Use Standards

a. All making of repairs, except emergency repairs, shall be conducted entirely within a building sufficiently insulated to confine noise, flashing, fumes and odors to the premises.

b. Buildings and all accessory structures shall not be closer than 20-ft to the side and rear lot lines.

c. No display of merchandise or outside storage of vehicles, vehicle parts or equipment shall be permitted within the required front and side yard setbacks.

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

8.3.3 Institutional Uses

A. Community Center

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

B. Cultural Facility

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

C. Day Care Center

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

D. Hospital

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

E. Place of Worship

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

F. Private School

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

G. Senior Center

1. **Defined.** A facility operated by a public, nonprofit or charitable institution, which provides meeting space and organizational administration in assisting the social needs of the community's senior citizens.
2. **Use Standard.** If this use is located directly adjacent to or within a residential zoning district, the side and rear building setbacks shall be double the requirements in the zoning district, unless an alternative solution is approved by the Planning Board as part of a site plan.

8.3.4 Congregate Living & Social Services Uses

A. Domestic Violence Shelter

1. **Defined.** A facility that provides temporary shelter, protection, and support for those escaping domestic violence and intimate partner violence, including victims of human trafficking. A domestic violence shelter also accommodates the minor children of such individuals. The facility may also offer services to help shelter clients and their children including counseling and legal guidance. The facility shall be managed by a public or non-profit agency with in-house supervision provided on a 24-hour basis.
2. **Use Standards**
   - **a.** Any new domestic violence shelter use shall not be located within 750-ft (measured at the property line) of any pre-existing domestic violence shelter use.
   - **b.** Domestic violence shelters located within or directly adjacent to residential zoning districts shall not have more than 12-occupants at any time, excluding the minor children of shelter clients.
   - **c.** If located within a residential zoning district, Domestic Violence Shelters shall maintain the appearance of a residential structure and the design and operation of the facility shall not alter the residential character of the structure.

B. Drug Treatment Clinic

1. **Defined.** A non-residential facility authorized by the state to provide treatment and licensed drugs to natural persons, including, but not limited to, methadone or suboxone, to manage and treat drug dependencies.
2. **Use Standards**
   - **a.** No drug treatment clinic shall be

constructed or operate without first having obtained a congregate living and social services conditional use permit from the Planning Board in accordance with Article 15.

b. Annually, a drug treatment clinic shall obtain a congregate living and social service licenses from the City Council as set forth in Chapter 46 of the City Code of Ordinances.

c. Security lighting is required and shall be adequate to deter or detect intrusions or other criminal activity during non-daylight hours.

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

C. Fraternity/Sorority

1. Defined. A place of residence, with or without meals, for natural persons that are all members of or pledged to a local or national fraternity or sorority.

2. Use Standards

a. No fraternity/sorority shall be constructed or operate without first having obtained a congregate living and social services conditional use permit from the Planning Board in accordance with Article 15.

b. Annually, a fraternity/sorority shall obtain a congregate living and social services license from the City Council as set forth in Chapter 46 of the City Code of Ordinances.

D. Food Pantry

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

E. Group Home, Large

1. Defined. A facility providing living accommodations and care for up to 16 unrelated natural persons who are in need of personal care services and/or are in need of supervision. Group home may include non-medical drug and alcohol rehabilitation. A group home with 4 or fewer residents would be classified as a single-family dwelling.

2. Use Standards

a. Only 1 large group home shall be permitted per lot.

b. No large group home shall be constructed or operate without first having obtained a congregate living and social services conditional use permit from the Planning Board in accordance with Article 15.

c. Annually, a large group home shall obtain a congregate living and social service licenses from the City Council as set forth in Chapter 46 of the City Code of Ordinances.

d. If located within a residential zoning district, large group homes shall maintain the appearance of a residential structure and the design and operation of the facility shall not alter the residential character of the structure.

F. Group Home, Small

1. Defined. A facility in a residential dwelling, providing living accommodations and care for no more than 8 unrelated natural persons who are in need of personal care services and/or are in need of supervision. Small group home may include non-medical drug and alcohol rehabilitation. A group home with 4 or fewer residents would be classified as a single-family dwelling.

2. **Use Standards**

   a. Only 1 small group home shall be permitted per lot.

   b. No small group home shall be constructed or operate without first having obtained a congregate living and social service conditional use permit from the Planning Board in accordance with Article 15.

   c. Annually, a small group home shall obtain a congregate living and social services license from the City Council as set forth in Chapter 46 of the City Code of Ordinances.

   d. Small group homes shall maintain the appearance of a residential structure, and the design and operation of the facility shall not alter the residential character of the structure.

G. Group Resource Center

1. **Defined.** An establishment designed with the primary purpose of providing access to services related to counseling, personal care, or social well-being in a group setting. It does not include in-patient, overnight services, or treatments typically conducted in a medical office.

2. **Use Standards**

   a. No group resource center shall be constructed or operate without first having obtained a congregate living and social services conditional use permit from the Planning Board in accordance with Article 15.

   b. Annually, a group resource center shall obtain a congregate living and social services license from the City Council as set forth in Chapter 46 of the City Code of Ordinances.

H. Homeless Shelter

1. **Defined.** A facility that provides temporary shelter without a required fee to natural persons who are homeless. The facility shall be managed by a public or non-profit agency with in-house supervision provided during operation.

2. **Use Standards**

   a. Proximity to other uses.

      i. Any new homeless shelter use shall not be located within 750-ft (measured at the property line) of any pre-existing homeless shelter use.

      ii. Any new homeless shelter shall not be located within 500-ft (measured at the property line) of a any pre-existing public or private school, or child day care center.

      iii. Homeless shelters with more than 16-occupants shall not be located directly adjacent to a residential zoning district.

   b. No homeless shelter shall be constructed or operate without first having obtained a congregate living and social services conditional use permit from the Planning Board in accordance with Article 15.

   c. Annually, a homeless shelter shall obtain and maintain a congregate living and social services license from the City Council as set forth in Chapter 46 of the City Code of Ordinances.

   d. All outdoor activity areas on-site shall be screened from public view and from the view of adjacent properties with a minimum 6-ft high solid fence.

   e. The facility shall provide indoor and/or outdoor waiting areas of a sufficient size to accommodate demand and to prevent queueing on the public right-of-way. Such waiting areas shall be screened from view.

I. Lodginghouse

1. **Defined.** Any dwelling for between 5 and 16

unrelated natural persons, which provides separate rooms for sleeping for a fee, without personal care services and without separate cooking facilities for individual occupants. A lodginghouse may include separate living quarters for an on-site property manager. For purposes of this LDC, the term lodginghouse shall not include a hotel or motel.

2. Use Standards

a. Only 1 lodginghouse shall be permitted per lot, and no other residential uses shall be permitted on the same lot as a lodginghouse.

b. No lodginghouse shall be constructed or operate without first having obtained a congregate living and social services conditional use permit from the Planning Board in accordance with Article 15.

c. Annually, a lodginghouse shall obtain a congregate living and social services license from the City Council as set forth in Chapter 46 of the City Code of Ordinances.

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

J. Residential Care Facility

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

2. Use Standards

a. No residential care facility shall be constructed or operate without first having obtained a congregate living and social services conditional use permit from the Planning Board in accordance with Article 15.

b. Annually, a residential care facility shall obtain a congregate living and social services license from the City Council as set forth in Chapter 46 of the City Code of Ordinances.

c. If located within a residential zoning district, residential care facilities shall maintain the appearance of a residential structure, and the design and operation of the facility shall not alter the residential character of the structure.

K. Residential Drug/Alcohol Treatment Facility

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

2. Use Standards

a. No residential drug/alcohol treatment facility shall be constructed or operate without first having obtained a congregate living and social services conditional use permit from the Planning Board in accordance with Article 15.

b. Annually, a residential drug/alcohol treatment facility shall obtain a congregate living and social services license from the City Council as set forth in Chapter 46 of the City Code of Ordinances.

8.3.5 Industrial Uses

A. Artisanal Production

1. **Defined.** The on-site production of hand-fabricated or hand-manufactured artisanal, custom or craft goods (e.g. small-scale metalworking, glassblowing, and furniture making, etc.). Showrooms and the ancillary sales of goods produced on-site are permitted. Artisanal production does not include micro-breweries, micro-distilleries, and micro-wineries.

2. **Use Standards**

   a. Outside storage is prohibited, unless located in the Industrial District.

   b. All manufacturing or production activities shall be conducted entirely within a building sufficiently insulated to confine noise, flashing, fumes and odors to the premises, unless located in the Industrial District.

B. Bulk Storage and Distribution of Goods

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

C. Data Center

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

D. Industrial - Heavy

1. **Defined.** Manufacturing from processed or unprocessed raw materials, including, but not limited to, processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of such products. Heavy industrial uses typically produce noise, vibrations, illumination, or particulate that is perceptible to adjacent land users. These industrial uses typically have ancillary outdoor storage areas.

E. Industrial - Light

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

2. **Use Standard.** In the Business Growth and Reuse District, light industrial uses shall occupy no more than 30,000-sf in gross floor area of a building, unless granted a special exception from the Zoning Board of Adjustment.

F. Outdoor Storage Yard

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

G. Warehouse and Distribution

1. **Defined.** An enclosed facility for the storage and distribution of manufactured products, supplies, or equipment.

2. **Use Standard.** In the Business Growth and Reuse District, a warehouse and distribution facility shall occupy no greater than 30,000-sf in gross floor area, unless granted a special exception from the Zoning Board of Adjustment.

H. Wholesale.

1. **Defined.** A business where goods are sold to either retailers, or to industrial, commercial, institutional, or other professional business users, or to other wholesalers and related services.

2. **Use Standard.** In the Business Growth and

Reuse District, a wholesale business shall occupy a building no more than 30,000-sf in gross floor area, unless granted a special exception from the Zoning Board of Adjustment.

8.3.6 Open Space Uses

A. Cemetery

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

B. Community Garden

1. **Defined.** The noncommercial use of land for the primary purpose of cultivating fruits, flowers, vegetables, or ornamental plants by one or more natural persons, households, or organizations. Community gardens shall not include the raising of any livestock or poultry or the use of heavy machinery.

C. Conservation Area

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

D. Farming

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

E. Golf Course

1. **Defined.** A tract of land designed for playing a game of golf, comprised of a series of holes with tees, greens, fairways, and hazards.
2. **Use Standards.** The construction or expansion of any golf course of 2,000-sf or greater in size, within the primary or secondary zone of any existing or proposed municipal wellfield, or within 100-ft of

any surface water, shall be subject to the requirements below.

a. No golf course shall be allowed within a 400-ft radius of any existing or proposed municipal wellfield, except that in the West St or Court St wellfields such use may be allowed if the Planning Board determines that the construction, maintenance, and use of the golf course will not endanger the quantity or quality of the municipal drinking water supply.

i. Unless specifically approved, no chemicals shall be allowed within the 400-ft radius. If approved, the application of chemicals within the 400-ft zone shall require the construction of a barrier to prevent the transport of chemicals from the surface into the groundwater.

b. A contaminant management plan approved by the Planning Board, which indicates the types, application methods, storage and handling of chemicals, shall be submitted to the Community Development Department prior to the operation or occupancy of any golf course use.

c. A groundwater monitoring plan approved by the Planning Board, which addresses the design, installation, location and access of groundwater monitoring wells, shall be submitted to the Community Development Department prior to the operation or occupancy of any golf course use.

F. Gravel Pit

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

8.3.7 Infrastructure Uses

A. Solar Energy System (Small-Scale)

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

2. Use Standards

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

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

B. Solar Energy System (Medium-Scale)

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

2. Use Standards

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

b. Unless located in the Industrial District, no medium-scale ground-mounted solar energy system shall be constructed or operate without first having obtained a solar energy system conditional use permit from the Planning Board in accordance with Article 16.

C. Solar Energy System (Large-Scale)

1. **Defined.** A solar energy system and associated mounting hardware that is either affixed to or placed upon the ground, and occupies 1-acre or more of solar footprint.
2. **Use Standards**
   - **a.** Large-scale ground-mounted systems shall be located on parcels no less than 5-acres in size.
   - **b.** The solar footprint of large-scale ground-mounted solar energy systems shall not exceed 20 contiguous acres.
   - **c.** The height of ground-mounted solar energy systems shall not exceed 15-ft, as measured from the ground to the highest point of the system, when oriented at maximum design tilt.
   - **d.** Unless located in the Industrial District, no large-scale ground-mounted solar energy system shall be constructed or operate without first having obtained a solar energy system conditional use permit from the Planning Board in accordance with Article 16.

D. Public Utility Facilities

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

E. Telecommunication Facilities

1. **Defined.** Any structure, antenna, tower, or other device, which provides commercial mobile wireless services, unlicensed wireless services, cellular telephone services, specialized mobile radio communications (SMR), and personal communications service (PCS), and common carrier wireless exchange access services or other similar services. It does not include any structure erected solely for a residential, noncommercial individual use (e.g. television antennas, satellite dishes, amateur radio antennas).
2. **Use Standard.** Telecommunication facilities are subject to the standards set forth in the Telecommunications Overlay District in Article 13, which includes limitations on where such facilities are allowed to be located in the City and whether a telecommunications conditional use permit is required from the Planning Board.

8.3.8 Transportation Uses

A. Parking Lot

1. **Defined.** The principal use of a lot, which excludes any public or private street, for the temporary parking or storage of operable motor vehicles, whether for compensation or at no charge.
2. **Use Standard.** All parking lots shall comply with the Parking Lot Design Standards in Section 9.4 of this LDC.

B. Parking - Structured Facility

1. **Defined.** The principal use of a lot for the temporary parking or storage of operable motor vehicles, whether for compensation or at no charge, in a multi-level parking structure.
2. **Use Standards.** All structured parking lot facilities shall comply with the Parking Structure Design Standards in Section 9.5 of this LDC.

8.4 ACCESSORY USES & STRUCTURES

8.4.1 General

A. All accessory uses shall comply with the standards in Section 8.4.1.

B. Accessory uses and structures may be permitted in conjunction with permitted principal uses. Permitted accessory uses and structures include those listed in Section 8.4.2 and additional accessory uses and structures that, as interpreted by the Zoning Administrator, meet the following criteria.

1. Are clearly incidental and customarily found in connection with an allowed principal building or use.

2. Are subordinate in area, extent, and purpose to the principal building or use served.

3. Are located on the same site as the principal building or use served.

4. Were not established on a lot prior to the establishment of a permitted principal use.

5. Do not create a public or private nuisance.

C. Accessory uses and structures shall comply with the dimensional requirements (e.g. setbacks, lot coverage, height) of the zoning district in which they are located, unless an exception is expressly granted below or elsewhere in this LDC.

1. No accessory use or structure may occupy any part of a front setback unless the front setback extends beyond the front of a legally nonconforming building; in such case, the portion beyond the front of the building may be used.

8.4.2 Specific Use Standards

A. Accessory Dwelling Unit (ADU)

1. Defined. An independent living unit ancillary to a single-family dwelling unit and under the same ownership as the principal dwelling unit. The unit may be an attached Accessory Dwelling Unit (ADU), located within or attached to the principal dwelling unit, or a detached ADU, located in a detached accessory building on the property.

2. Use Standards

a. Only 1 ADU shall be permitted per lot.

b. There shall be no more than 2 bedrooms in an ADU.

c. Attached ADUs

i. Attached ADUs shall only be permitted in the Agriculture, Rural, Low Density, Low Density-1, Medium Density, High Density, High Density-1, Neighborhood Business, Office, Residential Preservation, and Downtown-Transition Districts.

ii. Attached ADUs shall have a minimum gross floor area of 400-sf. In no case shall the gross floor area exceed 800-sf.

d. Detached ADUs

i. Detached ADUs shall only be permitted in the Agriculture and Rural Districts.

ii. Detached ADUs shall have a minimum gross floor area of 400-sf, and, in no case, shall the floor area be greater than 50% of the gross floor area of the principal dwelling unit or greater than 1,000-sf, whichever is less.

e. An interior door shall be provided between the principal single-family dwelling unit and an attached ADU. This interior door does not need to

remain unlocked.

f. No more than 2 parking spaces shall be permitted for an ADU.

g. An ADU shall have city water and sewer service, or, in the absence of city sewer, a septic system plan approved by the state shall be required prior to the issuance of a building permit.

h. A scaled and dimensional plot plan of the property shall be submitted as part of the building permit application for an ADU. This plan shall show the location and number of required parking spaces, driveway and paved areas, buildings, building setbacks, utilities, fences, and any other relevant site features.

i. The record property owner shall occupy either the single-family dwelling or the ADU, and shall submit an affidavit in support of an ADU with their building permit application stating under oath that they satisfy the owner occupancy requirement.

j. Adequate notice in an acceptable legal form for recording at the County Registry of Deeds shall be duly executed by the owner of record identifying the property on which the ADU is located by source deed sufficient to notify successor owners that the ADU is subject to the City's Zoning Regulations.

i. This notice shall be reviewed by the Zoning Administrator for acceptable form and, upon signature, it shall be recorded at the Registry by the property owner.

ii. Evidence of recording shall be submitted to the Community Development Department prior to the issuance of a building permit.

B. Day Care, Home-Based

1. Defined. A residential dwelling where, for a portion of a 24-hour day, licensed care and supervision is provided in a protective setting by a permanent occupant of the dwelling for children or elderly and/or functionally-impaired adults that are not related to the owner or operator of the facility.

2. Use Standard. This use shall provide full-time care to no more than 6 natural persons and part-time care to no more than 9 natural persons each day of operation.

C. Drive-Through Uses

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

2. Use Standards

a. Drive-through uses shall only be permitted by right in the Commerce and Commerce Limited Districts, and by special exception from the Zoning Board of Adjustment in the Downtown-Growth and Downtown-Core Districts.

a. Drive-through uses shall be subject to the screening standards for drive-through businesses in Section 20.6 of this LDC.

D. Home Occupation

1. Defined. A use conducted by the inhabitants of a dwelling unit that is clearly incidental and secondary to the use of the premises for dwelling purposes and does not change the residential character thereof.

2. Use Standards

a. The use may not exceed 10% of the total gross floor area of the principal dwelling unit or 300-sf, whichever is less, and may be located in either the principal dwelling unit or an accessory building on the same lot.

b. There shall be no more than 1 employee who is not a resident of the principal dwelling unit.

c. All activity associated with producing, storing, or selling the goods or services of the home occupation shall be performed inside the principal dwelling unit or an accessory building on the same lot.

d. The use shall not be identified by any externally visible sign, on-premises advertising of any kind, or any off-premises advertising that identifies the location of the property.

e. The use shall not result in alteration of the residential appearance of the dwelling unit or the lot on which it is located.

f. The use shall not generate vehicular or pedestrian traffic of a quantity or quality as to be injurious, offensive, or otherwise detrimental to the neighborhood. Vehicular traffic of more than 10-vehicles per day shall be considered prima facie evidence of traffic that is detrimental to the neighborhood.

g. Retail sales as a primary home occupation that attracts customers to the lot to purchase articles and/or goods is not permitted. Retail sales that are accessory to a home occupation, such as, but not limited to, a beauty salon selling hair care products, is permitted.

h. Retail sales where the customers do not visit the residence is permitted, such as sales over the Internet and the goods are shipped either from the residence or another location.

E. Mobile Food Vendors

1. Defined. A self-contained food service operation located in a licensed, readily movable motorized/wheeled/towed vehicle, used to store, prepare, and sell food items to the general public, which operates on a temporary basis at various private property locations with property owner consent or on locations designated by the City.

2. Use Standards

a. Vendors shall obtain a license from the City Clerk in accordance with Chapter 46 of the City Code of Ordinances. This license shall be displayed and open for inspection in the vehicle, together with any other license or permit that may be required by law or City ordinance.

b. Mobile vendors that wish to establish themselves for business on private property for over 1-hour are permitted in all zoning districts except for the Downtown-Transition District, Office District, and any residential or special purpose zoning district per the following conditions.

i. The site must have sufficient on-site parking and an adequate and safe means of entrance/exit.

ii. The vendor cannot park on public streets or fire lanes in private lots.

iii. The vendor cannot occupy or encumber private parking spaces that have previously been allocated for zoning or an approved site plan.

F. Roof-Mounted Solar Energy System

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

2. Use Standards

a. Roof-mounted solar energy systems are permitted as an accessory use in all zoning districts when attached to lawfully permitted principal and/or accessory structures.

b. For a roof-mounted system installed on a sloped roof, the highest point of the system shall not exceed the highest peak of the roof on which it is attached.

c. For a roof-mounted system installed on a flat roof, the highest point of the system shall not exceed 10-ft above the surface of the roof on which it is attached.

d. The collector surface and mounting devices for roof-mounted solar energy systems shall not extend beyond the exterior perimeter of the building on which the system is attached. Exterior piping for solar hot water systems shall be allowed to extend beyond the perimeter of the building on a side or rear yard exposure.

e. If a roof-mounted solar energy system is located in a Historic District, additional standards per Article 21 may apply.

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

1. Defined. A solar energy system and associated mounting hardware that is either affixed to or placed upon the ground, and occupies 2,000-sf of solar footprint or less, and is accessory to a principal use, which is located on the same lot.

2. Use Standards

a. The height of ground-mounted solar energy systems that are accessory to the principal use shall not exceed 15-ft, as measured from the natural grade at the base of the system to the highest point of the system, when oriented at maximum design tilt.

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

H. Yard Sales / Garage Sale

1. Defined. A sale in a residential zoning district of normally used and/or unneeded household or personal articles and goods held on the seller's own premises; however, residents from nearby dwelling units may participate. Such use may be referred to as a garage sale or tag sale.

2. Use Standards

a. Yard sales shall be limited to a maximum of 3 times per calendar year per lot in residential zoning districts.

b. Each separate sale may be for no more than 2 consecutive days, and setup and takedown of the yard sale is to be included in these 2 days. Setup includes the placing of display tables, racks, merchandise, etc. in the area where the yard sale is to be held. Takedown includes removal of the remaining merchandise for sale and removal of display tables, racks, etc.

c. Sale of a single item is not considered to be a yard sale.

I. Motor vehicle or trailer storage

1. Use Standards

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

b. Storage or overnight parking of trucks over 16,000 pounds in gross weight, as defined in Chapter 94 of the City of Keene Code of Ordinances, shall be prohibited in residential zoning districts with the exception of the Rural District.

c. The use of trailers and/or vehicles, either registered or unregistered, for the storage or warehousing of goods or materials is not a permitted accessory use and is prohibited in all zones.

i. This section shall not limit or

prohibit registered trailers from loading and/or unloading goods or material, or trailers parked at a loading dock, nor shall it limit or prohibit construction trailers at construction sites that are being used in conjunction with construction operations.

TABLE 8-1: PERMITTED PRINCIPAL USES BY ZONING DISTRICT

P = Permitted P[1] = Permitted with limitations per Article 8 SE = Permitted by Special Exception CUP = Permitted by Conditional Use Permit CRD = Permitted by Conservation Residential Development - = Not Permitted

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

TABLE 8-1: PERMITTED PRINCIPAL USES BY ZONING DISTRICT

P = Permitted P[1] = Permitted with limitations per Article 8 SE = Permitted by Special Exception CUP = Permitted by Conditional Use Permit CRD = Permitted by Conservation Residential Development - = Not Permitted

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

TABLE 8-1: PERMITTED PRINCIPAL USES BY ZONING DISTRICT

P = Permitted P[1] = Permitted with limitations per Article 8 SE = Permitted by Special Exception CUP = Permitted by Conditional Use Permit CRD = Permitted by Conservation Residential Development - = Not Permitted

INFRASTRUCTURE USES	R	RP	LD	LD-1	MD	HD	HD-1	DT-C	DT-G	DT-E	DT-L	DT-T	DT-I	COM	CL	BGR	NB	O	CP	I	IP	HC	A	C	**Use Definition & Standards Section #**
Solar Energy System (Small-Scale)	P[1]	-	-	-	-	-	-	-	-	P[1]	-	-	P[1]	P[1]	P[1]	P[1]	-	-	P[1]	P[1]	P[1]	P[1]	-	-	8.3.7.A
Solar Energy System (Medium-Scale)	CUP	-	-	-	-	-	-	-	-	-	-	-	CUP	CUP	CUP	CUP	-	-	CUP	P[1]	CUP	CUP	-	-	8.3.7.B
Solar Energy System (Large-Scale)	CUP	-	-	-	-	-	-	-	-	-	-	-	-	-	-	CUP	-	-	CUP	P[1]	CUP	-	-	-	8.3.7.C
Public Utility Facilities	-	-	-	-	-	-	-	-	-	-	-	-	-	-	SE	-	-	-	SE	P	-	-	-	-	8.3.7.D
Telecommunications Facilities	P[1]	P[1]	P[1]	P[1]	P[1]	P[1]	P[1]	P[1]	P[1]	P[1]	P[1]	P[1]	P[1]	P[1]	P[1]	P[1]	P[1]	P[1]	P[1]	P[1]	P[1]	P[1]	P[1]	P[1]	8.3.7.E
TRANSPORTATION USES	R	RP	LD	LD-1	MD	HD	HD-1	DT-C	DT-G	DT-E	DT-L	DT-T	DT-I	COM	CL	BGR	NB	O	CP	I	IP	HC	A	C	
Parking Lot (Principal Use)	-	-	-	-	-	-	-	-	SE	-	-	-	P[1]	P[1]	P[1]	-	-	-	P[1]	-	-	P[1]	-	-	8.3.8.A
Parking – Structured Facility (Principal Use)	-	-	-	-	-	-	-	P[1]	P[1]	P[1]	P[1]	-	P[1]	P[1]	P[1]	-	-	-	P[1]	-	-	P[1]	-	-	8.3.8.B

ARTICLE 9. PARKING & DRIVEWAYS

9.1 GENERAL 9-2

9.2 ON-SITE PARKING REQUIREMENTS 9-2

9.3 DRIVEWAY DESIGN STANDARDS 9-8

9.4 PARKING LOT DESIGN STANDARDS 9-9

9.5 PARKING STRUCTURE DESIGN STANDARDS 9-15

9.1 GENERAL

9.1.1 Purpose

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

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

9.1.2 Applicability

A. **General.** The standards in this Article shall apply to any changes or modifications that affect the need for, calculation of, or changes to a parking area or lot. No application for a permit for the erection of a new structure, development of a land use, change or expansion in use, or expansion of a structure shall be approved unless the requirements of this Article are met.

B. **Expansion of Existing Structure.** When the floor area of an existing structure is increased, additional parking spaces shall be provided on-site as required by Table 9-1 for the additional floor area.

C. **Renovations or Repairs.** An existing building or site may be maintained, repaired, or renovated without providing additional parking, provided there is no increase in gross floor area, improved site area or additional parking demand.

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

E. **Expansion of existing parking**

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

9.2 ON-SITE PARKING REQUIREMENTS

9.2.1 Minimum Parking Requirements

A. The minimum number of on-site vehicle parking spaces to be provided for each principal use located on a lot is listed in Table 9-1.

B. A reduction in the minimum parking requirements in Table 9-1 may be sought in accordance with Section 9.2.6 Alternative Parking Requirements.

C. Additional parking requirements for specific zoning districts or specific uses may apply in addition to the requirements of Table 9-1.

D. In determining the required number of parking spaces, fractional spaces are rounded to the nearest whole number with one-half or greater counted as an additional space.

E. Space(s) designated for off-street loading may not be used to satisfy the requirement for any on-site parking space or access aisle or portion thereof.

F. Spaces reserved for accessible parking, car-share facilities, and/or electric vehicle charging may count toward the minimum parking requirements.

TABLE 9-1: MINIMUM ON-SITE PARKING REQUIREMENTS

PRINCIPAL USE	MIN ON-SITE PARKING REQUIREMENT
RESIDENTIAL USES	
Dwelling, Above Ground Floor	2 spaces / unit *(1 space / unit in DT-G, DT-L)*
Dwelling, Manufactured Housing	2 spaces / unit
Dwelling, Multifamily	2 spaces / unit *(1 space / unit in DT-G, DT-L)*
Dwelling, Single-Family	2 spaces / unit *(1 space / unit in DT-L)*
Dwelling, Two-Family / Duplex	2 spaces / unit *(1 space / unit in DT-L)*
COMMERCIAL USES	
Agricultural-Related Educational & Recreational Activity as a Business	4 spaces / 1,000 sf GFA
Animal Care Facility	3 spaces / 1,000 sf GFA
Art Gallery	3 spaces / 1,000 sf GFA
Art or Fitness Studio	4 spaces / 1,000 sf GFA
Banking or Lending Institution	4 spaces / 1,000 sf GFA
Bar	1 space / 5 seats
Bed and Breakfast	1 space / guest room + 2 spaces / dwelling unit
Car Wash	1 space / car wash bay
Clinic	5 spaces / 1,000 sf GFA
Event Venue	5 spaces / 1,000 sf GFA
Funeral Home	5 spaces / 1,000 sf GFA
Greenhouse / Nursery	4 spaces / 1,000 sf GFA
Health Center / Gym	4 spaces / 1,000 sf GFA
Heavy Rental & Service Establishment	3 spaces / 1,000 sf GFA
Hotel/Motel	1 space / guest room
Kennel	2 spaces / 1,000 sf GFA
Micro-Brewery/Micro-Distillery/Micro-Winery	2 spaces / 1,000 sf GFA of production area + 1 space / 4 seats
Motor Vehicle Dealership	4 spaces / 1,000 sf GFA of indoor sales and display area + 4 spaces / service bay
Neighborhood Grocery Store	3 spaces / 1,000 sf GFA
Office	4 spaces / 1,000 sf GFA
Personal Service Establishment	4 spaces / 1,000 sf GFA
Private Club / Lodge	4 spaces / 1,000 sf GFA or 1 space / 4 seats, whichever is greater
Recreation/Entertainment Facility - Indoor	4 spaces / 1,000 sf GFA or 1 space / 4 seats
Recreation/Entertainment Facility - Outdoor	2 spaces / 1,000 sf outdoor use area
Research and Development	4 spaces / 1,000 sf GFA
Restaurant	1 space / 5 seats
Retail Establishment, Heavy	4 spaces / 1,000 sf GFA
Retail Establishment, Light	4 spaces / 1,000 sf GFA
Self Storage Facility - Exterior Access	1 space / 3,000 sf GFA *(may be located on paved area in front of unit)*
Self Storage Facility - Interior Access	1 space / 3,000 sf GFA
Sexually Oriented Business	4 spaces / 1,000 sf GFA
Specialty Food Service	4 spaces / 1,000 sf GFA
Vehicle Fueling Station (with or without retail store)	4 spaces / 1,000 sf GFA *(excluding fueling stations)*

TABLE 9-1: MINIMUM ON-SITE PARKING REQUIREMENTS

USE CATEGORY	MIN ON-SITE PARKING REQUIREMENT
Vehicle Rental Service	4 spaces / 1,000 sf GFA
Vehicle Repair Facility – Major	6 spaces / 1,000 GFA
Vehicle Repair Facility – Minor	5 spaces / 1,000 GFA
INSTITUTIONAL USES	
Community Center	4 spaces / 1,000 sf GFA
Cultural Facility	4 spaces / 1,000 sf GFA
Day Care Center	4 spaces / 1,000 sf GFA
Hospital	1.5 spaces / 1,000 sf GFA
Place of Worship	1 space / 4 seats in principal assembly room
Senior Center	4 spaces / 1,000 sf GFA
Private School	2 spaces / classroom
CONGREGATE LIVING / SOCIAL SERVICE USES	
Domestic Violence Shelter	4 spaces / 1,000 sf GFA of office space
Drug Treatment Clinic	4 spaces / 1,000 sf GFA
Fraternity/Sorority	1 space / bed
Food Pantry	2 spaces / 1,000 sf GFA
Group Home (Large, Small)	1 space / bed
Group Resource Center	4 spaces / 1,000 sf GFA
Homeless Shelter	4 spaces / 1,000 sf GFA of office space
Lodginghouse	1 space / bed
Residential Care Facility	0.5 spaces / bed
Residential Drug/Alcohol Treatment Facility	0.5 spaces / bed
INDUSTRIAL USES	
Artisanal Production	2 spaces / 1,000 sf GFA
Bulk storage & distribution of goods, excluding or including flammable material	0.5 space / 1,000 sf GFA *(excluding office space)* + 4 spaces / 1,000 sf GFA of office space
Data Center	0.5 space / 1,000 sf GFA *(excluding office space)* + 4 spaces / 1,000 sf GFA of office space
Industrial, Heavy	0.5 space / 1,000 sf GFA *(excluding office space)* + 4 spaces / 1,000 sf GFA of office space
Industrial, Light	0.5 space / 1,000 sf GFA *(excluding office space)* + 4 spaces / 1,000 sf GFA of office space
Outdoor Storage Yard	No minimum
Solar Energy System (Small, Medium, Large)	1 space / solar energy system
Warehouse & Distribution	0.5 space / 1,000 sf GFA *(excluding office space)* + 4 spaces / 1,000 sf GFA of office space
Wholesale	0.5 space / 1,000 sf GFA *(excluding office space)* + 4 spaces / 1,000 sf GFA of office space
OPEN SPACE USES	
Cemetery	0.5 spaces / 1 acre of grave space if no internal road is present
Community Garden	No minimum
Conservation Area	No minimum
Farming	No minimum

TABLE 9-1: MINIMUM ON-SITE PARKING REQUIREMENTS

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

9.2.2 Use Determination

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

9.2.3 Mixed Uses

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

9.2.4 Accessible Parking

A. The number of required accessible parking spaces shall be calculated based on the minimum number of parking spaces required in Table 9-1 not including any reduction, and shall comply with the requirements of the State Building Code.

B. In no circumstance shall the number of required accessible parking spaces be reduced.

9.2.5 Zoning District Specific Requirements

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

1. One parking space per dwelling unit shall be the minimum on-site parking required for residential uses in the Downtown Growth and Downtown Limited Districts.

B. When parking is provided in zoning districts that do not require on-site parking, all design standards and specific limitations in this Article shall apply.

9.2.6 Alternate Parking Requirements

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

9.2.7 Reduction of Required Parking

A. **Administrative Reduction.** The Zoning Administrator may grant up to a 10% reduction in the number of required on-site parking spaces for the principal use or mixture of principal uses on a lot when the following can be demonstrated.

1. A specific use or site has such characteristics that the number of required parking spaces is too restrictive.

2. The requested reduction will not cause long term parking problems for adjacent properties or anticipated future uses.

3. One or more of the following site conditions are applicable or present on the lot where the principal use(s) is located.

a. **Reserve Area.** An area of land suitable for the development of a parking facility and equal in size to the area of land needed to provide the parking spaces for which a reduction is granted will be reserved as undeveloped open space on the lot.

b. **Proximity to Alternative Modes of Transportation.** The main entrance to the building of the proposed use is located within a 1,000-ft walking distance of an operating transit route or there is direct access from the lot to a multi-use bicycle pathway.

c. **Shared Parking.** The required parking is for a use that shares a parking lot with other uses that have different peak parking demands or operating hours (e.g. a movie theatre and a bank).

d. **Proximity to On-Street Parking.** Located contiguous to the lot there is on-street public parking that meets all the requirements for on-street parking in accordance with the City Code of Ordinances.

B. Administrative Reduction Request Procedure

1. A written request for an administrative parking reduction shall be filed with the Zoning Administrator and shall include, at a minimum, the following information. The Zoning Administrator may request additional information and/or technical studies at the applicant's expense.
   a. The size and type of the proposed use(s).
   b. The anticipated rate of parking turnover.
   c. The anticipated peak parking and traffic loads for all uses.
   d. A description of how the site and/or use meets the criteria in Section 9.2.7.A.
   e. Additional information and/or technical studies deemed reasonably necessary by the Zoning Administrator, at the expense of the applicant.
2. The Zoning Administrator shall issue a written decision on requests for administrative reduction of required parking in accordance with the procedures for a written interpretation in Section 25.9 of this LDC.

C. Major Reduction Request

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

use pathways).

f. The anticipated peak parking and traffic loads for each of the uses on the site.

g. Total vehicle movements for the parking facility as a whole.

9.2.8 Parking Credit

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

9.2.9 Remote Parking

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

A. The remote parking spaces shall be within a 1,000-ft walking distance of the property on which the principal use is located. This distance is measured from the nearest point of the remote parking area to the primary entrance of the use served. The path of travel from the remote parking to the principal use shall have adequate pedestrian facilities (e.g. crosswalks and sidewalks) for pedestrians to safely travel between the two sites.

B. Remote parking spaces shall not be allowed in any residential zoning district.

C. All required accessible parking spaces shall be provided on-site.

D. Where remote parking spaces are under separate ownership from the principal lot, a written and duly executed parking agreement between the record owners, which guarantees the use and operation of remote parking areas for the life of the principal use, shall be submitted to and approved by the Zoning Administrator and recorded in the County Registry of Deeds. Change of ownership or use of either parcel shall require a renewal of the agreement.

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

9.3 DRIVEWAY DESIGN STANDARDS

9.3.1 Street Access Permit

Prior to installing a new or modifying an existing curb cut or driveway, a street access permit shall be obtained according to the standards and processes outlined in Section 22.5 of this LDC.

9.3.2 Driveway Dimensions

Dimensional requirements for driveways are included in Section 22.5.4 of this LDC. In addition to these requirements, the following standards shall apply to driveways for single- and two-family dwellings.

1. Each vehicle parking space shall be a minimum dimension of 8-ft by 18-ft and shall be located to the rear of either the front setback or front building line.
2. The driveway and associated parking space(s) shall be a minimum of 3-ft from the side property line.

9.3.3 Surface Material

The surface of the driveway and associated parking space(s) shall be of either concrete; asphalt installed at a minimum thickness of 3-in on top of 4-in compacted subgrade base; crushed stone (installed at a minimum thickness of 4-in on top of a 4-in compacted subgrade); or, semi-pervious materials (e.g. permeable pavers, pervious asphalt or concrete, etc.) that are able to withstand vehicular traffic or other heavy-impact uses.

9.3.4 Grading & Drainage

A. Driveway and associated parking space(s) shall be graded to prevent drainage across sidewalks, curb cuts, streets or onto adjacent property, except that the portion of a driveway within the public right-of-way may drain towards the street.

B. Driveways and associated parking space(s) shall not block the flow of drainage in gutters or drainage ditches or pipes.

C. Driveways and associated parking space(s) shall not have a slope greater than 15%.

9.3.5 Long Driveways

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

A. Shall be limited in width to 10-ft, in order to minimize site disruptions.

B. Every 300-ft there shall be an improved turnout, which is at least 8-ft wide and 15-ft long.

C. Shall include at its terminus a vehicular turnaround as described for dead-end streets in Article 22.

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

9.4.6 Driveways Crossing Steep Slopes

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

A. Driveway route shall follow the natural contours of the existing slope to minimize disturbance of vegetation and soils.

B. Cutting and filling of slopes to construct a driveway shall comply with applicable grading standards of Article 12.

C. Shared driveways shall be used to avoid entering into or crossing precautionary slope areas and to reduce grading, paving and site disturbance.

9.4 PARKING LOT DESIGN STANDARDS

9.4.1 Applicability

Section 9.4 shall apply only to parking lots or parking spaces that are associated with uses other than single- and two-family dwellings.

9.4.2 Dimensions & Siting

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

Table 9-2: Travel & Parking Surface Setbacks

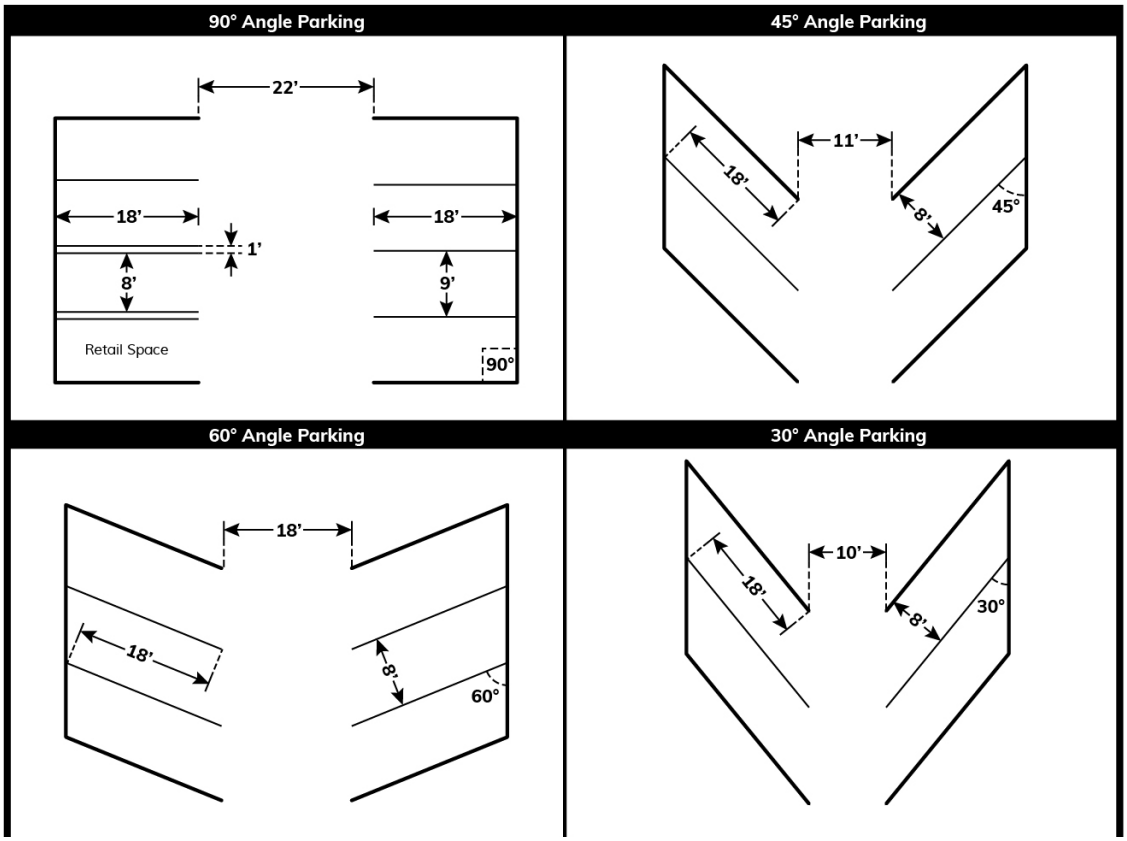
	Min Setback	
Parking Lot Size	**Front**	**Side/Rear**
≤10,000 sf	8 ft	8 ft
>10,000 to ≤30,000 sf	10 ft	8 ft
>30,000 sf to ≤2 acres	15 ft	10 ft
>2 acres	20 ft	15 ft

B. Parking Spaces. Parking spaces shall not be less than 8-ft by 18-ft. Parking spaces that serve retail establishments shall either be a minimum of 9-ft by 18-ft or provide a 1-ft separation between adjacent spaces.

C. Travel Lanes. The width of travel lanes within the interior of a parking lot shall be as listed in Table 9-3.

Table 9-3: Travel Lane Dimensions

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



D. Location

1. All required parking spaces shall be located on the site, unless approval for remote parking has been obtained by the Zoning Administrator per Section 9.2.9.

2. The location of on-site parking for nonresidential and multi-family uses in the following zoning districts is regulated by Table 9-4 Parking Location and Access.

a. Downtown Core

b. Downtown Growth

c. Downtown Limited

d. Downtown Edge

e. Downtown Transition

f. Downtown Institutional Campus

9.4.3 Surface Material and Grade

The surface of parking lots shall be designed as follows.

A. The surface material shall be of either concrete; asphalt installed at a minimum thickness of 3-in on top of 4-in compacted subgrade base; crushed stone (installed at a minimum thickness of 4-in on top of a 4-in compacted subgrade); or, semi-pervious materials (e.g. permeable pavers, pervious asphalt or concrete, etc.) that are able to withstand vehicular traffic or other heavy-impact uses.

B. Shall be striped to delineate parking spaces.

C. Shall be graded to prevent drainage across sidewalks and curb cuts or onto adjacent property.

D. Shall have a substantial curb or wheel stop of concrete, masonry, steel or heavy timber placed at or near the end of each parking space to prevent vehicles from damaging nearby buildings, lawns, trees or shrubs, or from creating a hazard to pedestrians on any sidewalk or walkway.

Table 9-4: Parking Location and Access

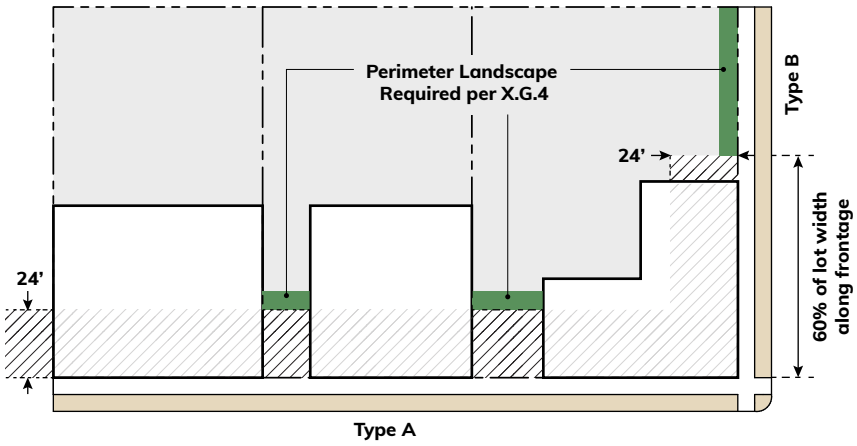
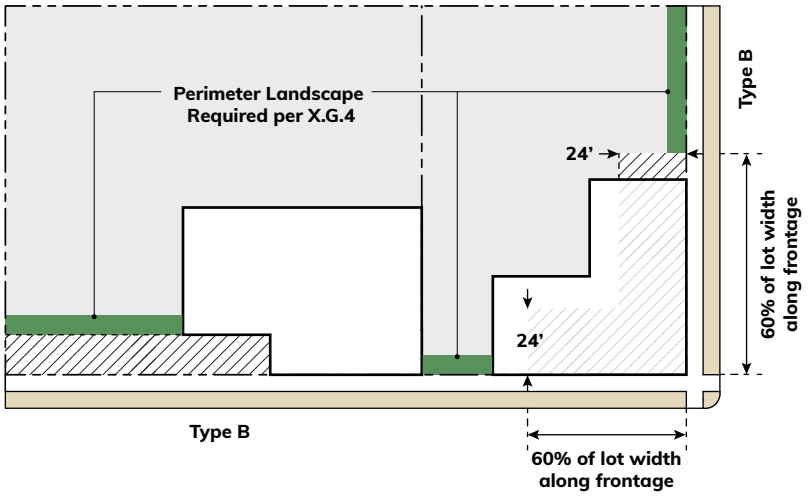
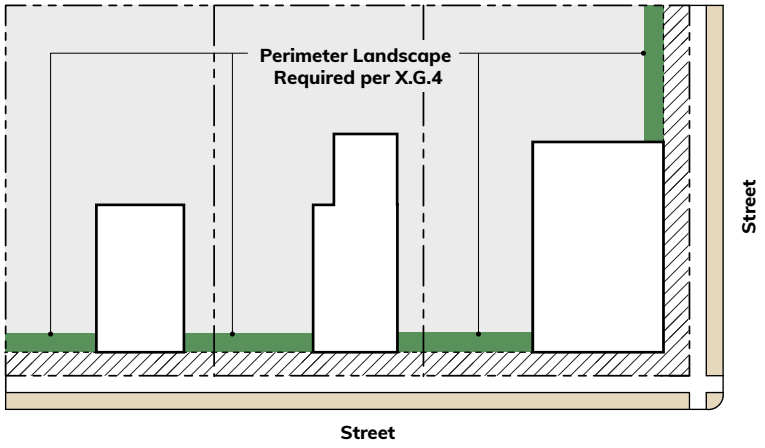
District and Street Type		Permitted Parking Location	Parking Access
DT-C and DT-G Districts	**Type A - Interior Lot**	Surface parking is prohibited within the first 24-ft, measured perpendicularly from the lot line abutting the Type A Street frontage, which is defined in Article 4 of this LDC.	Not permitted along a Type A Street frontage, unless no other means of access is available. Access lanes may be no wider than 12-ft for one-way traffic, or 24-ft for two-way traffic.
	Type A and Type B - Corner Lot *Corner lots with frontage along both a Type A and Type B Street as defined in* **Article 4** *of this LDC.*	**Type A Frontage:** Surface parking is prohibited within the first 24-ft, measured perpendicularly from the lot line abutting the Type A Street frontage. **Type B Frontage:** Surface parking is prohibited within the first 24-ft, measured perpendicularly from the lot line abutting the Type B Street frontage for the first 60% of the lot width along such frontage, measured from the corner. Parking is prohibited between the front building façade line and the front lot line, and between the corner side building façade line and corner side lot line.	Access is not permitted from a Type A Street frontage. From a Type B frontage, no access is permitted within the first 60% of lot width, measured from the corner. Access lanes may be no wider than 12-ft for one-way traffic, or 24-ft for two-way traffic.
	Type A Interior Lot & Type A and Type B Corner Lot Parking Location Diagram *Prohibited parking locations (as specified above) are depicted with a diagonal hatched pattern. Required perimeter landscape (***Sec. 9.4.4***) is shown in solid dark green. Permitted parking locations are depicted in light gray, subject to all other standards of this ordinance.*		
	Type B - Interior Lot	Surface parking is prohibited between the front lot line and the front building façade line.	Access lanes may be no wider than 12-ft for one-way traffic, or 24-ft for two-way traffic.
	Type B - Corner Lot *Corner Lots with frontage along two Type B Streets.*	Surface parking is prohibited within the first 24-ft, measured perpendicularly from the lot line abutting either Type B frontage, which is defined in Article 4 of this LDC) for the first 60% of the lot width, measured from the corner. Surface parking is prohibited between the front building façade line and the front lot line, and between the corner side building façade line and corner side lot line.	No access is permitted within the first 60% of lot width, measured from the corner. Access lanes may be no wider than 12-ft for one-way traffic, or 24-ft for two-way traffic.

Table 9-4: Parking Location and Access

DT-C and DT-G Districts	**Type B Interior Lot & Type B Corner Lot Parking Location Diagram** *Prohibited parking locations (as specified above) are depicted with a diagonal hatched pattern. Required perimeter landscape (**Sec. 9.4.4**) is shown in solid dark green. Permitted parking locations are depicted in light gray, subject to all other standards of this ordinance.*		
All Other Districts	**Interior Lot**	Surface parking is prohibited between the front building façade line and the front lot line, with the exception of the DT-I District. [1]	Access lanes may be no wider than 12-ft for one-way traffic, or 24-ft for two-way traffic.
	Corner Lot	Surface parking is prohibited between the front building façade line and the front lot line, and between the corner side building façade line and corner side lot line, with the exception of the DT-I District. [2]	No access is permitted within the first 40% of lot width, measured from the corner. Access lanes may be no wider than 12-ft for one-way traffic, or 24-ft for two-way traffic.
	Interior and Corner Lot Parking Location Diagram *Prohibited parking locations (as specified above) are depicted with a diagonal hatched pattern. Required perimeter landscape (**Sec. 9.4.4**) is shown in solid dark green. Permitted parking locations are depicted in light gray, subject to all other standards of this ordinance.*		

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

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

9.4.4 Parking Lot Screening

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

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

1. The perimeter parking lot landscape area shall be at least 8-ft in depth, measured from the edge of the parking area.

2. A minimum of 1 shade tree shall be provided for every 30-lf of perimeter parking lot landscape area.

i. Ornamental trees may be substituted for shade trees at a 2:1 ratio.

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

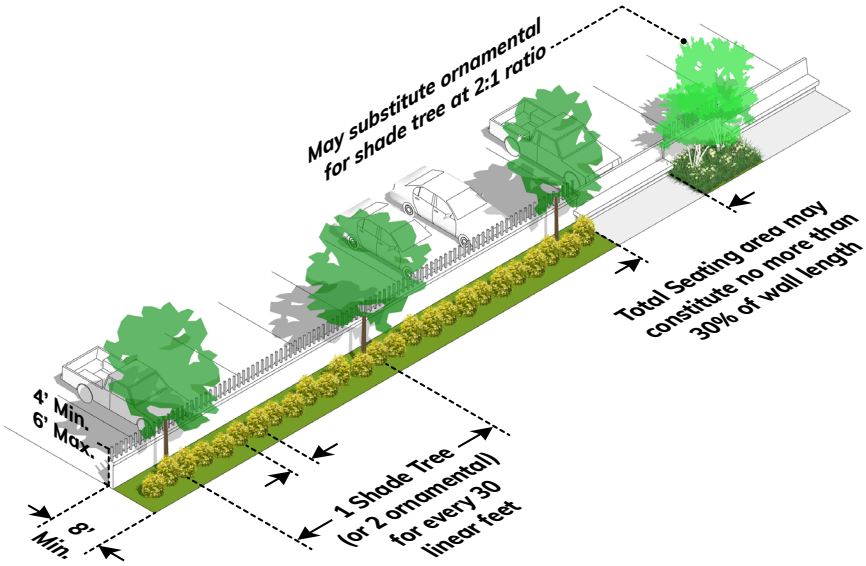
3. One evergreen shrub shall be planted for every 3-lf of perimeter area length. Shrubs may be varied in placement, rather than linearly spaced, but the total number of shrubs planted must equal 1 shrub per 3-lf. Shrubs must be at least 3-ft in height at maturity, and have a minimum spread of 2-ft. Shrubs are not required to be planted within 4-ft of a tree.

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

a. 60% of the area outside of the required shrub cover massing (measured at maturity) shall be planted with a combination of perennials, ornamental grasses, and/or groundcover plants. The remaining areas shall be mulch, or another permeable landscape surface.

b. A solid fence or wall constructed from wood, brick, or masonry (shall not be concrete block) that is a minimum of 4-ft to a maximum of 6-ft in height, located at the furthest point of the landscape area from the public right-of-way. Any portion of the fence or wall that exceeds 4-ft shall be semi-transparent or transparent.

i. Up to 30% of the total length of such wall may be designed as a seating wall. The minimum wall height does not apply to seating areas included in the wall.



5. If the area of the parking lot abutting a residential zoning district is an existing woodland, a 25-ft woodland buffer may be left in lieu of a perimeter landscape area.

6. The Planning Board may approve an alternative design for screening of parking lots from public rights-of-way as part of a site plan review, if they determine the proposed design generally meets the intent of this Article.

9.4.5 Interior Parking Lot Landscaping

A. **Parking lots of 10+ spaces.** For parking lots of 10 or more parking spaces, either 1 tree at least 3-in diameter as measured 6-in from the ground after planting, or groupings of 3 or more trees at least 6-ft tall or 2-in diameter as measured 6-in above grade after planting, shall be required at the ratio of 1 tree per 10 parking spaces.

B. **Parking lots of 50+ spaces.** For parking lots of 50 spaces or more the following landscaping standards apply in addition to any landscaping required for screening.

   1. The interior of the parking lot shall include landscaping covering not less than 10% of the total area of parking spaces.

   2. More than half of the required parking lot landscaping shall be either in continuous landscape strips or in large planting islands, which are a minimum of 95-sf, located entirely within the paved area of the parking lot, in order to break up the visual expansiveness of the lot.

   3. More than half of the planting areas shall be at least 8-ft wide, but shall not be less than 4-ft wide.

   4. Curbs, setbacks or other protection must be provided to prevent damage to trees and shrubs from vehicles.

   5. The Planning Board may approve an alternative design for interior landscaping of parking lots as part of a site plan review, if they determine the proposed design generally meets the intent of this Article.

9.5 PARKING STRUCTURE DESIGN STANDARDS

9.5.1 Screening of Parking Structures

A. Ground Floor. On portions of the ground floor façade of a parking structure that are visible from the public right-of-way and are not wrapped by tenantable space or used as ingress/egress points, screening shall be installed to a minimum height of 4-ft, and must consist of a solid wall or a decorative/semi-opaque fence or screen in combination with landscaping.

B. Above Ground Floor. On portions of the façade above the ground floor that are visible from the public right-of-way and are not wrapped by tenantable space, vehicles shall be screened from view by solid wall or panel a minimum of 4-ft in height. Any remaining openings must be vertically proportioned.

C. Rooftop Open-air Parking. Parking structures with rooftop open-air parking visible from the public right-of-way shall provide screening in the form of a parapet wall a minimum of 4-ft in height.

9.5.2 Clear Sight Zone

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

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

9.5.3 Type A Street Frontage

Parking structures fronting on Type A Streets in the Downtown Core District and Downtown Growth District as defined in Article 4 of this LDC shall provide tenantable space along a minimum of 80% of the total building length along the Type A Street, from the ground floor to the full height of the structure.

9.5.4 Type B Street Frontage

Parking structures fronting on Type B Streets in the Downtown Core and Downtown Growth Districts as defined in Article 4 of this LDC shall provide tenantable space along a minimum of 60% of the total building length along the Type B Street, on the ground floor.

ARTICLE 10. SIGNS

10.1 GENERAL 10-2

10.2 EXEMPT SIGNS 10-2

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10.11 PORTABLE SIGN 10-11

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10.13 TEMPORARY SIGNS 10-12

10.1 GENERAL

10.1.1 Purpose

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

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

10.1.2 Applicability

Unless otherwise provided in this Article, it shall be unlawful for any person to construct, erect, replace, alter, attach, or relocate within the City any sign or sign structure, as defined herein, without first obtaining a sign permit in accordance with Section 25.18 from the Community Development Department and demonstrating compliance with the provisions of this Article.

10.1.3 Substitution

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

10.2 EXEMPT SIGNS

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

Table 10-1: Signs Exempt from Sign Permit

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

10.3 PROHIBITED SIGNS

The signs in Table 10-2 shall be prohibited in every zoning district, unless noted otherwise in this Article.

Table 10-2: Prohibited Signs

Prohibited Sign Types	Exceptions
Abandoned / Nonapplicable	Monument Signs are allowed
Sign with a sign face area > 200 sf	-
Sign erected or attached to Central Square common or Railroad Square	The temporary use of handheld signs is allowed.
Animated Sign	Revolving Barber Poles 4-ft high by 1-ft wide or less *(may be internally illuminated & mounted on the business frontage)* 1 flag / tenant frontage that is 15-sf or less, removed at closing, attached to a wall, and does not interfere with travel or maintenance of the public right of way.
Channel Letter Signs & Reverse Channel Letter Sign	Allowed in BGR, DT-C, DT-G, DT-L, DT-E, CL, COM, CP, HC, I, IP, NB
Internally illuminated Sign	Allowed in BGR, DT-C, DT-G, DT-L, DT-E, CL, COM, CP, HC, I, IP, NB
Electrically Activated Changeable Copy Signs	-
Fluorescent Sign	-
Obscene Sign (per NH RSA 571-B:1)	-
Balloon Sign	Allowed as a Temporary Sign
Off-premises Sign	Allowed if permitted by state law
Reflectorized Sign	-
Roof Sign	May be mounted on architectural projections (e.g. canopies), eaves, or mansard facades
Snipe Sign	-

10.4 STANDARDS FOR ALL SIGNS

10.4.1 Placement and Location

A. Each sign shall be located on the same site as the subject of the sign.

B. No sign, other than signs placed by agencies of government with appropriate jurisdiction, shall encroach upon or over a public right-of-way without approval from City Council.

C. No sign shall cover any portion of any building wall opening or project beyond the ends or top of the building wall to which it is affixed.

10.4.2 Construction and Maintenance

A. No sign shall be erected, constructed, relocated, or otherwise maintained such that it does any of the following.

1. Obstructs the free and clear vision of motorists or pedestrians in their travels.
2. Causes distraction to motorists on adjacent public rights-of-way.
3. Obstructs, interferes with, or may be confused with any government sign, restrictive sign, directional sign or other authorized traffic sign, signal, or device.
4. Uses a revolving beacon.
5. Obstructs any ingress/egress, inhibits light and ventilation, or constitutes a fire hazard.

B. All signs and sign structures, including supports, braces, guys, and anchors, shall be kept in good repair and appearance in accordance with the provisions of this Article, and shall comply with all applicable construction standards, codes and regulations.

10.4.3 Sign Area

A. **Max Sign Face Area.** The maximum allowance for sign face area is included in Table 10-3 for wall-mounted signs, and Table 10-4 for freestanding signs, unless otherwise noted in this Article.

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

C. Freestanding Sign Area. The total freestanding sign area for a lot is derived by calculating the sum of sign areas for each freestanding sign on a site.

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

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

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

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

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

Table 10-5: Rules of Sign Measurement

Measurement		Calculation

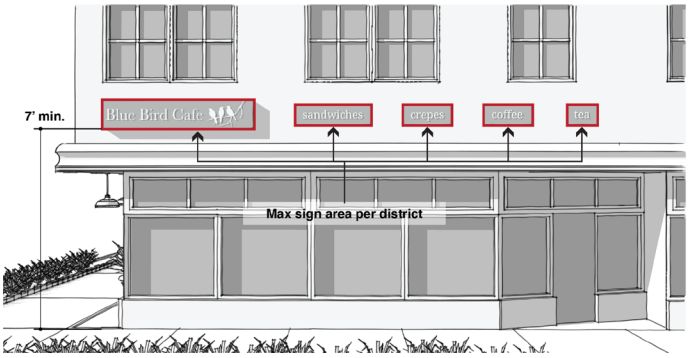
Sign Face Area	Free-standing Sign:	• The sign structure area *(excluding the portion of the structure base that contains no sign copy or related display)* shall be included in the measurement of sign face area.
		  ◦ Rectangular Sign Face Area = Length x Width
		  ◦ Round Sign Face Area = Pi (3.14159265) x radius²
		• Signs with multiple sign faces oriented in the same direction shall have all sign faces counted together as one.
		• Only 1 side of a double-sided sign face is counted.
		• Ratio of sign area to sign face is equal to 3:1 for monument signs and 2:1 for all others.

	Wall Sign:	• Sign face area = Perimeter around the sign copy • When sign copy is constructed of individual components attached to a building wall, sign face area shall be the perimeter around each component. • When signs are incorporated into canopies or awnings, the entire panel containing the sign copy is counted as the sign face area.
Sign Height		Measured from the grade directly below the sign to the highest point of the sign or sign structure.
Sign Clearance		Measured from the grade directly below the sign to the bottom of the sign structure enclosing the sign face.

10.5 PARALLEL SIGN STANDARDS

10.5.1 Defined

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



10.5.2 Standards

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

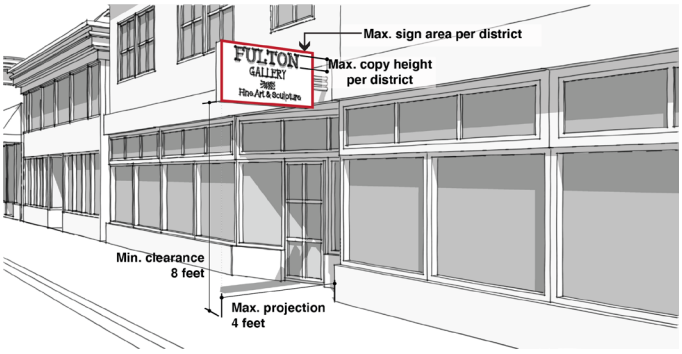
Table 10-6: Parallel Sign Dimensional Requirements

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

10.6 PROJECTING SIGN STANDARDS

10.6.1 Defined

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



10.6.2 Standards

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

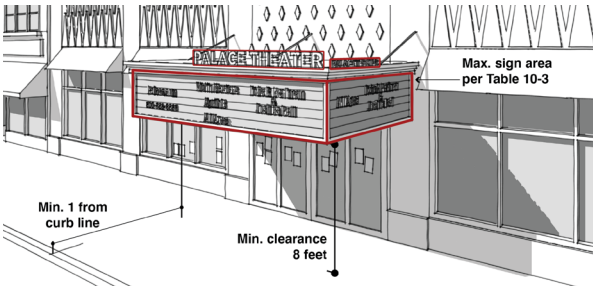
Table 10-7: Projecting Sign Dimensional Requirements

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

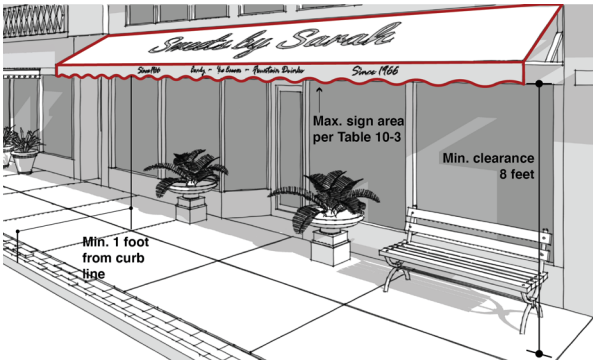
10.7 MARQUEE, AWNING, OR CANOPY SIGNS

10.7.1 Defined

A. Marquee. A Marquee Sign is attached to or made part of a permanent roof-like structure projecting beyond a building wall at an entrance to a building or extending along and projecting beyond the building's wall.



B. Awning/Canopy. An Awning or Canopy Sign is a sign painted or attached to a roof-like covering affixed to a building and extending over a walkway or sidewalk. This covering may consist of vinyl, canvas, or similar material. This sign type may also be attached to a freestanding, multi-sided structure supported by columns.



C. Vehicle Fueling Station Marquee. A sign at a vehicle fueling station attached to a permanent roof-like structure, including the structural support system, generally designed and constructed at a vehicle fueling station to provide protection against the weather.

10.7.2 Standards

A. Surface and/or soffits of a freestanding canopy may be illuminated by means of internal or external sources of light.

B. The sign face area of Vehicle Fueling Station Marquee signs shall be subtracted from the max allowable freestanding sign area of the district in which the sign is located.

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

	All Zoning Districts & Legally Non-Conforming Commercial Property
Max Sign Area:	See Table 10-3
Min Clearance:	8 ft
Min Setback from Curbline:	1 ft
Location of Sign Area:	• May have signage on the front, side, or ends of the marquee, awning, or canopy, and/or any combination thereof. • All such signage shall be considered as 1 sign, and may contain the same message or logo.
Messages or Logos:	If any sign front, side, or end is greater than 10 ft in length, a message or logo may be repeated up to 3 times, provided each is 5 ft in length.

10.8 FREESTANDING SIGN

10.8.1 Defined

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

10.8.2 Standards

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

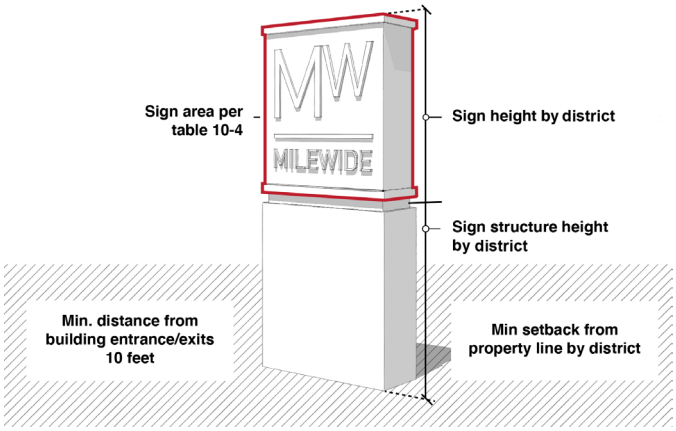


Table 10-9: Freestanding Sign Dimensional Requirements

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

10.9 DEVELOPMENT SIGN

10.9.1 Defined

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

10.9.2 Standards

A. Shall only be externally illuminated.

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

C. Shall be located on the side of the road or in an island if the road is divided.

D. Shall be located either on public land or private land owned by the developer. If located on private land, said land must be owned by and a part of the development. If located within a city right-of-way, City Council permission shall be required prior to the erection and construction of said sign.

E. No temporary sign shall be attached to or otherwise hung from a development sign or any part thereof, including the sign structure.

F. If a development is owned by more than 1 person, the application for a sign permit shall be signed by all persons that represent more than 80% of the land of the development.

Table 10-10: Development Sign Dimensional Requirements

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

10.10 DRIVE-THROUGH & CHANGEABLE COPY SIGN

10.10.1 Defined

A. Drive-Through. A Drive-Through Sign is a sign constructed along drive-through lanes for drive-through facilities. A drive-through sign does not include parking lot, parking structure, and site circulation point signs.

B. Changeable Copy. A Changeable Copy Sign is a sign whereon provision is made for letters, characters, or other copy to be placed in or upon the surface area to provide a message that is capable of being changed.

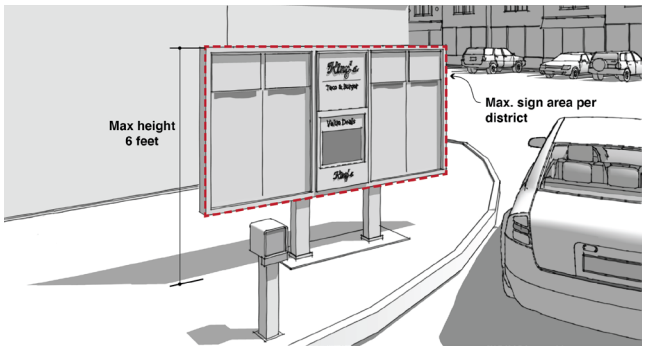


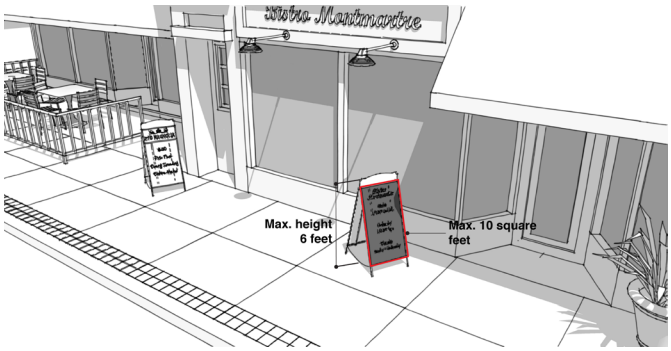
Table 10-11: Drive-Through Sign & Changeable Copy Sign Dimensional Requirements

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

10.11 PORTABLE SIGN

10.11.1 Defined

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



10.11.2 Standards

A. Shall be subject to requirements of Chapter 46 of City Code of Ordinances.

B. Shall be stored indoors during storms and after business hours by the sign owner.

Table 10-12: Portable Sign Dimensional Requirements

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

10.12 SPECIFIC STANDARDS FOR SIGNS IN DT-C AND DT-L DISTRICTS

The following standards shall apply to signs in the Downtown Core (DT-C) and Downtown Limited (DT-L) Districts, in addition to all other applicable standards in this Article.

10.12.1 Sign Placement

A. Signs shall not cover significant architectural features of the building or facade.

B. Signs shall not override the architectural limits set by the building's facade, window spacing, lintel depth, or pediment size.

C. If a natural spacing is provided for on the facade, the sign shall be placed within it.

10.12.2 Sign Colors

A. Any 1 sign shall be limited to no more than 5 principal colors on the sign.

1. If natural wood is used in the sign, it shall count as 1 of the 5 principal colors.
2. An additional color may be used for a border, piping, and/or shadow; but, it shall not exceed 10% of the square footage of the sign.

B. Any number of colors may be used in an emblem/logo/picture that does not exceed 20% of the square footage of the sign.

C. The background color of signs shall be limited to dark crimson, dark green, dark brown, dark blue, black, dark gray, dark purple, dark gold, or shades of white.

10.12.3 Sign Area for Multi-Story Buildings

A. The second building story above grade plane shall only be allowed to have a sign(s) that is 50% of the calculated first story ground floor area.

B. All other stories higher than the second story above grade shall only be allowed to have a sign(s) that is 30% of the calculated first story ground floor area.

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

10.12.4 Business Directory Signs

A. Only 1 business directory sign per tenant frontage is permitted.

B. The maximum dimensions of a business directory sign shall be 2-ft wide by 4-ft high.

C. Each panel within the main business directory sign frame shall be no more than 6-in high.

10.12.5 Internally Illuminated Signs

A. Internally illuminated signs shall only be installed inside the glass.

B. The total sign area of all internally illuminated signs shall be no more than 5-sf per tenant frontage.

10.13 TEMPORARY SIGNS

10.13.1 Temporary Sign Permit

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

10.13.2 Duration of Temporary Sign Permit

A. Permits for temporary signs shall be valid for 14-days, after which time the temporary sign shall be removed.

B. In any 1 calendar year, a subsequent temporary sign permit may be issued, only after the previous temporary sign permit has expired and the sign has been removed for at least 30-days.

C. Only 4 temporary sign permits shall be issued in any 1 calendar year to the same property owner or applicant.

D. A single permit for a temporary sign shall include all such temporary signs on the premises.

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

10.13.3 Exceptions

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

10.14 REMOVAL OF SIGNS

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

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

Table 10-13: Temporary Signs Exempt from Permit Requirements

Temporary Sign Type	Condition for Permit Exemption
Signs with sign face area < 6-sf	• Specific to the following districts: A; C; R; LD; LD-1; MD; HD; HD-1; O; DT-T; NB; DT-C; DT-L; RP. • Only 1 sign allowed per lot
Sign with sign face area < 32-sf	• Specific to the following districts: BGR; COM; CP; DT-G; DT-E; DT-I; HC; I; IP • Only 1 sign allowed per lot
Mobile Vendor Signs	• Vendors shall be licensed and selling merchandise on the property. • The total sign area of all signs on a lot shall not exceed 12-sf
Business Relocation Signs	• Sign face area shall not exceed 24-sf. • Shall be removed within 45-days after the business has been relocated.
Construction Activity	• Shall be limited to 1 sign per lot for any development when building permits have been issued. • Total sign face area shall not exceed 48-sf. • Shall be removed within 20-calendar days after the last structure has been initially occupied or upon expiration of the building permit, whichever is sooner.
Temporary Event Signs	• Only allowed in the COM and DT-G Districts. • Signs shall not exceed 4-ft by 8-ft • Shall not be placed in or within 10-ft of any travel lane or driveway. • May be displayed 2-weeks prior to the event, plus the duration of the event. • Shall be removed within 24-hrs after the event concludes. • Shall not be internally or externally illuminated • Shall be separated from other sites containing other actively permitted periodic event signs by a 1,000-ft separation as measured from property line to property line. • May be subject to Chapter 46 of City Code of Ordinances
Posters, bulletins, banners, notices displayed inside windows	Total sign area shall not exceed 10% of total window area of any building elevation and shall not exceed 10-sf on each building elevation
Off-site Open House Signs	Shall be removed at the end of the day of the open house.
Temporary Signs on Public Property	Subject to requirements of Chapter 46 of the City Code of Ordinances

ARTICLE 11. SURFACE WATER PROTECTION OVERLAY DISTRICT

11.1 PURPOSE 11-2

11.2 APPLICABILITY 11-2

11.3 DISTRICT DEFINED 11-2

11.4 PROHIBITED USES 11-3

11.5 PERMITTED USES 11-3

11.6 CONDITIONAL USE PERMIT 11-5

11.1 PURPOSE

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

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

11.2 APPLICABILITY

11.2.1 Generally

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

11.2.2 Conditional Use Permit

A surface water protection conditional use permit issued by the Planning Board may be required as specified in Section 11.6 of this Article for certain uses to occur or structures be constructed, enlarged, relocated, or altered within the Surface Water Protection Overlay District.

11.2.3 Renovations & Repairs

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

11.2.4 Exemptions

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

A. Manmade ditches, swales, sedimentation/ detention/retention basins or ponds legally constructed to collect, convey, treat or control stormwater runoff

B. Manmade agricultural/irrigation ponds

C. Fire ponds and cisterns

D. Ditches, streams or waterways that have been constructed or altered to manage drainage and/ or flooding, and are commonly referred to as "tax ditches".

11.3 DISTRICT DEFINED

11.3.1 District Definition

A. **District Boundary.** The Surface Water Protection Overlay District is an area of land buffering all surface waters, which include perennial and seasonal streams, lakes, ponds, wetlands and wetland complexes, vernal pools, fens and sloughs.

B. **Surface Water Buffer.** The Surface Water Protection Overlay District buffer area is measured on a horizontal plane from either the top of the bank of a stream, or the ordinary high water mark of a river, or the reference line of a lake or pond, or the delineated edge of a wetland or change in soil type.

1. In the Rural, Agriculture, and Conservation Zoning Districts, the Surface Water Protection District is a 75-ft wide buffer.
2. In all other zoning districts, the Surface Water Protection District buffer is 30-ft wide.

C. **Buffer Reduction.** In specific cases, the Surface Water Protection District buffer area may be reduced to 30-ft in zoning districts requiring a 75-ft buffer and to 10-ft in zoning districts requiring a 30-ft buffer, at the discretion of the Planning Board, and if the applicant for a

surface water protection conditional use permit provides extraordinary mitigation, replication, and/or restoration of surface waters and wetlands, and/or open space preservation measures.

11.3.2 Determination of Surface Water Boundaries

A. The location, area, and limits of all surface waters shall be field determined and delineated by a NH certified Wetland Scientist.

1. Any surface water delineation completed without clear evidence of vegetation, from the current or prior growing season, shall be verified during the subsequent growing season at the owner's expense.

a. If, upon future investigation, the surface water boundaries vary from the initial delineation, a revised plan shall be submitted to the Community Development Department. Any development shown on the revised plan shall be in compliance with this Article.

B. In determining the size of a surface water body, any portion of the surface water that may be located on an adjacent parcel or in an adjacent municipality shall be included based on best available information.

C. Roads, drainage culverts, or other man-made features shall not constitute an interruption in the delineation of the size of the surface water.

D. Where an area is not designated on a plan as a surface water and the Planning Board, after consultation with the Community Development Department and the Conservation Commission, believes it to be a surface water, the Planning Board may require the applicant to supply the findings of a NH certified Wetland Scientist as to the character of the area, at the expense of the applicant.

11.4 PROHIBITED USES

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

A. Subsurface wastewater disposal systems

B. Salt storage including the storage of road salt or sand treated with road salt

C. Automobile junk yards, salvage yards, service or repair shops

D. Hazardous waste facilities

E. Bulk storage of chemicals, petroleum products or hazardous materials, in amounts greater than those for household or agricultural use

F. Earth excavation operations as defined in Article 24

G. Off-site dumping or disposal of snow and ice collected from roadways or parking areas, not including snow-plowing of existing roadways

H. Storage or disposal of solid waste, liquid or leachate waste, animal wastes or by-products

I. Landfills, solid waste transfer stations, recycling facilities, incinerators, or composting facilities.

J. Animal feedlot operations

11.5 PERMITTED USES

The following are permitted in the Surface Water Protection Overlay District without a surface water protection conditional use permit, subject to any provisions specified in this Article.

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

1. Best Management Wetlands Practices for Agriculture in NH (NH Department of Agriculture, July 1993)

2. The Manual of Best Management Practices for Agriculture in NH (NH Department of Agriculture, current edition)

B. Forestry, tree farming, and logging operations, subject to Best Management Practices for forestry, and compliance with all related state and local laws. Forestry BMPs shall be as stated in the following manuals, as they may be amended.

1. Best Management Practices for Erosion Control on Timber Harvesting Operations in NH (NH Department of Resources and Development, current edition)
2. Best Management Practices for Forestry: Protecting NH's Water Quality (UNH Cooperative Extension, current edition)

C. Water impoundments when required state or federal permits have been issued

D. Ground water withdrawal well for a single-family dwelling or two-family dwelling, and wells for the City drinking water supply

E. Geothermal heating and cooling systems (e.g. groundwater wells and subsurface heat exchange installations)

F. Trails constructed and maintained in accordance with Best Management Practices for trails as stated in the manual, Best Management Practices for Erosion Control During Trail Maintenance and Construction (NH Bureau of Trails, 2004), as may be amended.

G. Wildlife or fisheries management activities.

H. Educational activities and scientific research consistent with the purpose and intent of this Article.

I. New driveways for single- and two-family dwellings subject to the following provisions.

1. The driveway serves to access uplands on a lot(s) of record that existed at the time this Overlay District was first adopted.
2. The driveway provides access to no more than 2 existing lots on a shared driveway.
3. There is no reasonable alternative location for development on the lot that would avoid the disturbance of lands within the Surface Water Protection Overlay District.
4. The driveway is designed to minimize any disruption to lands within the Surface Water Protection Overlay District.
5. All applicable NH Wetlands Bureau permits have been acquired for any proposed disturbance of surface waters regulated by the State.
6. All surface water resources and applicable buffer areas have been delineated by a NH certified Wetland Scientist and are shown as part of a Street Access Permit application.

J. All normal maintenance of existing roadways and utilities, including winter maintenance

K. Repair, repaving, replacement, and reconstruction of existing roads, bridges, culverts and drainage systems and utilities

L. Construction of compensatory flood storage under Article 23 as long as no part of the compensatory flood storage excavation is within a wetland and subject to the issuance of a Floodplain Development Permit according to Section 25.17.

M. Construction of new or expansion of existing single-family or two-family dwellings and associated accessory structures on lots that legally existed at the time this Overlay District was first adopted, provided that the following criteria are met. The Zoning Administrator shall be responsible for determining whether these criteria are met.

1. It is not feasible to place the structure on a portion of the lot that is located outside of the Surface Water Protection Overlay District.
2. The structure is set back as far as reasonably possible from the edge of the surface water.
3. Applicable erosion control measures are in place prior to and during construction.

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

11.6 CONDITIONAL USE PERMIT

11.6.1 Activities Subject to Conditional Use Permit

A. A surface water protection conditional use permit issued by the Planning Board shall be required for the following uses or structures when proposed to be located within the Surface Water Overlay Protection District.

1. Construction of a new structure or expansion of an existing structure, with the exception of those structures specified in Section 11.5, which expands the footprint of such structure within the Surface Water Protection Overlay District
2. Creation of new lots by subdivision that would require the disturbance or crossing of lands within the Surface Water Protection Overlay District.
3. Construction of new roads, driveways (excluding single- and two-family driveways), and parking lots.
4. Construction of new stormwater management facilities and structures or improvements, including but not limited to, sedimentation/detention/retention ponds, drainage swales, and erosion control devices.
5. Construction of compensatory flood storage excavation under Article 23 that requires the issuance of a wetland permit.

B. A surface water protection conditional use permit shall not be required for impacts to areas within the Surface Water Protection Overlay District that are under the jurisdiction of the NH Department of Environmental Services and when the state has issued a wetlands permit or shoreland permit.

11.6.2 Conditional Use Permit Standards

The Planning Board shall issue a surface water protection conditional use permit for the activities described in Section 11.6.1, if it finds that all of the following criteria have been met.

A. The proposed use and/or activity cannot be located in a manner to avoid encroachment into the Surface Water Protection Overlay District.

B. Encroachment into the buffer area has been minimized to the maximum extent possible, including reasonable modification of the scale or design of the proposed use.

C. The nature, design, siting, and scale of the proposed use and the characteristics of the site, including but not limited to topography, soils, vegetation, and habitat, are such that when taken as a whole, will avoid the potential for adverse impacts to the surface water resource.

D. The surface water buffer area shall be left in a natural state to the maximum extent possible. The Planning Board may establish conditions of approval regarding the preservation of the buffer, including the extent to which trees, saplings and ground cover shall be preserved.

1. Dead, diseased, unsafe, fallen or invasive trees, saplings, shrubs, or ground cover may be removed from the surface water buffer area.
2. Tree stumps and their root systems shall be left intact in the ground, unless removal is specifically approved in conjunction with a surface water protection conditional use permit granted by the Planning Board. The stumps and root balls of exotic, invasive

species may be removed by hand digging and/or hand cutting.

3. Preservation of dead and living trees that provide dens and nesting places for wildlife is encouraged. Planting of native species of trees, shrubs, or ground cover that are beneficial to wildlife is encouraged.

4. Where there has been disturbance or alteration of the surface water buffer during construction, revegetation with native species may be required by the Planning Board.

E. The Planning Board may consider the following to determine whether allowing the proposed encroachment will result in an adverse impact on the surface water resource.

1. The size, character, and quality of the surface water and the surface water buffer being encroached upon.
2. The location and connectivity of the surface water in relation to other surface waters in the surrounding watershed.
3. The nature of the ecological and hydrological functions served by the surface water.
4. The nature of the topography, slopes, soils, and vegetation in the surface water buffer.
5. The role of the surface water buffer in mitigating soil erosion, sediment and nutrient transport, groundwater recharge, flood storage, and flow dispersion.
6. The extent to which the surface water buffer serves as wildlife habitat or travel corridor.
7. The rate, timing and volume of stormwater runoff and its potential to influence water quality associated with the affected surface water or any associated downstream surface waters.
8. The sensitivity of the surface water and the surface water buffer to disruption from changes in the grade or plant and animal habitat in the buffer zone.

11.6.3 Conditional Use Permit Application Procedure

All applications for a surface water protection conditional use permit under this Article shall be made to the Planning Board and submitted to the Community Development Department following the procedures set forth in Section 25.14 of this LDC for conditional use permits, as they may be amended, and those listed below.

A. Referral to the Conservation Commission

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

B. Submission requirements

In addition to the materials required in Section 25.14 for a conditional use permit, an applicant for a surface water protection conditional use permit shall submit the following items as part of their application.

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

encroachment into the Surface Water Protection Overlay District.

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

C. Boundary Markers

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

ARTICLE 12. HILLSIDE PROTECTION OVERLAY DISTRICT

12.1 PURPOSE 12-2

12.2 APPLICABILITY 12-2

12.3 DESIGN & USE STANDARDS 12-3

12.4 CONDITIONAL USE PERMIT REQUIREMENTS 12-6

12.1 PURPOSE

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

12.2 APPLICABILITY

12.2.1 District Defined

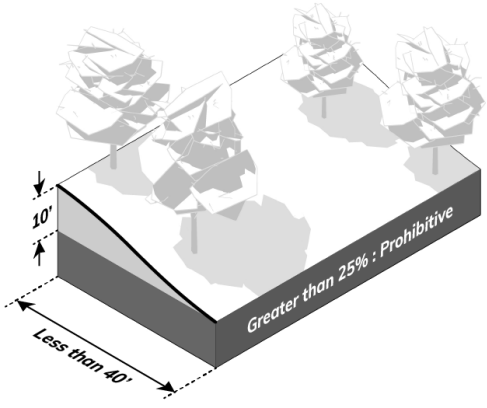
A. The standards set forth in this Article shall apply to all land area with prohibitive and/or precautionary slopes as defined below.

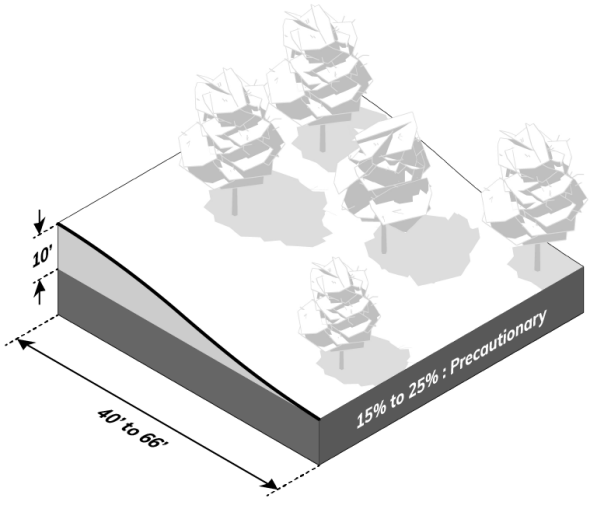
1. **Prohibitive Slopes.** Prohibitive slopes are slopes of greater than 25% where any land area has an elevation gain of greater than 10-ft over a horizontal distance of 40-ft or less.
2. **Precautionary Slopes.** Precautionary slopes are slopes of 15% and up to 25% where any land area has an elevation gain of 10-ft over a horizontal distance between 66-ft and 40-ft.

B. Slopes in excess of 15% that were constructed during the lawful development of a site in accordance with this Article shall not count toward the future delineation of steep slopes.

C. All new construction or improvements on land areas within the Hillside Protection Overlay District shall comply with the applicable standards set forth in this Article, in addition to any other applicable regulations in this LDC or the City Code of Ordinances.

1. An evaluation for compliance with this Article shall be performed by the City Engineer at the time of application for any subdivision, site plan, building permit, street access permit, or conditional use permit. The City Engineer may require special studies or information in order to make this determination. Upon completion of their review, the City Engineer shall advise the appropriate review and decision making authority regarding compliance of the application with the standards of this Article.
2. The City Engineer shall refer all Street Access Permit applications with driveway layouts that affect land areas subject to this Article to the Planning Board for approval.





12.2.2 Conditional Use Permit

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

12.2.3 Interpretation of Boundaries

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

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

12.3 DESIGN & USE STANDARDS

12.3.1 Generally

A. Development, including clearing, grading and construction, on all land areas in the Hillside Protection Overlay District shall be designed, sited, or carried out in a manner that does not cause undue adverse impact to the physical environment and shall provide for the retention of native soil, stabilization of slopes, and prevention of erosion or sedimentation of streams and watercourses.

B. Existing natural and topographic features, including vegetative cover, shall be retained on lands subject to this Article, except where removal of vegetation and grading are expressly permitted in accordance with the standards set forth herein.

C. Structures, where permitted, shall be designed and sited in a manner that limits the removal of vegetation and grading, and avoids natural features such as prominent knolls, ridgelines, ravines, and natural drainage courses.

D. Erosion and sediment control measures, soil stabilization measures and stormwater management systems shall be designed and installed in accordance with best management practices, contained in the most recent version of "Erosion and Sediment Control Design Handbook for Developing Areas of New Hampshire" and shall be adequate to mitigate potential adverse impacts associated with the disturbance of steep slopes, during and after construction.

12.3.2 Prohibitive Slope Standards

A. The following shall not be permitted within prohibitive slope areas except as expressly indicated in Section 12.3.2.B.

1. Removal of vegetation
2. Grading of slopes
3. Erection of buildings
4. Addition of impermeable surfaces
5. Installation of sewage disposal systems, new streets
6. Removal of native soil

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

1. Construction of a new driveway across a prohibitive slope area to access a new single-family dwelling on a lot that existed at the time this Article was adopted, provided that there is no alternative driveway location that would avoid the prohibitive slope.
2. Expansion of a building that existed either wholly or partially within the prohibitive slope area at the time this Article was adopted, provided that:
   a. The area of the expanded footprint within the prohibitive slope area does not exceed 25% of the portion of the original footprint located in the

prohibitive slope area; and

b. No additional future expansion within the prohibited slope area shall be permitted.

3. Installation of public or private utility lines (e.g. power, phone, cable, gas, water, sewer, and storm drainage) when it can be demonstrated that there is no other alternative for siting the utility line.

4. Earth excavation operations subject to standards set forth in Article 24 of this LDC.

5. Forestry, logging or woodcutting activities allowable under state law, and permitted and performed in accordance with any state requirements and Best Management Practices.

6. Construction of trails, ski lift towers and lift service roads associated with commercial alpine or cross-country ski activities.

12.3.3 Precautionary Slope Standards

A. The following shall be permitted in precautionary slope areas subject to the standards set forth in this Article.

1. Installation of public or private utility lines (e.g. power, phone, cable, gas, water, sewer, and storm drainage) when it can be demonstrated that there is no other alternative for siting the utility line.

2. Earth excavation operations subject to standards set forth in Article 24 of this LDC.

3. Forestry, logging and/or woodcutting activities allowable under state law and permitted and/or performed in accordance with any state requirements and Best Management Practices.

4. Construction of trails, ski lift towers and lift service roads associated with commercial alpine or cross-country ski activities.

5. Agricultural activities with the exception of any structures.

B. The following shall be permitted if removal of vegetation, grading of slopes, erection of buildings, addition of impermeable surfaces, installation of sewage disposal systems, and/or removal of native soil does not exceed a total of 20,000-sf of precautionary slope area on an individual lot. This limit of 20,000-sf may be increased subject to the issuance of a hillside protection conditional use permit issued by the Planning Board.

1. Construction of a single-family dwelling or accessory structures normally associated with residential uses (e.g. garage, shed, barn).

2. Construction of a driveway or shared driveway.

a. For shared driveways, the area of removal of vegetation, grading of slopes, addition of impermeable surfaces, or removal of native soil within the shared portion of the combined driveway shall not count toward the limit of 20,000-sf.

3. Construction of a city street or private road.

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

A. Trails located on prohibitive or precautionary slopes that are associated with commercial outdoor recreation uses shall:

1. Meet Best Management Practices for trail design and stormwater management;

2. Be sited to follow natural contours of the slope; and,

3. Retain and reuse old farm roads or old logging roads to limit clearing and disruption of the landscape.

B. Service roads located on prohibitive or precautionary slopes that are associated with commercial outdoor recreation uses shall:

4. Not exceed a 15% slope at any point along the grade of the service road;

5. Not exceed a 16-ft travel lane width and 1-ft shoulder width on either side; and,

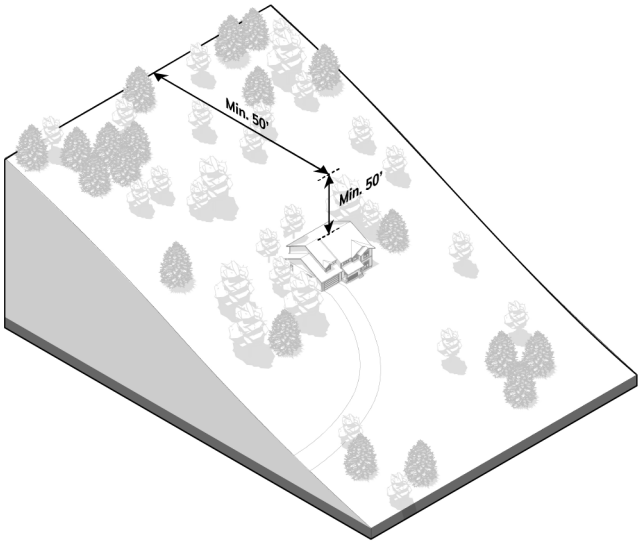
6. Follow the natural contours of the slope to minimize disturbance of vegetation and

soils.

C. Cutting and filling of slopes to accommodate ski trails or service roads crossing prohibitive and precautionary slope areas shall be limited and shall comply with applicable grading standards set forth in Section 12.3.5 of this LDC.

12.3.5 Site Preparation, Grading, & Construction Standards

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

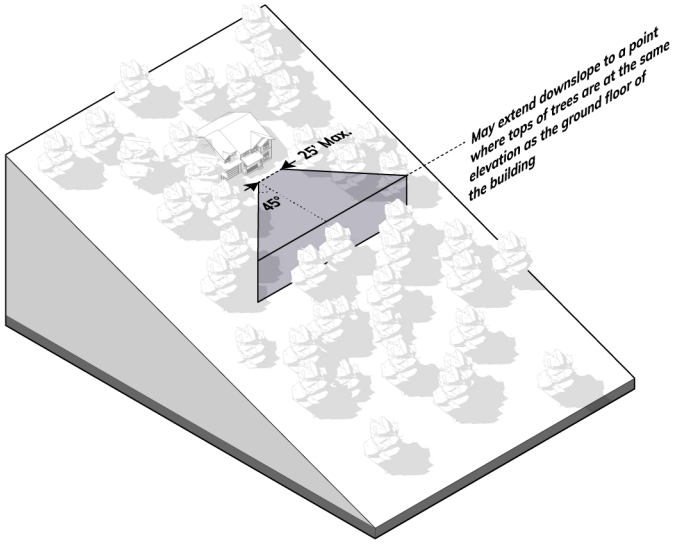


B. Structures built on prohibitive or precautionary slopes shall be set into topography using partial earth sheltering.

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

12.3.6 View Clearing

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



B. A plan detailing any proposed clearing for views on prohibitive or precautionary slopes shall be submitted with applications for subdivisions, site plan review, or building permits.

12.3.7 Drainage & Stormwater Management

A. A drainage management system designed to accommodate the stormwater volumes associated with a 50-yr, 24-hr storm event shall be required to manage stormwater runoff from all new impervious surfaces located on land areas subject to this Article.

B. Runoff shall be dispersed within the subject lot.

C. Natural drainage courses shall not be disturbed and shall be incorporated as an integral part of the drainage and stormwater design.

12.4 CONDITIONAL USE PERMIT REQUIREMENTS

A. All applications for a hillside protection conditional use permit under this Article shall be made to the Planning Board and submitted to the Community Development Department following the procedures set forth in Section 25.14 of this LDC for conditional use permits, as they may be amended.

B. **Submission requirements.** In addition to the application materials required for a conditional use permit in Section 25.14, applicants for a hillside protection conditional use permit shall submit the following materials.

1. A proposed conditions plan and an existing conditions plan signed and stamped by a NH licensed engineer or surveyor, which include the following information.

a. The boundaries of the existing parcel and any proposed parcel(s).

b. A depiction of topographic features based on a field survey or aerial photogrammetry with contour intervals of 2-ft or less.

c. A delineation of all prohibitive and precautionary slope areas on the lot(s), the size of each area identified, and a calculation of the total area of prohibitive and precautionary slopes on the parcel.

d. The limits and area calculations of proposed land areas within the precautionary slope areas that will be subject to clearing of vegetation and grading.

e. The location of all existing and proposed:

i. Structures, including the area of any proposed expansions to an existing structure

ii. Driveways and parking areas and a profile showing the slope of any proposed driveway that will cross a precautionary or prohibitive slope area

iii. On-site wells and septic systems and any test pits

iv. Roads and trails

v. Public or private utility lines

vi. Earth excavation operations

vii. Ski trails, ski lift towers, and lift service roads

f. Any other information necessary to demonstrate compliance with this Article.

ARTICLE 13. TELECOMMUNICATIONS OVERLAY DISTRICT

13.1 GENERAL..... 13-2

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13.1 GENERAL

13.1.1 Purpose

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

13.1.2 Applicability

A. This Article shall apply to all telecommunications facilities within the City, with the exception of those facilities listed in Section 13.1.3.

B. The Telecommunications Overlay District includes Zone 1, Zone 2, and Zone 3, which are displayed on the View Preservation Overlay Map dated March 2019 (see Figure 13-1). This map is adopted as an overlay to the official Zoning Map, as may be amended.

C. Telecommunications facilities shall not be considered infrastructure, essential services, or public utilities as defined or used elsewhere in this LDC or the City's ordinances and regulations.

13.1.3 Exemptions

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

A. Concealed or camouflaged facilities located on property owned, leased, or otherwise controlled by the City, not including the public right-of-way. This infrastructure shall only be permitted in locations of the City delineated in Figure 13-1 View Preservation Overlay Map. For this exemption to apply, a license or lease approved by City Council authorizing such antenna or tower shall be required.

B. Private use residential satellite dishes, antennas for wireless internet access, private wireless ham communication antennas, or the installation of any tower or antenna less than 70-ft in height that is owned and operated by a federally licensed amateur radio station operator.

C. Telecommunications facilities placed on existing mounts, building or structures, or modifications to existing telecommunications facilities provided that the proposed facility or facilities do not meet the definition of substantial modification per NH RSA 12-K.

D. Concealed Facilities that are located inside a building or structure and are concealed entirely from view.

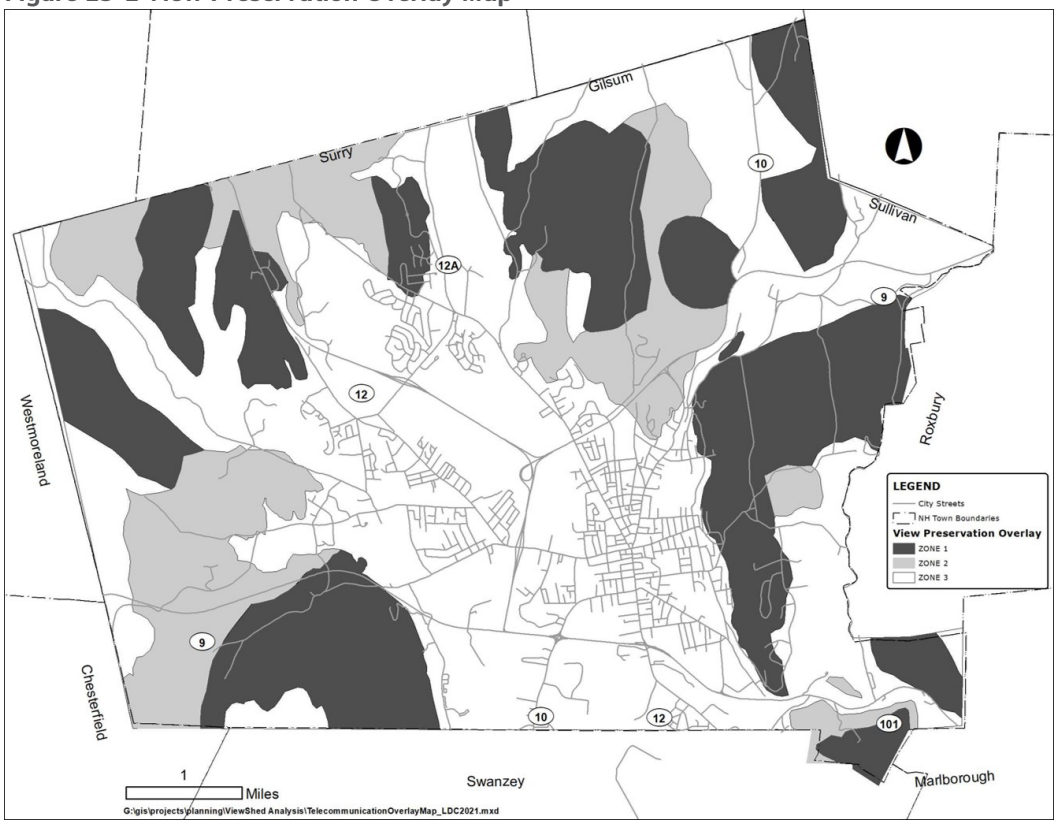
13.1.4 Conformity

A. All telecommunications facilities shall be constructed, installed, and maintained in compliance with local building codes, city ordinances, as well as all applicable state and federal regulations, including the Federal Aviation Administration (FAA) and Federal Communications Commission (FCC), and any other agency of the federal government with the authority to regulate towers and antennas.

B. If federal standards or regulations applying to towers and antennas are amended, the owners of the towers and antennas governed by this Article shall bring such towers and antennas into compliance with the revised standards or regulations within 6-months of their effective date, unless a more stringent compliance schedule is mandated by the controlling federal agency.

1. Failure to bring towers and antennas into compliance with revised federal standards or regulations shall constitute grounds for their removal at the owner's expense through execution of the posted security.

Figure 13-1 View Preservation Overlay Map



13.2 USE REGULATIONS

The telecommunication facilities listed in Section 13.2 are deemed to be permitted uses subject to the requirements of this Article and shall require a building permit, a telecommunications conditional use permit, and/or major site plan review.

13.2.1 Telecommunications Facilities within the Public Right-of-Way

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

13.2.2 Collocation of facilities

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

13.2.3 Modification of Existing Facilities

The replacement or alteration of an existing telecommunications facility within a previously approved equipment compound or upon a previously approved mount is allowed in all zoning districts provided it does not meet the definition of substantial modification as defined in NH RSA 12-K, and is subject only to the issuance of a building permit.

13.2.4 Concealed Facilities

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

13.2.5 Camouflaged telecommunication facilities

The installation of new ground-mounted towers and antennas, if camouflaged, or a substantial modification to an existing tower or mount that would maintain its camouflage, may occur within Zone 2 or Zone 3 of the View Preservation Overlay (Figure 13-1). All camouflaged facilities shall require the issuance of a building permit, conditional use permit, and major site plan review.

13.2.6 Ground-Mounted Towers & Antennas

The installation of new ground-mounted towers and antennas which are not camouflaged, or a substantial modification to an existing tower or mount that is not camouflaged, is not allowed in Zone 1 or Zone 2 of the View Preservation Overlay (Figure 13-1), or in a designated historic district and shall require the issuance of a building permit, telecommunications conditional use permit, and major site plan review.

13.3 DIMENSIONAL REQUIREMENTS

The dimensional requirements for telecommunications facilities subject to this Article shall be as stated in Table 13-2.

13.4 DESIGN STANDARDS

13.4.1 Aesthetic Standards

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

A. The relative height, mass or proportion of telecommunications facilities shall be compatible with the building or structure it is located on or the immediate surroundings.

B. If installed on a historic structure, telecommunications facilities shall not alter character defining features, distinctive construction methods, or original historic materials of the structure and shall be fully reversible.

Table 13-1: Permitted Telecommunications Facility Types

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

"P" = Permitted, subject to building permit *" - " = Facility Not Permitted*
"CUP" = Requires Conditional Use Permit *"SPR" = Requires Site Plan Review*
**Zone 1, Zone 2, and Zone 3 of the View Preservation Overlay (see Figure 13-1)*

Table 13-2: Telecommunications Facilities Dimensional Requirements

Structure-Mounted Facilities (Excluding Public Right-of-Way):	
Height[1]	Shall not increase the height of an existing building or structure, including utility poles, guyed towers, lattice towers, and masts, by more than 10% or more than 20-ft, whichever is greater.
	Shall not be placed on any structure less than 30-ft in height.
Setbacks	Shall comply with setbacks in the underlying zoning district where the facility is installed.
	Shall not increase any nonconformity with respect to setbacks.
Ground-Mounted Facilities (Excluding Public Right-of-Way):	
Height	Shall not project higher than 20-ft above the average tree crown height within a 150-ft radius of the mount, security barrier, or designated clear area for access to equipment, whichever is greater. A licensed landscape architect, certified arborist or forester shall determine the average tree crown height.
Setbacks	Shall comply with setbacks in the underlying zoning district where the facility is installed. These setbacks apply to the facility as well as all accessory equipment, structures, and/or fences greater than 6-ft high associated with the facility.
	Towers shall be set back a distance equal to 125% of the tower height from any off-site residential structure or public right-of-way.
Fall Zone[2]	Shall maintain a minimum distance, which is equal to or greater than the fall zone, from the base of the facility to any property line, public road, residential dwelling, business use, institutional use, or public recreation area.
	Fall zones may cross property lines if an easement is obtained from affected property owners.

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

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

C. Telecommunications facilities shall either maintain a non-reflective finish (subject to any applicable FAA standards), be painted a neutral color, or be painted a color that is closely compatible with or identical to the color and finish of the surrounding environment, buildings, structures, etc.

D. If mounted on an existing structure, telecommunications facilities shall be painted a color that is identical to or closely resembles that of the supporting structure. For the purposes of this Article, "existing structure" means a structure that was lawfully erected, installed, or constructed for purposes other than the siting of telecommunication facilities at least 2-years prior to the date of application for a building permit and conditional use permit to site telecommunication facilities thereon.

E. Structure-mounted facilities shall blend or match the design features and materials of the existing structure as closely as possible.

F. Antennas shall be narrow in profile.

G. New ground-mounted towers and antennas or reconstructed towers and antennas shall be of a lattice, guyed, or mast type mount, unless an

alternative design is approved by the Planning Board.

H. Monopoles are prohibited.

13.4.2 Screening

A. Telecommunication facilities mounted on the roof of a building shall be concealed behind existing architectural features of the building or shall be located so that it is not visible from public rights-of-way.

B. All mechanical and electrical equipment associated with any facility located inside a structure or building, shall be concealed inside the structure or building or shall be shielded from view from public rights-of-way.

C. All equipment for a camouflaged facility shall be in an underground vault.

D. All equipment for new ground mounted towers and antennas shall be in an underground vault or equipment shelter that is designed to be of an appearance and design consistent with the buildings in the area of the facility or camouflaged behind an effective year-round landscape buffer equal to the height of the proposed building.

13.4.3 Security Fencing

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

13.4.4 Driveways

A. Existing entrances and driveways shall be utilized, unless the applicant can demonstrate that a new entrance and driveway will result in less visual, traffic, and environmental impacts.

B. New driveways shall not exceed 12-ft in width and shall comply with all applicable driveway or street access regulations in this LDC.

13.4.5 Lighting

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

B. Lighting of equipment structures and any other facilities on-site shall be fully shielded.

C. Footcandle measurements at the property line shall be 0-fc.

13.4.6 Signage

No signs are allowed except for warning or equipment signs in compliance with Article 10 of this LDC.

13.5 CONDITIONAL USE PERMIT

13.5.1 General

All applicants for telecommunications conditional use permits and site plan review for proposed telecommunications facilities, as required under this Article, shall apply to the Planning Board following the applications procedures in Section 25.14 for a conditional use permit and Section 25.12 for site plan review. In addition to these application requirements, applicants shall also be required to submit information addressing the standards included in Sections 13.5.2, 13.5.3 and 13.5.4 of this Article.

13.5.2 Burden of Proof Policy

A. Only after demonstrating to the Planning Board that it is not feasible to conceal telecommunication facilities inside an existing structure or building; collocate facilities at existing ground-mounted telecommunication towers or antennas; install or mount telecommunication facilities onto existing structures or buildings; or construct camouflaged telecommunication facilities, may an applicant consider or propose a new ground-mounted telecommunications facility that is not camouflaged.

B. When considering a new ground-mounted facility, the applicant shall have the burden of proving to the Planning Board that none of the options listed in Section 13.5.2.A are possible, and shall take all of the following actions.

1. Submit to the Planning Board a list of all contacts made with owners of potential sites regarding the availability of potential space for a telecommunication facility. If the Planning Board informs the applicant that additional existing structures or buildings may be satisfactory, the applicant shall contact the property owners of those structures or buildings.

2. Shall provide to the Planning Board copies of all letters of inquiry made to owners of existing structures or buildings and letters of rejection. If letters of rejection are not provided, at a minimum, unanswered return receipt requested forms from the United States Postal Service shall be provided for each owner of the existing structure or building that was contacted.

3. If the applicant claims that a structure or building is not capable of physically supporting a telecommunication facility, a NH licensed engineer shall certify this claim to the Planning Board. The certification shall, at a minimum, explain the structural issues and demonstrate that the structure cannot be modified to support the telecommunication facility without unreasonable costs.

13.5.3 Review Criteria

In the review of telecommunications conditional use permit applications, the applicant and the Planning Board shall address all applicable design standards in Section 13.4, the Site Development Standards in Article 20, and the following additional factors.

A. Visual impacts of the proposed facility on viewsheds, ridgelines, and other impacts by means of tower location, tree and foliage clearing and placement of incidental structures.

B. Availability of alternative facility types and sites.

C. Height of proposed tower or other structures.

1. The Planning Board shall have the final authority to increase the allowable height of all new, altered, or reconstructed telecommunications facilities and towers based on site conditions in non-residential areas, provided the following conditions are met.

a. If the structure is readily visible to residential properties, the facility/ structure does not exceed a height of 75-ft.

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

13.5.4 Conditional Use Permit Application Materials

A. Each applicant requesting a telecommunications conditional use permit under this Article shall submit all submission requirements for major site plan review, as outlined in Section 25.12 of this LDC, as well as a scaled elevation view, topography, existing vegetation and tree crown coverage, radio frequency coverage (RFC), height requirements, setbacks, drives, parking, fencing, landscaping, adjacent uses up to 200-ft away from the property line, and any other information deemed necessary by the Planning Board to establish compliance with this Article.

B. Applications for new ground-mounted towers or antennas shall submit the following additional information as part of the telecommunications conditional use permit request:

1. An inventory and map of all existing ground-mounted towers and antennas that are located within the City's jurisdiction and those within 2-miles of the border thereof, including specific information about the location, height, as well as economic and technological feasibility for collocation on the inventoried towers and/or antennas.

2. Written evidence demonstrating that no existing ground-mounted tower or antenna can accommodate the applicant's proposed telecommunication facilities. This evidence may consist of substantial evidence that:

a. No existing ground-mounted towers or antennas are located within the geographic area required to meet the applicant's engineering requirements, provided that a description of the geographic area required is also submitted.

b. Existing ground-mounted towers or antennas are not of sufficient height to meet the applicant's engineering requirements.

c. The existing ground-mounted towers or antennas do not have sufficient structural strength to support the applicant's proposed telecommunication facility's related equipment.

d. The applicant's proposed telecommunication facilities would cause electromagnetic interference with the telecommunication facilities located on the existing ground-mounted towers or antennas, and/or that the telecommunication facilities located on the existing towers or antennas would cause interference with the applicant's proposed telecommunication facilities.

e. The fees, costs, or contractual provisions required by the property owner in order to share the existing ground-mounted tower or antenna are unreasonable. Costs exceeding new ground-mounted tower development are presumed to be unreasonable.

f. The applicant can demonstrate other limiting factors that render existing ground-mounted towers and antennas unsuitable.

3. An agreement with the City that allows for the maximum allowance of collocation upon the new structure. Such statement shall become a condition to any approval. This statement shall, at a minimum, require the applicant to supply available collocation for reasonable fees and costs to other telecommunications providers. Failure to provide such an agreement shall be grounds for a denial.

4. The applicant shall submit the engineering information detailing the size and coverage required for the facility location.

13.5.5 Conditional Use Permit Waiver

Where the Planning Board finds that extraordinary hardships, practical difficulties, or unnecessary and unreasonable expense would result from strict compliance with the criteria set forth in this Article, it may approve waivers to the requirements of this Article.

A. Waiver Criteria

The Planning Board shall not approve any waiver unless a majority of those present and voting find that all of the following apply.

1. The granting of the waiver will not be detrimental to the public safety, health or welfare or injurious to other property and will promote the public interest.
2. The waiver will not, in any manner, vary the provisions of this Article, the City Comprehensive Master Plan, or official City maps.
3. Such waiver will substantially secure the objectives and requirements of this Article.
4. A particular and identifiable hardship exists or a specific circumstance warrants the granting of a waiver. Factors to be considered in determining the existence of a hardship shall include but not be limited to the following.
    a. Topography and other site features
    b. Availability of alternative site locations
    c. Geographic location of the property
    d. Size/magnitude of the project being evaluated and availability of collocation
5. In no case shall ground-mounted towers, ground-mounted camouflaged or alternative towers, or preexisting reconstructed ground-mounted towers or antennas be greater than 125-ft in height.

13.6 MAINTENANCE, MONITORING & SECURITY

13.6.1 Maintenance

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

13.6.2 Monitoring

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

13.6.3 Security for Removal

A. Recognizing the extremely hazardous situation presented by abandoned and unmonitored telecommunication facilities, the Planning Board shall set the form and amount of security that represents the cost for removal and disposal of abandoned telecommunication facilities, if a facility is abandoned and the facility owner is unwilling or unable to remove the facility in accordance with Section 13.7.

B. The amount of the security shall be based upon the removal cost, plus 20%, provided by the applicant and signed and stamped by a NH licensed engineer. Furthermore, the owner shall submit as part of the issuance of a building permit proof of adequate insurance covering accident or damage.

13.7 ABANDONMENT

13.7.1 Notification

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

13.7.2 Removal

A. Upon abandonment or discontinuation of use, the owner of the facility shall physically remove the facility within 90-calendar days from the date of abandonment or discontinuation of use. The term "physically remove" shall include but not be limited to the following.

1. Removal of antennas, mount, equipment shelters and security fencing as applicable from the subject property.

2. Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations.

3. Restoring the location of the facility to its natural condition, except that any landscaping and grading shall remain as finished.

13.7.3 Failure to Remove

A. If the owner of the facility does not remove the facility upon order of the City's Building and Health Official, then said official shall, after holding a public hearing with notice to the owner and abutters, issue a declaration of abandonment.

B. The owner of the facility shall dismantle and remove the facility within 90-days of receipt of the declaration of abandonment. If the abandoned facility is not removed within 90-days, the City may execute the security to pay for removal.

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

ARTICLE 14. SUSTAINABLE ENERGY EFFICIENT DEVELOPMENT (SEED) INCENTIVE DISTRICT

14.1 GENERAL..... 14-2

14.2 SEED OVERLAY DISTRICT MAP..... 14-2

14.3 ELIGIBLE PROJECTS..... 14-2

14.4 SEED OVERLAY DISTRICT INCENTIVES... 14-5

14.5 SCREENING REQUIREMENTS..... 14-5

14.1 GENERAL

14.1.1 Authority

The Sustainable Energy Efficient Development (SEED) Overlay District is adopted as an innovative land use control pursuant to the authority granted by NH RSA 674:16 and NH RSA 674:21, and procedurally in accordance with NH RSA 675:1,II.

14.1.2 Purpose

The purpose of the SEED Overlay District is to promote smart growth, mixed land uses and green development, and to provide an opportunity for incentives to guide development and redevelopment closer to the City's Downtown Core, where adequate infrastructure and services can accommodate growth. This purpose will be accomplished by:

A. Providing the option to property owners in this Overlay District to voluntarily construct a green building in exchange for zoning incentives, such as alternative permitted densities and principal uses;

B. Encouraging new construction and alterations to existing buildings, structures and sites within the Overlay District that reflect the City's distinctive architectural identity, unique character, and prevailing scale;

C. Discouraging sprawling, unplanned development that can result in unwise use of the City's remaining open space and rural lands; and,

D. Providing the opportunities to expand the City's tax base through encouraging redevelopment and smart growth.

14.2 SEED OVERLAY DISTRICT MAP

A. The boundaries of the SEED Overlay District are as shown on Figure 14-1 "Sustainable Energy Efficient Development Overlay District" dated September 22, 2020, as the areas identified as SEED A and SEED B. Figure 14-1 is hereby adopted in accordance with NH RSA 674:20 as an overlay district to the Official Zoning Map of the City of Keene.

14.3 ELIGIBLE PROJECTS

14.3.1 Eligible Projects

To be eligible for the incentives described in Section 14.4, a property owner, or their authorized agent, shall demonstrate that a proposed development or redevelopment project will obtain, at a minimum, green building pre-certification status for at least one of the green building rating systems in Table 14-1.

Table 14-1: Eligible Green Building Rating Systems

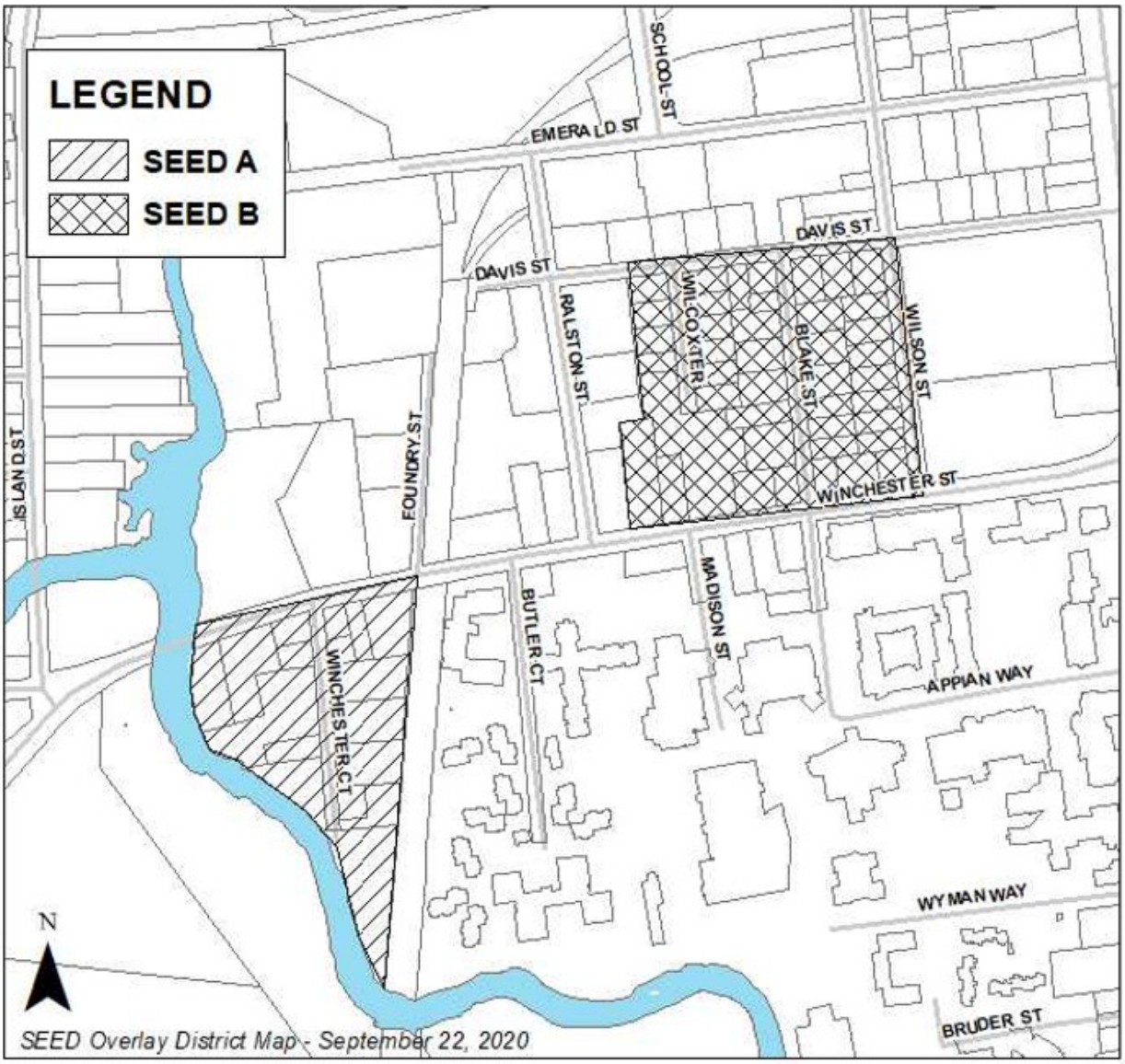
Green Building Rating System	Minimum Rating Required for SEED Incentive
LEED®	LEED® Silver
Green Globes®	Two Green Globes®
National Green Building Standard (ICC 700)	Silver - Green Building and/or Two Stars - Site Design and Development
International Green Construction Code	Minimum compliance with the Code and compliance with the adopted levels in Table 102.4.12

14.3.2 Determination of Eligibility

A. Applicants seeking to qualify for the incentives described in Section 14.4, shall submit to the Zoning Administrator a completed application, including the following materials.

1. A written letter of intent describing the proposed project including the green building rating system and level of attainment proposed for the project; what strategies will be employed to obtain a green building certification; which SEED incentives in Section 14.4 are sought; and, any other information deemed reasonably

Figure 14-1 Sustainable Energy Efficient Development Overlay District



necessary by the Zoning Administrator to allow for an informed decision regarding the applicant's ability to comply with the selected rating system.

2. The name of a third-party reviewer, chosen from a listing of third-party reviewers provided by the Community Development Department, who shall review and make a determination of the project's ability to achieve the minimum green building pre-certification status for one of the rating systems listed in Table 14-1.

a. The applicant can provide a nomination for the third-party reviewer; however, selection of the third-party reviewer shall be at the sole discretion of the Zoning Administrator, or their designee.

b. The applicant shall be responsible for all costs and expenses associated with the third-party reviewer, and shall pay such expenses at the time of filing the application.

3. A statement that releases the City of Keene, its officers, agents and servants from any liability if the applicant is unsuccessful in their efforts to attain green building certification or equivalent, as identified in this Article.

4. A completed application form signed by the property owner, or their authorized agent, and the applicant, if different than the property owner.

5. The application fee as set forth in the LDC Schedule of Fees in Appendix B of the City Code of Ordinances.

B. Following submittal of a completed application, the Zoning Administrator shall submit the letter of intent and associated materials to the selected third-party reviewer.

1. Within 35 business days, the third-party reviewer shall make a determination of the project's ability to achieve a minimum green building pre-certification status as required in Section 14.3.1.

C. Within 10 business days following receipt of the third-party reviewer's results and commentary, the Zoning Administrator shall determine in writing if the project is or is not eligible for the SEED Overlay District incentives in Section 14.4.

1. If the Zoning Administrator determines that a project is eligible for the SEED Overlay District incentives, the applicant may not change the proposed green building rating system without first obtaining approval from the Zoning Administrator. The Zoning Administrator may require that the proposed change(s) be submitted to and reviewed by a third-party reviewer, at the expense of the applicant, as provided for in Section 14.3.2.A.2 of this Article.

D. Upon application for a Building Permit, the applicant shall submit the review completed by the third-party reviewer and any acceptances or certifications from green building rating agencies to demonstrate compliance with the proposed green building rating system or code.

E. Prior to the issuance of a Certificate of Occupancy, the Zoning Administrator shall receive certification or documentation from the qualified third-party reviewer that the as-built project has achieved the proposed rating system. No Certificate of Occupancy or Temporary Certificate of Occupancy shall be issued without demonstrated evidence supplied by the applicant and third-party reviewer that the project has achieved the proposed level of green building certification.

14.4 SEED OVERLAY DISTRICT INCENTIVES

14.4.1 SEED A Incentives

A. Permitted Uses. In addition to the principal uses permitted in the underlying zoning district, the following uses shall be permitted on a lot in the area designated SEED A, when a proposed development has received a finding of eligibility for SEED incentives.

1. More than one permitted principal use shall be allowed on a lot.
2. All principal uses permitted in the Downtown-Core (DT-C) District.

B. Dimensional Incentives. For eligible projects in areas designated as SEED A, the dimensional standards included below may be permitted as an alternative to the same standard specified in the underlying zoning district. Any dimensional requirements specified for the underlying zoning district in this LDC but not listed below shall still apply.

1. **Building Height**. The maximum building height shall be 6-stories or 7-stories with first floor parking.
2. **Minimum Lot Size**. There is no minimum lot size.
3. **Setbacks.** The front, side, and rear setbacks shall be 0-ft.

14.4.2 SEED B Incentives

A. Use Incentives. In addition to the principal uses permitted in the underlying zoning district, the following uses shall be permitted on a lot in the area designated as SEED B, when a proposed development has received a finding of eligibility for SEED incentives.

1. More than one permitted principal use shall be allowed on a lot.
2. Banking or Lending Institution
3. Clinic
4. Day Care Center
5. Parking Lot (Principal Use)

B. Dimensional Incentives. For eligible projects in areas designated as SEED B, the dimensional standards included below may be permitted as an alternative to the same standard specified in the underlying zoning district. Any dimensional requirements specified for the underlying zoning district in this LDC but not listed below shall still apply.

1. **Building Height.** The maximum building height shall be 4 stories.
2. **Minimum Lot Size Per Dwelling Unit.** The minimum lot size for one dwelling unit shall be 6,000 sf. There is no additional lot area required for additional dwelling units.

14.5 SCREENING REQUIREMENTS

Within the area designated as SEED B, any structure that has been found eligible for SEED Overlay District incentives pursuant to Section 14.3 shall be required to construct an architectural or vegetative screen to lessen the impact of noise, dust, debris, and motor vehicle headlight glare on abutting properties. Such screen shall consist of the following.

A. One 3-in caliper deciduous tree every 20-linear feet, and a solid fence that is between 4-ft and 6-ft high, which are installed along the length of the property line(s) adjacent to abutting properties; or,

B. An evergreen hedge extending along the property line(s) adjacent to abutting properties, with a planting height of at least 3-ft and a mature height of at least 4-ft; or,

C. Any combination of the above.

ARTICLE 15. CONGREGATE LIVING & SOCIAL SERVICE CONDITIONAL USE PERMIT

15.1 APPLICABILITY..... 15-2

15.2 REVIEW CRITERIA..... 15-2

15.3 CONDITIONS..... 15-2

15.4 SUBMITTAL MATERIALS..... 15-3

15.1 APPLICABILITY

Any change of use or new occupancy of any building or portion thereof for the following congregate living or social service uses, as defined in Section 8.3.4 of this LDC, shall require a congregate living and social services conditional use permit issued by the Planning Board in accordance with this Article.

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

15.2 REVIEW CRITERIA

The Planning Board review of applications for a congregate living and social services conditional use permit shall consider the potential impacts of such use on adjacent property and the surrounding neighborhood, and shall carefully consider impacts on the public health, safety and welfare, including that of the client population being served by such uses (e.g. residents or those seeking care or assistance).

The Planning Board, in evaluating whether a proposed congregate living or social service use should be permitted on a specific lot, shall make a finding that the use as proposed by the applicant meets each of the following criteria.

A. The nature of the proposed application is consistent with the spirit and intent of the Zoning Regulations, this LDC and the City's Comprehensive Master Plan, and complies with all the applicable standards in this LDC for the particular use in Section 8.3.4.

B. The proposed use will be established, maintained, and operated so as not to endanger the public health, safety, or welfare.

C. The proposed use will be established, maintained, and operated so as to be harmonious with the surrounding area and will not impede the development, use, and enjoyment of adjacent property. In addition, any parking lots, outdoor activity area, or waiting areas associated with the use shall be adequately screened from adjacent properties and from public rights-of-way.

D. The proposed use will be of a character that does not produce noise, odors, glare, and/or vibration that adversely affects the surrounding area.

E. The proposed use will not place an excessive burden on public infrastructure, facilities, services, or utilities.

F. The proposed use will not result in the destruction, loss, or damage of any feature determined to be of significant natural, scenic, or historic importance.

G. The proposed use will not create a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity of the use.

H. The proposed use will be located in proximity to pedestrian facilities (e.g. multiuse trails and sidewalks), public transportation, or offer transportation options to its client population.

15.3 CONDITIONS

A. The Planning Board may impose conditions on a congregate living and social services conditional use permit relating to the development, design, or operation of the use to the extent the Planning Board concludes such conditions are necessary to minimize any adverse effect of the proposed use on adjoining properties, and to preserve the intent of the standards in this LDC.

B. In the event that the Planning Board decides to approve a congregate living and social services

conditional use permit, the Planning Board may impose conditions and restrictions as are directly related and incidental to the proposed use. Such conditions may address limits on location, scale, intensity, design, lighting, site and building maintenance, security and safety measures, signs, hours of operations, provisions for recreation and open space, buffers and screening, and other performance standards. Such conditions may include, but shall not be limited to, the following.

1. Setbacks larger than the minimums required by the Zoning Regulations.
2. Landscaping and/or screening of the premises from the street or adjacent property in excess of the minimum requirements of the Zoning Regulations.
3. Modification of the design of any building, structure or site feature involved in the proposed use.
4. Limitations on the size of buildings and other structures more stringent than the minimum or maximum requirements of the Zoning Regulations.
5. Limitations on the number of occupants or employees upon the premises and restrictions on the method of operation, the time of operation and use, and the size or extent of the facilities.
6. Regulation of design of access drives, sidewalks, crosswalks, and other traffic features.
7. Off-street parking spaces in excess of the minimum requirements of the Zoning Regulations.
8. Regulation of the number, size, and/or lighting of signs more stringent than the requirements of the Zoning Regulations.

C. All congregate living and social services conditional use permits shall be conditioned upon the issuance and annual renewal of a congregate living and social services license, as described in Chapter 46 of the City of Keene Code of Ordinances. Failure to procure and maintain an active congregate living and social services license shall constitute a violation of the conditions of the congregate living and social services conditional use permit, which shall be enforced through the provisions established in Article 27 of this LDC.

15.4 SUBMITTAL MATERIALS

Applicants for a congregate living and social services conditional use permit shall submit a completed application to the Community Development Department in accordance with the submission and procedural requirements for conditional use permits set forth in Section 25.14 of this LDC, as they may be amended. In addition to the application submission requirements specifed in Section 25.14, a completed application form for a congregate living and social services conditional use permit shall include the following materials.

A. A written narrative describing the proposed use and any work proposed associated with such use, including, but not limited to, the following information.

1. The size and intensity of the use, including information about: the estimated number of occupants including residents, clients, staff, visitors, etc.; hours of operation; size and scale of existing and proposed buildings or structures on the site; and, size of outdoor areas associated with the use.
2. A description of any proposed development or redevelopment including, but not limited to: the construction of new buildings or structures or additions to buildings or structures; interior renovations; installation of parking areas or paved surfaces and associated screening; installation of fences or walls; and/or any change of use.
3. A description of the physical and architectural characteristics of the site and the surrounding neighborhood.
4. A description of how the site and/or use is designed to address the safety and security of its client population.
5. A description of the size and location of

indoor and/or outdoor waiting or intake areas, if applicable.

6. An analysis of estimated traffic generation associated with the proposed use utilizing the most current edition of the Institute of Transportation Engineers (ITE) Traffic Generation Manual or data provided by a NH licensed traffic engineer.
7. The estimated parking demand for the proposed use and the number of parking spaces to be provided on-site.
8. A description of the staffing of the facility, including the number of on-site managers, if any.
9. The proximity of the facility to other known congregate living and social service uses within 750-ft (measured from the property line).
10. For congregate living uses, the average length of stay for residents/occupants of the facility.
11. A description of the services provided to the clients or residents of the facility, including any support or personal care services provided on- or off-site.

B. Documentation of all required state or federal licenses, permits, and certifications.

ARTICLE 16. SOLAR ENERGY SYSTEM CONDITIONAL USE PERMIT

16.1 APPLICABILITY 16-2

16.2 REVIEW CRITERIA 16-2

16.3 DECOMMISSIONING & SITE RESTORATION 16-3

16.4 CONDITIONAL USE PERMIT 16-3

16.1 APPLICABILITY

Unless located in the Industrial District, the installation or operation of any medium-scale or large-scale ground-mounted solar energy system, as defined in Section 8.3.7.B and Section 8.3.7.C respectively, shall require a solar energy system conditional use permit issued by the Planning Board.

16.2 REVIEW CRITERIA

In addition to the Site Development Standards in Article 20 and the specific use standards in Section 8.3.7.B and Section 8.3.7.C, the Planning Board shall consider the following criteria when deciding whether to grant a solar energy system conditional use permit.

16.2.1 Siting

A. Large-scale ground-mounted solar energy systems shall be located on parcels no less than 5-acres in size

B. The solar footprint of ground-mounted solar energy systems shall not exceed 20 contiguous acres.

16.2.2 Height

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

16.2.3 Setbacks

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

16.2.4 Lot Coverage

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

16.2.5 Visual Buffer

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

B. The visual impact of medium-scale and large-scale ground-mounted solar energy systems, associated equipment, and any extensive or imposing perimeter fencing on adjacent parcels and public rights-of-way shall be mitigated through the preservation of existing vegetation and/or through the installation of a visual buffer approved by the Planning Board.

C. If landscaping is used to provide a visual buffer, it shall:

1. Provide year-round screening of the ground-mounted solar energy system and associated equipment;
2. Be composed of native plant species; and,
3. Be maintained for the full term that the ground-mounted solar energy system is located on the site.

16.2.6 Environmental

A. Clearing of existing trees and vegetation shall be limited to what is necessary for the installation and operation of the ground-mounted solar energy system.

B. The design of ground-mounted solar energy systems shall include sufficient distance, which, at a minimum, shall be the width of a single solar collector panel, between rows of solar collector panels to allow for capture of rainfall and growth of vegetation.

16.2.7 Noise & Glare

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

B. Inverters shall be fully enclosed.

16.2.8 Security

A. Perimeter and/or security fencing shall have a maximum height of 8-ft.

B. On-site lighting shall be installed for security and safety requirements only. All lighting shall comply with the Lighting Site Development Standard in Article 20.

16.2.9 Utility interconnection

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

16.3 DECOMMISSIONING & SITE RESTORATION

A. The owner or operator of large-scale ground-mounted solar energy system shall submit a decommissioning plan to the Community Development Department as part of their application for a solar energy system conditional use permit to ensure the proper removal of the system and associated equipment upon the end of the project life or after their useful life.

B. The owner or operator shall decommission the solar panels in the event they are not in use for 12 consecutive months. The plan shall include provisions for the removal of all structures, foundations, and electrical transmission components (including below grade components), and the restoration of soil and vegetation within 6-months of abandonment.

C. The Planning Board may require that the owner or operator post a bond, letter of credit, or establish an escrow account, including an inflationary escalator, in an amount deemed acceptable by the Community Development Director, to ensure proper decommissioning.

16.4 CONDITIONAL USE PERMIT

16.4.1 Application Materials

All applications for a solar energy system conditional use permit shall be made to the Planning Board in accordance with the submission and procedural requirements for conditional use permits set forth in Section 25.14 of this LDC, as they may be amended, and shall also include the following materials and information.

A. A detailed plan set signed and stamped by a NH licensed engineer that depicts the following information.

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

B. Elevation drawings, drawn to scale, of the ground-mounted solar energy system.

C. A drainage report signed and stamped by a NH licensed engineer.

D. Manufacturer's specifications for all proposed equipment.

E. A statement detailing potential significant glare onto abutting structures and roadways estimating the interaction of sun to panel angle, time of year and visibility locations.

F. Estimates of any equipment noise on the site based on equipment specification materials.

16.4.2 Conditions of Approval

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

ARTICLE 17. ANTI-NUISANCE STANDARDS

17.1 APPLICABILITY..... 17-2

17.2 ANTI-NUISANCE STANDARDS 17-2

17.1 APPLICABILITY

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

17.2 ANTI-NUISANCE STANDARDS

17.2.1 Erosion & Drainage

A. No person shall perform any act or use of land in a manner that would cause substantial or avoidable erosion or alter existing patterns of natural water flow onto any adjacent property.

B. No increased ground surface drainage runoff shall be permitted to occur as a result of any development, in a manner that permits such increased runoff to pass beyond the property lines of the parcel upon which such development occurs, unless such runoff is within an approved public storm drainage system or extension thereof.

C. No disruption of the natural vegetation or ground cover, as a result of excavation, grading or opening of roads, may take place prior to approval of any necessary development permit (e.g. site plan review, subdivision, building permit, conditional use permit), with the exception of test borings or soil tests. During and after all construction, reasonable measures must be taken to stabilize exposed soil to prevent erosion.

17.2.2 Glare

A. No use shall have lighting that creates glare that would impair or obstruct the vision of a driver of any motor vehicle.

B. Exterior lights shall be shielded so as not to shine directly onto any adjacent property.

17.2.3 Noise & Vibration

A. Noise Limits. All uses shall comply with the sound level limits in Table 17-1 for continuous and intermittent noises. Compliance with such sound level limits is to be maintained at the boundary of the property.

1. Sound levels shall be measured at the boundary line of the property within which the offending noise source is located, or as close thereto as feasible, at a height of at least 4-ft above the immediate surrounding surface.

2. Sound level measurements shall be made with a Class 1 or Class 2 calibrated sound level meter utilizing the A-weighted scale and the slow meter response as specified by the American National Standard Institute (ANSI) standards.

Table 17-1: Sound Level Limits

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

B. Vibration. No source of vibration or noise shall be allowed to create a nuisance or hazard from vibration that is perceptible, without the use of instruments, to a person of normal sensitivity at any location beyond the boundary of the property where the source is located.

17.2.4 Noxious Gases

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

17.2.5 Outdoor Storage

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

ARTICLE 18. NONCONFORMITIES

18.1 GENERAL..... 18-2

18.2 NONCONFORMING USES..... 18-2

18.3 NONCONFORMING STRUCTURES 18-3

18.1 GENERAL

18.1.1 Authority to Continue

A. Any use, structure, or lot that legally existed as a nonconformity prior to or that has become nonconforming as of the effective date of the Zoning Regulations (Articles 2 through 18 of this LDC), or any subsequent amendments, may continue as long as the nonconformity remains otherwise lawful and complies with the provisions of this Article.

B. Any rights conferred upon a nonconformity run with the property and are not affected by changes in tenancy or ownership.

C. Any use, structure, or lot that was not legally nonconforming prior to the effective date of these Zoning Regulations remains illegal if it does not conform to the provisions of these Zoning Regulations.

18.1.2 Proof of Nonconformity

A. The property owner has the burden of proving the existence of a legally existing non-conformity.

B. When applying for any permit or approval when there is a nonconformity present, the applicant shall be required to submit evidence of a prior permit or other documentation showing that the nonconformity legally existed prior to the date on which it became nonconforming.

18.1.3 Determinations of Nonconformity

If there is a question as to whether a nonconformity exists, the matter shall be decided by the Zoning Administrator with a written interpretation in accordance with Section 25.9 of this LDC.

18.1.4 Relationship to Other Regulations

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

18.2 NONCONFORMING USES

18.2.1 Description

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

18.2.2 Enlargement or Expansion

A. A nonconforming use of a structure or land may be expanded and enlarged, provided such enlargement or expansion does not violate any of the basic zone dimensional requirements of the zoning district in which it is located, and the property owner has obtained approval from the Zoning Board of Adjustment in accordance with Section 25.7 of this LDC.

B. In determining whether to grant approval for an expansion or enlargement of a nonconforming use, the Zoning Board of Adjustment shall find that the following conditions have been met.

1. Such expansion or enlargement would not reduce the value of any property within the zoning district, nor otherwise would be injurious, obnoxious or offensive to the neighborhood.
2. There will be no nuisance or serious hazard to vehicles or pedestrians.
3. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.

18.2.3 Alteration

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

18.2.4 Change of Use

A nonconforming use shall not be changed to a different nonconforming use.

18.2.5 Discontinuation or Abandonment

A. If a nonconforming use is discontinued for a continuous period of at least 1-year it shall be deemed abandoned when:

1. The intent of the owner to discontinue the use is apparent, as evidenced by actions such as removal of characteristic equipment and furnishings of the nonconforming use from the premises; or,

2. A nonconforming use is replaced by a different use.

B. The owner of the nonconforming use has the burden of proof by a preponderance of evidence to demonstrate that the use is a continuing and definite intention.

C. Any subsequent use or occupancy of such land or structure shall comply with all the regulations of the zoning district in which the structure or land is located.

D. A period of discontinuance caused by acts of God or other events without contributing fault by the user are not included in calculating the length of discontinuance for Section 18.2.5.A. It is also not considered a period of discontinuance when a use is closed for renovations in conjunction with a lawfully issued building permit.

18.3.2.6 Dwelling Units

Notwithstanding Section 18.2.5, a dwelling unit that is nonconforming solely because of zone dimensional requirements in the High Density and Medium Density zoning districts shall not be considered abandoned if not rented or leased for a time period, provided that the facilities required for a separate dwelling unit are not removed and meet the requirements of the City's building and housing codes set forth in Chapter 18 of the City of Keene Code of Ordinances.

18.2.7 Damage or Destruction

A. When a structure containing a nonconforming use is damaged or destroyed, and the cause of damage was not by any means within the control of the owner, the nonconforming use may be reestablished provided that no new nonconformities are created and the degree of the previous nonconformity is not increased.

B. If the structure containing the nonconforming use is a nonconforming structure, such structure shall be rebuilt, restored, repaired, or reconstructed in accordance with Section 18.3.4. However, if a building permit is not obtained within 1-year of the date of damage or destruction, then the nonconforming use may not be reestablished, unless it conforms to all regulations of the zoning district. The Zoning Board of Adjustment may grant a 1-year extension of this period.

18.3 NONCONFORMING STRUCTURES

18.3.1 Description

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

18.3.2 Alteration or expansion

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

A. The present use, a changed use, or an additional use is permitted in the zoning district in which it is located.

B. The alteration or expansion will not further violate setback dimensional requirements.

1. Any new encroachment cannot come closer to the property line than the encroachment into the normal setback area made by the existing structure.

2. The area of such new encroachment cannot exceed 50% of the total square

footage of the area of the portion of the existing structure that originally encroached on the minimum required setback.

18.3.3 Relocation

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

18.3.4 Restoration of Damaged Structures

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

B. In the event that a nonconforming structure is damaged or destroyed by the fault of the property owner or tenant, the structure as restored or repaired shall be rebuilt to comply with all requirements of the Zoning Regulations.

C. When a nonconforming structure is damaged or destroyed to the extent of less than 50% of its replacement value, it may be repaired and rebuilt to its previous condition, so long as the cause of damage was not by any means within the control of the owner, the nonconformity is not expanded, and no new nonconformity is created.

1. A building permit for repairs or reconstruction shall be granted within 1-year of the date of damage or destruction, unless an additional 1-year extension is granted by the Zoning Board of Adjustment, and the building, as restored, shall not be greater in number of stories, footprint, or floor space than the original nonconforming structure.

D. If a building which is nonconforming solely because of dimensional requirements is damaged or destroyed to the extent of 50% or more of its replacement value, the structure may be repaired or rebuilt provided that following conditions are met.

1. The replacement will not be greater in number of stories, footprint, or floor space than the original structure.

2. A building permit for repairs or reconstruction is granted within 1-year of the date of damage or destruction, unless an additional 1-year extension is granted by the Zoning Board of Adjustment.

3. The replacement will not violate dimensional requirements of the zoning district in which it is located any more than the original violation(s).

E. The replacement value of the structure shall be based on the following.

1. The sale of that structure within the previous year; or, if that is not available,

2. An appraisal within the last 2-years; or, if that is not available,

3. The amount for which the structure was insured prior to the date of the damage or destruction; or, if that is not available,

4. An alternative method determined acceptable by the Zoning Administrator.

F. In the event that a building permit is not obtained within 1-year of the date of damage or destruction, and no extension has been applied for or granted by the Zoning Board of Adjustment, the structure may be repaired or rebuilt only if it conforms to the provisions of the Zoning Regulations.

ARTICLE 19. SUBDIVISION REGULATIONS

19.1 GENERAL PROVISIONS 19-2

19.2 REVIEW STANDARDS..... 19-3

19.3 CONSERVATION RESIDENTIAL DEVELOPMENT SUBDIVISIONS..... 19-4

19.1 GENERAL PROVISIONS

19.1.1 Authority

In accordance with the authority vested by the City Council and with the provisions of NH RSA 674:35-42, the Planning Board shall have the authority to regulate the subdivision of land in the City of Keene.

19.1.2 Applicability

The standards included in this Article shall apply to all subdivisions of land, including the division or consolidation of lots and the alteration or adjustment of lot boundary lines.

19.1.3 Subdivision Review

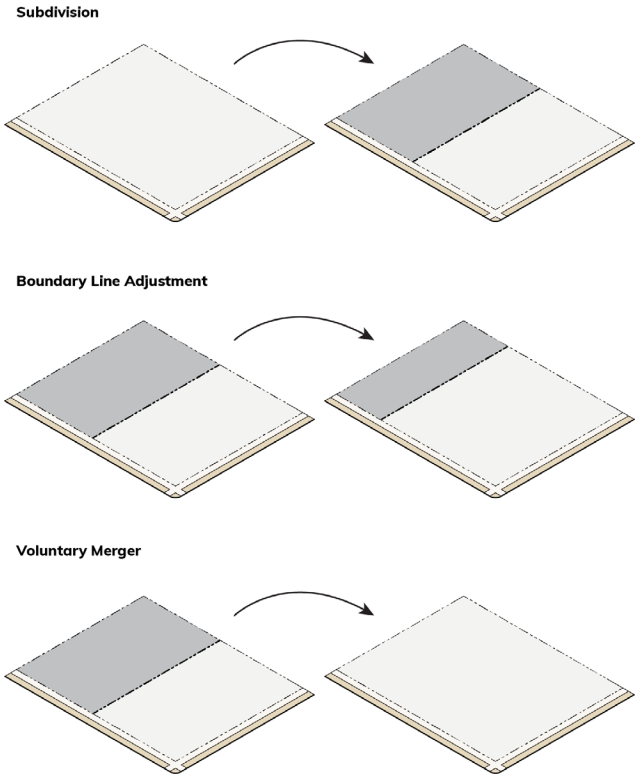
Subdivision review by the Planning Board shall be required for the following types of subdivisions. The application, review and approval processes for subdivision review are included in Article 25 of this LDC.

A. Subdivision. Subdivision means the division of a lot, tract or parcel of land into 2 or more lots, plats, sites, units or other divisions of land for the purpose, whether immediate or future, of sale, rent, lease or building development.

B. Boundary Line Adjustment. A boundary line adjustment, also referred to as a lot line adjustment, is the alteration or adjustment of boundary lines between 1 or more contiguous, preexisting approved or subdivided lots.

C. Voluntary Merger. A voluntary merger is the consolidation of 2 or more contiguous pre-existing approved or subdivided lots owned by the same property owner.

D. Conservation Residential Development Subdivision. A type of subdivision that is intended to encourage the beneficial consolidation of land development and the preservation of open space by applying less restrictive lot dimensional requirements than the underlying zoning district in exchange for placing an undeveloped portion of land into permanent open space. Subdivisions proposing the creation of 3 or more lots and the layout and construction of a new road, where the parcel to be subdivided is located in either the Rural, Low Density, or Low Density-1 zoning district and meets the minimum lot size requirements for a conservation residential development specified in this Article, shall be reviewed as a conservation residential development.



19.1.4 Five-Year Exemption

Approved subdivisions shall be protected from future amendments to regulations for a 5-year period, provided that active and substantial development has occurred on the site, in accordance with NH RSA 674:39.

19.2 REVIEW STANDARDS

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

19.2.1 Lots

A. Lot size and configurations shall meet all requirements of the Zoning Regulations.

B. All lots shall have frontage on a state highway (excluding limited access highways), a Class V road, or a street within an approved subdivision plan.

1. Road frontage shall not be less than 50-ft, unless expressly allowed in this LDC.

C. Subdivisions shall not be approved on roads shown on city records and plans as discontinued, discontinued subject to gates and bars, or Class VI roads.

19.2.2 Character of Land for Subdivision

All land proposed for subdivision shall be of such a character that it can be safely used for building development purposes and would not pose a danger to health or peril from fire, flood, poor drainage, excessive slope, or other hazardous conditions.

19.2.3 Scattered or Premature Development

Subdivisions shall not promote scattered or premature development of land as would involve danger or injury to health, safety, or necessitate the excessive expenditure of public funds for the supply of associated services. In making such a determination, the Planning Board will take into account the capacity of the school system, adequacy of access streets, adequacy of water supply for fire-fighting purposes, distance from emergency services, and availability of other public services.

19.2.4 Preservation of Existing Features

Wherever feasible, suitable steps shall be taken to preserve and protect significant existing features, such as surface waters, steep slopes, rare and/or unique scenic points, stone walls, rock out-croppings, and historic landmarks.

19.2.5 Monumentation

The owner or developer shall provide permanent reference monuments in accordance with Article 22 of this LDC.

19.2.6 Special Flood Hazard Areas

All subdivision proposals having lands identified as Special Flood Hazard Areas on current Flood Insurance Rate Maps (FIRM) shall be located and configured to be consistent with the need to minimize potential impacts from flooding. In addition, any public utilities and facilities associated with such proposals shall be located and constructed to minimize or eliminate flood damage.

19.2.7 Fire Protection & Water Supply

All subdivisions shall be provided with an adequate supply of water for fire protection purposes at the owner's expense. This requirement may be met by any of the following options, subject to the approval of the Fire Chief.

A. Fire hydrants connected to a public water main with adequate fire flows and pressures appropriate to the type and scale of the proposed use that meets the requirements of the National Fire Protection Association (NFPA) and the Keene Fire Department.

B. Private fire protection water supply systems when it is infeasible or economically unreasonable to connect a fire hydrant to a public water main as determined by the Planning Board. Private fire protection water supply systems may include the following.

1. For non-residential, institutional, and multi-family dwellings, storage and distribution systems appropriate to the type and scale of the proposed use that comply with the standards of the National Fire Protection Association (NFPA) and the Keene Fire Department.

2. For single-family dwellings, underground cisterns and associated dry hydrants that meet the standards of NFPA 1142. The location, design, and provisions for ownership, maintenance, and all season

access to the cistern and supporting facilities shall conform to the Keene Fire Department hydrant specifications.

3. Individual residential sprinkler systems meeting the standards of NFPA 13D or NFPA 13R may be installed; however, in no case may the installation of such a system be made a requirement of approval.

4. Any other public or private fire protection water supply system approved by the Fire Chief and determined by the Planning Board to provide a similar or greater level of fire protection than the options provided in (1) and (2) above.

19.2.8 Utilities

A. When required by City Code, all subdivisions will be serviced by City water and sewer. All necessary water and sewer lines shall be installed to the required specifications of the Public Works Department and shall include service lines running from the water and sewer mains to the property line to service each lot. In addition, utility rights-of-way shall be provided in accordance with Article 22 of this LDC.

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

19.3 CONSERVATION RESIDENTIAL DEVELOPMENT SUBDIVISIONS

19.3.1 Purpose

The purpose of a conservation residential development subdivision is to promote the conservation of natural resources while providing greater flexibility and creativity in the design of residential development than would be possible using conventional zoning and subdivision practices.

This purpose is accomplished by allowing for clustering of dwelling units at a higher density than would be allowed by the underlying zoning district, provided a portion of the existing tract of land to be subdivided is permanently designated as open space.

19.3.2 Dimensional Standards

A. Minimum Dimensional Requirements. All conservation residential development subdivisions shall meet the minimum dimensional requirements specified in Table 19-1. If not specified in Table 19-1 or elsewhere in this Article, the dimensional requirements of the underlying zoning district shall apply.

B. Perimeter Building Setback. A building setback shall be required around the perimeter of the existing tract proposed for subdivision (excluding access points) as specified in Table 19-1. The land area included in the perimeter setback may be counted toward the calculation of open space.

Table 19-1: Dimensional Requirements for Conservation Residential Development Subdivisions

			Rural District[1]	Low Density-1 District (without city water)	Low Density-1 District (with city water)	Low Density District
TRACT	Min tract size		10 acres	5 acres	5 acres	5 acres
	Min tract frontage		100 ft	100 ft	100 ft	50 ft
	Perimeter Building Setback	From external roads	100 ft	30 ft	30 ft	30 ft
		From other tract boundaries	50 ft	20 ft	20 ft	20 ft
LOT	Min Lot Area		32,000 sf	16,000 sf	8,000 sf	6,000 sf
	Min Road Frontage		40 ft	40 ft	40 ft	40 ft
	Min Lot Width at Building Line		75 ft	75 ft	60 ft	60 ft
	Min Front Setback		15 ft	15 ft	15 ft	15 ft
	Min Rear Setback		20 ft	20 ft	15 ft	15 ft
	Min Side Setback		10 ft	10 ft	10 ft	10 ft
	Max Building Coverage		30%	35%	40%	45%
	Max Impervious Coverage		35%	40%	45%	60%

1 New lots in the Rural District that are created as part of a CRD that are less than 1 acre in size may utilize an approved Subsurface Disposal System

C. Density.

1. The number of dwelling units allowed within a conservation residential development subdivision shall be determined by dividing the total area of the existing tract by the density factor per dwelling unit specified in Table 19-2.

2. A density bonus may be granted to developments that meet the criteria for one or more of the density incentives detailed in Section 19.3.6. In no instance shall a density of more than 30% above the standard allowable density be granted to any single development. This section shall not be waivable.

Table 19-2: Density & Open Space Requirements

Zoning District	Density Factor per Dwelling Unit[1]	Min Open Space
Rural	2 acres	50%
Low Density-1 *(without city water)*	1 acre	50%
Low Density-1 *(with city water)*	20,000 sf	50%
Low Density	10,000 sf	50%

1 Density bonus(es) may be granted as specified in Section 19.3.6

D. Open Space Reserve

1. All conservation residential development subdivisions shall permanently reserve at least 50% of the area of the existing tract as open space.

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

19.3.3 Permitted Uses

A. Residential Uses. Table 19-3 identifies the uses allowed on building lots in a conservation residential development subdivision.

Table 19-3: Conservation Residential Development Permitted Uses

Permitted Use	Rural District	Low Density-1 District	Low Density District
Single-Family Dwelling	P	P	P
Two-Family Dwelling	P	P	P
Multifamily Dwelling	P1 *(max of 3 dwelling units per structure)*	P1 *(max of 3 dwelling units per structure)*	*P (max of 6 dwelling units per structure)*

"P" = Permitted Use " - " = Use Not Permitted
"P1" = Use permitted with Workforce Housing density incentive

B. Open Space Uses. Uses allowed on land designated as open space in a conservation residential development subdivision shall be limited to the following uses. Use of the designated open space area may be further restricted by the owners of the open space.

1. Conservation

2. Agriculture

3. Forestry

4. Passive Recreation

19.3.4 Primary & Secondary Conservation Areas

Plans for a conservation residential development subdivision shall identify and delineate primary and secondary conservation areas on the existing tract, as defined below. Delineation of lands to be used to meet the open space requirements of the conservation residential development subdivision shall be based on an analysis and prioritization of primary and secondary conservation values identified on the tract.

A. Primary Conservation Areas. Primary conservation areas shall consist of all slopes over 25% gradient; surface waters, including

streams, wetlands, vernal pools, ponds, and any buffers associated with them; and, springs and floodways.

B. Secondary Conservation Areas. Secondary conservation areas shall consist of the following list of attributes.

1. Significant natural areas of species defined by the New Hampshire Natural Heritage Inventory as endangered, threatened, or of special concern.
2. Slopes in excess of 15% where disturbance and resulting erosion and sedimentation could be detrimental to water quality
3. Woodlands, particularly those performing important ecological functions, such as soil stabilization and protection of streams, wetlands and wildlife habitats.
4. Areas with topographic and soil conditions affording high rates of infiltration and percolation.
5. Groups of trees and large individual trees of botanic significance.
6. Prime agricultural soils as defined by the USDA Natural Resource Conservation Service.
7. Historic features that are designated on the NH State Register of Historic Places, or the National Register of Historic Places or Historic Landmarks.
8. Cultural features, such as stone walls, barn foundations, and cellar holes.
9. Existing or planned recreational trails on or throughout the tract that connect to other locations in the City.
10. Visually prominent topographic features such as knolls, hilltops, ridges, outlooks, and scenic viewsheds.
11. Highest condition habitat areas as defined by the NH Wildlife Action Plan, as amended.
12. Drinking water supply areas.

19.3.5 Design Criteria

A. General Criteria. In addition to the standards for review listed in Section 19.2 of this Article, the following review criteria shall apply to applications for conservation residential development subdivisions.

1. All proposed development shall be located outside of primary conservation areas, and shall be designed to minimize impact to any identified secondary conservation areas.
2. Streets shall be constructed in accordance with the standards in Article 22 of this LDC, and shall connect to an existing street network.
3. All structures shall be accessed from interior streets, rather than from roads bordering the perimeter of the tract.
    a. In the event that a waiver of this standard is granted, shared driveways shall be incorporated where feasible.

B. Open Space Standards. The location and layout of all open space within a conservation residential development subdivision shall require Planning Board approval and comply with the following standards.

1. The areas of land designated to meet the open space requirement of any conservation residential development subdivision shall not be used for siting of individual lots, construction of buildings, facilities for accessory uses, roads and other areas for vehicular traffic.
2. In delineating the required open space area(s), an interconnectedness of the conservation values shall be maintained and fragmentation of the open space into small, disconnected parcels shall be avoided.
    a. The lot area of any parcel designated as open space shall not be less than 1-acre.

b. All areas of open space do not need to be contiguous, but consideration shall be given to connections between non-contiguous areas.

c. Where possible, any designated open space will be located so that it is adjacent to other open space or protected lands that abut the existing tract.

3. Each proposed lot in the conservation residential development subdivision shall have reasonable access to the open space, but need not front directly on such land.

C. Open Space Ownership & Maintenance

1. Land designated for open space in a conservation residential development subdivision shall not be further subdivided and shall remain as open space in perpetuity.

2. All designated open space and any associated facilities in a conservation residential development subdivision shall be permanently protected by covenants or easements as approved by the Planning Board or its designee.

a. All designated open space and any other common lands, roads and/or facilities shall be deeded to and maintained by a Homeowner's Association, a non-profit organization, or some other entity as approved by the Planning Board or its designee.

i. The designated open space and any other common features shall be held, managed and maintained by the developer until such time as they are transferred to the designated entity under an agreement approved by the Planning Board or its designee.

19.3.6 Optional Density Incentives

Conservation Residential Development Subdivisions that meet certain performance criteria shall be eligible for a density bonus above the standard allowable density, up to a maximum of 30%. The 30% density cap shall not be waivable. If a density incentive is granted, the minimum lot size specified in Table 19-1 shall be waived.

A. Open Space Density Incentive. Conservation Residential Development Subdivisions with a minimum tract size of 10 acres that permanently reserve at least 65% of the existing tract area as open space shall be eligible for a density bonus of 10% or one dwelling unit, whichever is greater.

B. Solar Density Incentive. Conservation Residential Development Subdivisions that meet the following criteria shall be eligible for a density bonus of 10% or one dwelling unit, whichever is greater:

1. At least 50% of the lots shall be solaroriented. A "solar-oriented lot" shall mean a lot with its longest lot line dimension oriented to within thirty (30) degrees of a true east-west line.

2. The long axis of all dwelling units on solar-oriented lots shall be oriented so that the long axis faces within 20 degrees of true south.

3. At least four (4) kilowatts of solar PV shall be installed for each dwelling unit on a solar-oriented lot.

4. Where, as determined by the City, topographic, environmental, and soil conditions, and existing street configurations permit, the predominant pattern of new streets in subdivisions subject to this section shall be oriented within thirty (30) degrees of east-west orientation.

C. Workforce Housing Density Incentive. Conservation Residential Development Subdivisions that meet the criteria below shall be eligible for a density bonus of 20% or one dwelling unit, whichever is greater. In addition, the permitted uses for a development that meets this section in the Rural District or Low Density-1 District shall include “multifamily dwelling” (max of 3 units per structure).

1. Workforce Housing, Owner-Occupied. A Workforce Housing Density Incentive will be granted to developments that guarantee the following:

a. Twenty percent (20%) or more of the units constructed will be sold at initial sale for a price that can be afforded by a household with an income not more than 80% of the HUD Median Area Income for a family of four in Cheshire County.

b. Units will be sold with a deed restriction and recorded housing agreement that names an Income Verification Agent who will verify that the purchaser meets the income requirements. For a period of 30 years, the resale value of the unit shall be restricted to either the affordable purchase price or the original purchase price plus two times the accumulated consumer price index, whichever is greater.

c. All units built under this provision shall be of the same approximate size, character, quality, and construction as the market rate units, and shall be distributed evenly throughout the project.

d. Affordability shall be defined as housing that can be purchased under a conventional mortgage whereby the combined annual expenses for principal, interest, property taxes, homeowner’s insurance and condominium fees (if applicable) will not exceed 30% of household income.

2. **Workforce Housing, Rental.** A Workforce Housing Density Incentive will be granted to developments that guarantee the following:

    a. Twenty percent (20%) or more of the units constructed will be rented for a price that can be afforded by a household with an income not more than 60% of the HUD Median Area Income for a family of three in Cheshire County.

    b. Units will be rented with a deed restriction and recorded housing agreement that names an Income Verification Agent who will verify that the renter meets the income requirements. The rental price of the unit shall be restricted to the affordable rental price for a period of 30 years.

    c. All units built under this provision shall be of the same approximate size, character, quality, and construction as the market rate units, and shall be evenly distributed throughout the project.

    d. Affordability shall be defined as housing that can be rented whereby the combined annual rental and utility expenses will not exceed 30% of household income.

3. **Assurance of Continued Affordability.** In order to qualify as workforce housing under this section, the application shall make a binding commitment that the dwelling units will remain affordable for a period of 30 years. This shall be enforced through a deed restriction, restrictive covenant, or some other contractual arrangement through a local, state or federal housing authority or other non-profit housing trust or agency to administer this provision. No dwelling unit created by this bonus shall be occupied until written confirmation of the income eligibility of the tenant or buyer of the unit has been documented.

ARTICLE 20. SITE DEVELOPMENT STANDARDS

20.1 GENERAL 20-2

20.2 DRAINAGE & STORMWATER MANAGEMENT 20-3

20.3 SEDIMENT & EROSION CONTROL 20-4

20.4 SNOW STORAGE & REMOVAL 20-5

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20.9 TRAFFIC & ACCESS MANAGEMENT 20-11

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20.11 SURFACE WATERS & WETLANDS 20-12

20.12 HAZARDOUS & TOXIC MATERIALS 20-13

20.13 NOISE 20-13

20.14 ARCHITECTURE & VISUAL APPEARANCE 20-14

20.1 GENERAL

20.1.1 Authority

Pursuant to the authority vested in the City of Keene Planning Board by the City Council, and in accordance with NH RSA 674, the Planning Board shall have the authority to adopt and amend the following site development standards and associated site plan review application procedures in Section 25.12 of this LDC.

20.1.2 Purpose

The purpose of these site development standards is to:

1. Promote the safe and orderly development of the City;
2. Promote sustainable design and development that supports long-term economic vitality and ecologic integrity;
3. Encourage site design techniques that protect water quality and prevent increases in the quantity of stormwater runoff;
4. Achieve a high-quality site and building design that enhances the attractiveness of the City;
5. Protect abutters against hazards, unsightliness, and nuisances detrimental to property values;
6. Ensure that development of land is appropriate for the public and private services and facilities available;
7. Ensure that pedestrian, bicycle, and vehicular circulation can be accommodated in a safe manner;
8. Preserve and enhance the historic and cultural character of the community; and,
9. Ensure that development serves to maintain and enhance quality of life, while not imposing unreasonable costs upon the City.

20.1.3 Applicability

A. Unless otherwise indicated in this LDC, all development, redevelopment, or change of use of lots in the City, for uses other than single-family and two-family dwellings, shall conform with the site development standards in this Article.

B. Other than for site investigation, site work associated with a proposed development shall not commence until the proposal has been approved by the Planning Board or its designee in accordance with this LDC.

C. The site development standards in this Article, in addition to the site plan review application procedures in Section 25.12, shall govern the review and approval of all applications for site plan review.

D. For the purposes of this Article, "development" shall mean any form of land improvement or construction involving land, structures, or infrastructure including, but not limited to, the following.

1. The introduction of new principal or accessory uses, where no such use previously existed.
2. The expansion or modification of existing principal or accessory uses.
3. The introduction, expansion, modification, or relocation of structures, impervious surfaces, utilities, exterior lighting, and other site improvements or amenities.
4. Site work associated with proposed development (e.g. grading, filling and excavation, stockpiling of materials, surcharging of soils).

20.2 DRAINAGE & STORMWATER MANAGEMENT

20.2.1 Runoff Volume and Velocity

A. The development of a site shall not result in increased volume or velocity of runoff onto adjacent properties or surface water bodies.

B. The applicant shall provide sufficient data in the form of drainage report prepared by a NH licensed engineer to demonstrate compliance with this requirement.

20.2.2 Low Impact Design

A. Site design and drainage systems constructed to comply with Section 20.2.1 shall incorporate Low Impact Development (LID). Examples include, but are not limited to, the following.

1. Bio-retention.
2. Porous pavement.
3. Vegetated swales.
4. Infiltration trenches.
5. Rooftop drain disconnection.
6. Cisterns.
7. Green roofs.
8. Vegetated filter strips.
9. Reduced impervious surfaces.
10. Stormwater disconnection.
11. Preservation and enhancement of native vegetation.

B. Where site conditions exist that make on-site infiltration impracticable, the Applicant shall demonstrate to the satisfaction of the Planning Board that the use of LID measures is not possible before proposing to use traditional, structural stormwater management measures including, but not limited to, stormwater retention and detention ponds and underground storage systems.

20.2.3 Quality of Stormwater Discharge

A. Treatment systems (e.g. wet detention basins, constructed wetlands, or LID measures) combined with contamination prevention practices (e.g. frequent sweeping of parking lots, the use of oil/gas traps in catch basins) shall be utilized to assure that upon discharge to surface waters, floodplain compensatory storage basins, or wellfield protection areas drainage water meets Federal Clean Water Act standards.

B. Drainage systems that divert runoff into surface waters, wellfield protection areas, or floodplain compensatory storage areas shall utilize LID measures or wet or dry sediment basins or similar devices in combination with erosion prevention and sediment control practices to avoid sediment loading of the receiving area(s).

20.2.4 Bike Friendly

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

20.3 SEDIMENT & EROSION CONTROL

20.3.1 Pre-Construction

A. Each project shall be designed to prevent erosion and sedimentation during and subsequent to construction in the following ways.

1. Minimize disturbance of natural soil cover and vegetation.
2. Minimize, in area and duration, exposed soil and unstable soil conditions.
3. Protect receiving water bodies, wetlands and storm sewer inlets.
4. Minimize off-site sediment transport on vehicles and equipment.
5. Minimize work in and adjacent to water bodies and wetlands.
6. Maintain stable slopes.
7. Minimize disturbance to and protect surrounding soils, root systems and trunks of trees adjacent to site activity that are intended to be left standing.
8. Minimize the compaction of all site soils.
9. Pre-treat stormwater runoff to remove solids before discharging to infiltration areas.
10. Install LID measures as appropriate.

B. Design and placement of all erosion and sediment control measures shall comply with the standards and practices contained in the most recent version of the NH Department of Environmental Services NH Stormwater Manual, unless specifically approved by the City Engineer.

20.3.2 Post-Construction

A. To assure that erosion and sediment control measures work properly, and to assure that revegetation and slope stabilization takes place in a timely manner and is properly maintained, the City may require a security deposit for up to 12-months after the completion of construction.

B. For critical or large areas of disturbance on steep slopes or adjacent to surface waters, the City may require inspections by a qualified firm or individual.

20.4 SNOW STORAGE & REMOVAL

A. Snow shall be stored on and/or removed from a site so as to:

1. Allow the continued safe passage of vehicles into, out of, and through all travel lanes and parking areas;

2. Prevent accumulation on adjacent properties (unless specific approval for such storage has been obtained); and

3. Prevent flooding of adjacent properties, including City streets.

B. Snow shall not be pushed, piled or otherwise moved directly into surface waters.

C. Snowmelt discharge and associated runoff shall be stored and its drainage routed so that it does not cause erosion.

D. Snow storage shall not be permitted within parking spaces on a site that are required to fulfill the minimum parking requirements of the Zoning Regulations.

20.5 LANDSCAPING

20.5.1 Plant Selection

A. No plant material shall be installed on a site that is listed by the NH Department of Agriculture, Markets and Food as an invasive species per NH RSA 430:54 and NH Administrative Rules AGR 3800.

B. Plant materials shall be hardy to regional climate conditions per the U.S. Department of Agriculture's Plant Hardiness Zone Map.

C. Landscape alternatives to turfgrass lawn (e.g. native trees, shrubs, and perennial groundcovers) shall be utilized whenever feasible.

20.5.2 Installation

A. Trees shall be planted utilizing the best available practices to develop essential root structure, to grow to their full stature, and to perform environmental services at the highest possible levels.

B. Plant materials shall be installed in soil of sufficient volume, composition, and nutrient balance to sustain healthy growth.

C. For trees plantings in areas of non-native or compacted soil, the existing soil shall be excavated to enable the placement of 300 cubic feet of native, permeable soil in an area no less than 6-ft wide and 3-ft deep.

D. Protective devices, such as temporary fencing, shall be installed prior to the start of site work to protect the root masses of existing vegetation and areas intended for infiltration to the satisfaction of the Community Development Director or their designee, or the City Engineer.

1. Such fencing shall be located to the outside dripline of shade and ornamental trees and/or to a diameter distance that matches the height of all shrubs and/or perennial plants.

20.5.3 Location

A. All landscaping shall be located on site without impeding the visibility or safety of pedestrians, bicyclists, or motorists.

B. Trees shall be located to avoid above-ground and below-ground utilities.

20.5.4 Maintenance

A. Any plant material that is significantly damaged, missing, disease-ridden, or dead shall be abated by the property owner within 1-year or before the end of the following planting season, whichever occurs first.

B. All plant materials shall be maintained on site in a healthy, growing condition.

C. All landscaping approved as part of a site plan shall be considered as elements of the site in the same manner as parking, building materials and other site details.

20.5.5 Modifications to Approved Landscape Plans

Minor revisions to approved landscape plans approved by the Planning Board may be approved by the Community Development Director or their designee if the applicant demonstrates all of the following.

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

20.6 SCREENING

20.6.1 General Standards

A. Screening in the form of landscaping or other treatment (e.g. berms, walls, fences) shall be used to:

1. Screen loading areas, waste storage and transfer areas, heating and cooling equipment, electrical equipment and other areas likely to generate noise, dust or other disruptive conditions;
2. Form a buffer between non-residential and residential uses;
3. Form a buffer between single-family and multifamily dwellings, which are different in height, form or material than the adjacent single-family dwellings; and
4. Screen parking lots from adjacent properties.

B. Screening shall be of a texture, material, color, and size compatible with the existing or proposed buildings or structures on the site.

C. Chain link fencing with slats is prohibited for screening.

D. No screening shall be so constructed or installed as to constitute a hazard to traffic or safety.

20.6.2 Specific Standards

A. Service Areas

1. Waste collection, waste compaction, recycling collection, and other similar service areas shall not be located along the building frontage or along a building facade with a primary entrance and shall be screened from view from adjacent property or public rights-of-way (not including alleys).
2. Waste storage containers (e.g. dumpsters or bulk storage containers) shall be fully screened by a solid enclosure of wood, masonry, vinyl or other material deemed acceptable by the Planning Board and shall comply with the minimum standards for

property in Chapter 18 of the City Code of Ordinances.

3. Screening around waste storage containers shall be at least 6-ft in height or of a height equal to the height of the container if the height is greater than 6-ft.

4. Screening required for service areas, including waste storage containers, shall be compatible with the principal building in terms of texture, material and color.

B. Drive-Through Businesses

1. Drive-through windows and lanes shall not be located along the building frontage or along a building facade with a primary entrance.

2. Where allowed, drive-through lanes shall be screened from any adjacent public rights-of-way (not including alleys), existing residential property, or residential zoning districts.

3. At a minimum, such screening shall consist of a compact, evergreen hedge not less than 3-ft in height at planting and 4-ft at maturity.

   a. As an alternative, such screening may consist of a solid fence of wood or masonry at least 6-ft in height.

C. Mechanical Equipment

Heating and cooling equipment, venting, electrical or other mechanical equipment, and associated conduit shall not be visible from adjacent buildings and public rights-of-way, whenever possible. If any portion of this equipment will be visible from adjacent buildings or public rights-of-way, the following standards shall apply.

1. **Roof-Mounted Equipment**

   a. Roof-mounted equipment shall be set back from the edge of the roof at least 10-ft, and screened from ground level view from adjacent properties or adjacent public rights-of-way (not including alleys).

   b. New buildings shall provide a parapet wall or other architectural element that screens roof-mounted equipment from view.

   c. For existing buildings with no or low parapet walls, roof-mounted equipment shall be screened on all sides by an opaque screen compatible with the principle building in terms of texture, material, and color.

2. **Wall-Mounted Equipment**

   a. Wall-mounted equipment that is located on any surface visible from a public right-of-way (not including an alley) shall be fully screened by landscaping or an opaque screen or covering, which is compatible with the principle building in terms of texture, material, and color.

   b. New mechanical supply lines, pipes and ductwork shall be placed in inconspicuous locations or concealed with architectural elements (e.g. downspouts), or painted to blend in with the wall surface to which they are mounted.

3. **Ground-Mounted Equipment.**

   a. Ground-mounted equipment visible from a public right-of-way or adjacent property shall be fully screened.

   b. Screening shall consist of landscaping or an opaque screen compatible with the principle building in terms of texture, material, and color, and shall be as high as the highest point of the equipment being screened.

D. Solar Energy Systems

1. Roof-mounted, small-scale, and accessory solar energy systems shall be sited in a manner to reasonably minimize the view of the system from surrounding properties and public rights of way.

2. In order to minimize visual impacts, colors of roof-mounted solar energy system equipment and assemblies shall either be

muted or shall match nearby materials and colors.

3. Roof mounted solar energy systems on pitched roofs shall be on the same plane as the roof.

4. All solar energy system supplementary equipment and supply lines shall be placed in inconspicuous locations and/or concealed from view with architectural elements (e.g. downspouts) or other screening.

E. Parking Lots

Parking lots shall be designed and screened in accordance with Article 9 of this LDC.

20.7 LIGHTING

20.7.1 Applicability

A. This standard shall only apply to outdoor lighting fixtures.

B. When 50% or more of the light fixtures or poles of an existing outdoor lighting installation are being modified, extended, expanded, or added to, the entire outdoor lighting installation shall be subject to the requirements of this Development Standard.

C. This standard does not apply to sign illumination, which is addressed in Article 10.

20.7.2 Prohibited

A. Floodlighting is prohibited, unless:

1. The Community Development Director, or their designee, determines that there will be no negative impact upon motorists and neighboring properties; and
2. The lights are directed toward the rear of a lot away from the road and neighboring properties, and are placed on heat or motion sensors.

B. Uplighting is prohibited.

20.7.3 General Standards

A. Shielding

All outdoor lights, including freestanding and wall mounted, shall be fully-shielded and/or dark skies compliant (International Dark Sky Association Seal of Approval or equivalent) fixtures with no portion of the bulb visible.

B. Glare

Lighting shall be installed and directed in such a manner as to prevent glare at any location, on or off the property.

C. Light Trespass

The maximum light level of any light fixture cannot exceed 0.1-footcandle measured at the property line and cannot exceed 1-footcandle measured at the right-of-way line of a street.

D. Illumination

All illumination shall be of a white light and shall have a color rendering index (CRI) greater than 70. The color-temperature or correlated color temperature (CCT) of lighting shall not exceed 3,500 Kelvins.

E. Height

The mounting height of fixtures, as measured from the finished grade to the top of the fixture or pole (inclusive of fixture) shall not exceed the maximum height listed in Table 20-1.

Table 20-1: Maximum Light Pole Height

Zoning District	Max Height
All residential zoning districts Agriculture District Conservation District	15 ft
Downtown Core Downtown Growth Downtown Institutional Campus Downtown Limited Downtown Transition Neighborhood Business Office	20 ft
Business Growth & Reuse Commerce Commerce Limited Corporate Park Downtown Edge Health Care Industrial Industrial Park	30 ft

F. Hours of Operation

1. Outdoor lighting shall not be illuminated between the hours of 10:00 pm and 6:00 am with the following exceptions:
   a. Security lighting, provided the average illumination on the ground or on any vertical surface does not exceed 1-footcandle.
   b. If the use is being operated, normal illumination shall be allowed during the activity and for not more than 1-hour before or after the activity occurs.
   c. For 24-hour businesses, lighting levels shall be reduced by a minimum of 50% between the hours of 10:00 pm and 6:00 am.
2. The Planning Board may stipulate a specific time when lighting other than that used for security purposes should be turned off and this determination shall be noted on the final lighting plan submitted for signature.

G. Wiring

Wiring for outdoor lighting shall be placed underground.

20.7.4 Use Specific Standards

In addition to the General Standards in Section 20.7.3, the following standards shall apply to the categories of uses listed below.

A. Parking Lots

Outdoor lighting of parking lots and related circulation areas as well as the unenclosed areas of parking structures shall comply with the following standards.

1. Average illumination levels of parking lot lighting shall not exceed 3.5-footcandles.
2. The ratio of the average to the minimum illumination level (also known as the uniformity ratio) shall not exceed 5:1 in footcandles.

B. Canopies and Vehicle Fueling Station Islands

Canopy lighting, including lighting on vehicle fueling station and/or convenience store aprons, shall comply with the following standards.

1. Areas around pump islands and under canopies shall be illuminated so that the average illuminance at grade level does not exceed 12.5-footcandles.

2. For canopies located in or directly adjacent to residential zoning districts and/or where they are associated with a pre-existing non-conforming use, the average illumination at grade level shall not exceed 5.5-footcandles.
3. Light fixtures mounted under a canopy shall be recessed so that the lens cover is recessed into or flush with the underside of the canopy.
4. No light fixtures shall be attached to the sides or top of the canopy, nor shall the sides or top of the canopy be illuminated.
5. Areas away from fueling pump islands, as defined by the extent of the canopy, shall be subject to parking lot lighting standards in Section 20.7.4.

C. Walkways

Lighting of outdoor walkways, alleys, and pedestrian paths shall comply with the following standards.

1. The average illumination level on a walkway or pathway surface shall not be less than 0.5-footcandles.
    a. The area over which the average illumination level is computed shall only include the walkway surface plus an area on each side not more than 5-ft in width.
2. Maximum lighting levels shall not exceed 5-footcandles.
3. Lighting fixtures other than full cut-off fixtures may be used but shall be designed to minimize glare, direct illumination downward, and shall have an initial output of no more than 1,200 initial lumens.

20.8 SEWER & WATER

A. All sewer and water utilities shall comply with the City's Utility Standards in Chapter 98 of the City Code of Ordinances.

B. The City may require technical studies, at the applicant's expense to assure that existing sewer and water services will not be adversely affected by the proposed development and that there in fact is adequate sewer and water capacity for the proposed development.

C. All new development shall comply with the City's industrial pre-treatment program

20.9 TRAFFIC & ACCESS MANAGEMENT

20.9.1 Traffic

A. Any commercial, office or industrial project involving 100 or more vehicle trips per day, or residential projects involving 10 or more units, as determined by the most recent published version of the Institute of Transportation Engineers (ITE) Trip Generation Manual, shall demonstrate that the project will not diminish the capacity or safety of existing city streets, bridges or intersections, prior to the issuance of a building permit.

B. If improvements to roadways, bridges, signals, or intersections are required for a proposed development to avoid diminishing the existing capacity or safety of these public systems, those improvements shall be made as part of the development, at the developer's expense.

C. The Planning Board may require that any development along West St from School St to the Bypass, and along Winchester St from Island St to the Bypass, be reviewed by the NH Department of Transportation for traffic impact.

20.9.2 Driveways & Curb Cuts

A. Entrances and exits onto public streets shall be designed to provide safe and convenient vehicular passage into and out of the site.

B. Wherever possible, the number of curbcuts or driveways on public streets shall be limited to one per lot.

C. The use of common driveways and service roads is encouraged, and in some instances may be required.

D. All driveways shall comply with the standards in Section 9.3 of this LDC.

E. A State driveway permit is required for any new driveway on a state road outside of the Urban Compact.

20.9.3 Access Management

A. Interior circulation and parking shall be designed to assure safe passage of all vehicles and pedestrians into, out of, and throughout the site.

B. On-site queuing areas shall be provided to prevent congestion on City streets.

C. New development shall provide safe and efficient access from roads and streets to all users, regardless of their mode of transportation.

D. Where appropriate, connections shall be made for the continuation of sidewalks, walkways and bicycle lanes within the property, between adjoining properties, and site amenities shall be installed such as bicycle racks, benches, shade trees, and bus stop shelters. These connections shall apply:

1. Grade changes, textures, colors or other methods of distinguishing sidewalks, walkways and crosswalks from vehicular travel; and,
2. Appropriate lighting, signage, crosswalks, and other safety devices.

E. For development other than single-family and two-family dwellings, bicycle parking shall be provided in racks or other similar facility.

F. Bicycle parking shall not be located within parking areas for motorized vehicles.

G. Building facades that abut parking areas and contain a public entrance shall include pedestrian walkways.

20.9.4 Accessibility

A. Pedestrian facilities shall be designed to accommodate persons with disabilities in accordance with the access standards required by the State Building Code.

B. Sidewalks, shared use paths, street crossings and other infrastructure shall be constructed so that all pedestrians, including persons with disabilities, can travel independently.

20.10 FILLING & EXCAVATION

A. All development involving the commercial taking of earth shall comply with the Earth Excavation Regulations in Article 24.

B. Any project, which involves the placement of fill within the floodplain, shall comply with the Floodplain Regulations in Article 23.

C. If the placement of fill or excavation impacts wetlands, the applicant shall comply with federal and state wetlands regulations and procedures.

D. Any project, which will result in 50 or more trucks of earth or gravel entering or leaving a site, shall submit a plan to the Community Development Department as to the proposed truck route(s). The Community Development Department shall consult with the Police Department and City Engineer, and as appropriate, the State Highway Department in reviewing the proposed haul routes.

20.11 SURFACE WATERS & WETLANDS

All development shall comply with all federal and state wetland and surface water regulations, Article 11 of this LDC, as well as any other applicable City regulations.

20.12 HAZARDOUS & TOXIC MATERIALS

A. Any proposed work that involves the receiving, handling, storing or processing of any hazardous or toxic substances (as defined by NH RSA 339-A:2), or involves property that has been contaminated by hazardous or toxic substances, shall disclose such information as part of a site plan review application.

B. Copies of all appropriate state or federal permits and plans as required by the NH Department of Environmental Services (DES) for a proposed use or development shall be submitted to the City's Building and Health Official and the Fire Department for review.

C. If, as a result of the content and review of the application, the Planning Board, or their designee, finds that a potential health risk or an environmental threat exists from a previous or existing use of the site, then it may require that an initial site characterization (see NH Code of Administrative Rules Env-Ws 412) be completed and submitted to DES. When a site characterization is required, the results shall be submitted to and reviewed by the Building and Health Official prior to the issuance of a building permit.

20.13 NOISE

A. Proposed uses or development shall comply with the City's Noise Ordinance in the City Code of Ordinances and the Noise Limits in Article 17, and shall be sited or designed to minimize sound or noise impacts with consideration for surrounding land uses.

1. If there is a question as to whether a proposed use or development will comply with these standards, the Planning Board may request sufficient evidence be provided by the applicant to demonstrate that the proposed use or work will not exceed the applicable sound level limits in Table 17-1 of this LDC. Compliance with the sound level limits is to be maintained at the boundary of the property.

B. Once a proposed use or development begins routine operation, the Planning Board, or their designee, may require a demonstration that the use or development meets the applicable sound level limits.

1. Such demonstration shall require a sound testing report by a qualified professional be provided to the Community Development Department that includes a description of measurement procedures, identification of sound level instrumentation and calibration, descriptions of measurement locations, sound level measurements and field observations, measurements and analysis of short duration repetitive sounds, and weather conditions.

2. Sound level measurements taken as part of this demonstration shall include representative daytime and nighttime periods for a duration adequate to quantify the loudest modes of routine operation.

20.14 ARCHITECTURE & VISUAL APPEARANCE

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

20.14.1 Massing/Scale

A. The height or placement of any proposed new structure, modifications to an existing structure, or site improvement shall not overwhelm the prevailing architectural scale of the City, detract from valued architectural resources, or impede upon any view corridor or viewshed identified in the Viewshed Overlay set forth in Figure 13-1 in Article 13 of this LDC.

B. For buildings of 150-ft in length of more, facades shall be divided into multiple "modules," expressed through significant architectural changes such as a change in materials, a change in pattern elements (e.g. fenestration, columns, pilasters, etc.), or a change in building setback through recesses or projections. Such modules shall be no wider than 50-ft.

C. Commercial storefronts shall include traditional pedestrian-oriented elements (e.g. display windows, bulkheads, transoms, pilasters, cornices, etc.).

D. Additions to existing structures shall be compatible in size and scale with the principal building.

20.14.2 Visual Interest

A. Front facades and exterior walls shall be articulated to express an architectural identity to avoid a uniform appearance, and architectural details shall give the impression of being integral to and compatible with the overall design.

B. Structures shall have architectural features (e.g. dominant gable ends, cornices, granite sills, arched openings, large windows framed with architecturally consistent trim, etc.) and patterns that provide visual interest at the pedestrian scale, reduce massive aesthetic effects, and harmonize with the City's distinctive architectural identity, unique character, and prevailing scale.

C. Architectural features shall not serve primarily as an advertisement, commercial display, or identifying characteristics corresponding to corporate identity.

D. Architectural features shall conform to accepted architectural principles of design and construction.

E. Facades shall express a traditional visual distinction between the ground floor and upper stories through architectural features or detailing, change in materials, or a change in pattern elements such as fenestration.

F. Buildings shall be designed with consistent building materials and treatments that wrap around all facades visible from a public right-of-way. Where material or color treatments change, there shall be a significant change in surface plane of a minimum of 6-in in difference. Differing materials are encouraged to terminate at inside corners.

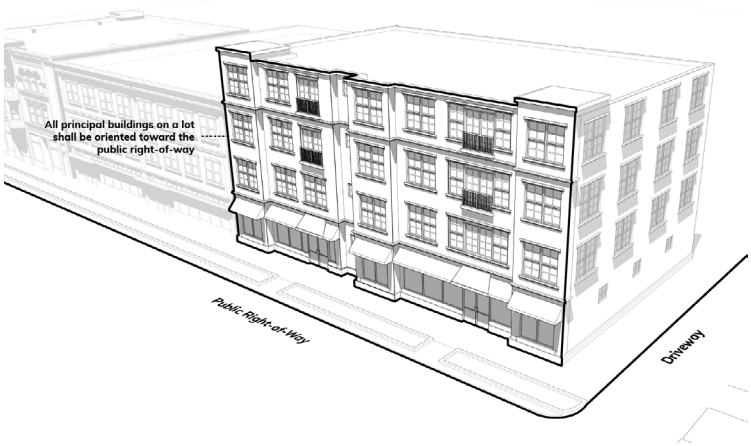
G. Exterior materials, textures, and colors shall minimize visual aggressiveness and shall harmonize with the City's distinctive architectural identity and unique character. Surfaces with glossy finishes, reflective glass or dark tinted exteriors, or untreated aluminum, stainless steel, or metal exterior finishes shall be discouraged.

H. Modifications and additions to existing structures shall be harmonious with the character of the existing structure.

I. Where parapet walls are used, they shall feature three-dimensional cornice treatments or other shadow creating details along their tops.

20.14.3 Site Design and Relationship to Surrounding Community

A. All principal buildings located on lot shall be oriented toward a public right-of-way. If, due to site constraints, it is determined that the primary facade of new buildings cannot face the street, then the secondary elevation facing the street shall be designed with form, composition, and details consistent with and appropriate to the primary facade.



B. Orientation of structures on a site shall conform to a parallel or orthogonal pattern in relation to the City street pattern.

C. Off-street parking and traffic flow shall not interfere with the flow of pedestrian travel or otherwise detract from the aesthetic character of a development or redevelopment.

D. All required off-street parking shall be to the side or rear of buildings on the proposed site, and such parking shall be screened or aligned in accordance with Section 9.4.

E. A cohesive visual character shall be maintained within a development through the use of coordinated hardscape (e.g. paving materials, lighting, outdoor furniture, etc.) and landscape treatments.

F. The presence of any existing development in the surrounding area that does not conform to these standards for aesthetic character shall not exempt the applicant from complying with this Site Development Standard.

ARTICLE 21. DOWNTOWN HISTORIC DISTRICT REGULATIONS

21.1 GENERAL 21-2

21.2 ACTIVITIES REQUIRING A CERTIFICATE OF APPROPRIATENESS 21-3

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21.1 GENERAL

21.1.1 District Map

The Downtown Historic District includes all structures and land located within the boundaries described in the map "Downtown Historic Overlay District Amendment" dated September 1, 2009. This map, shown in Figure 21-1 is incorporated as part of this LDC, as may be amended.

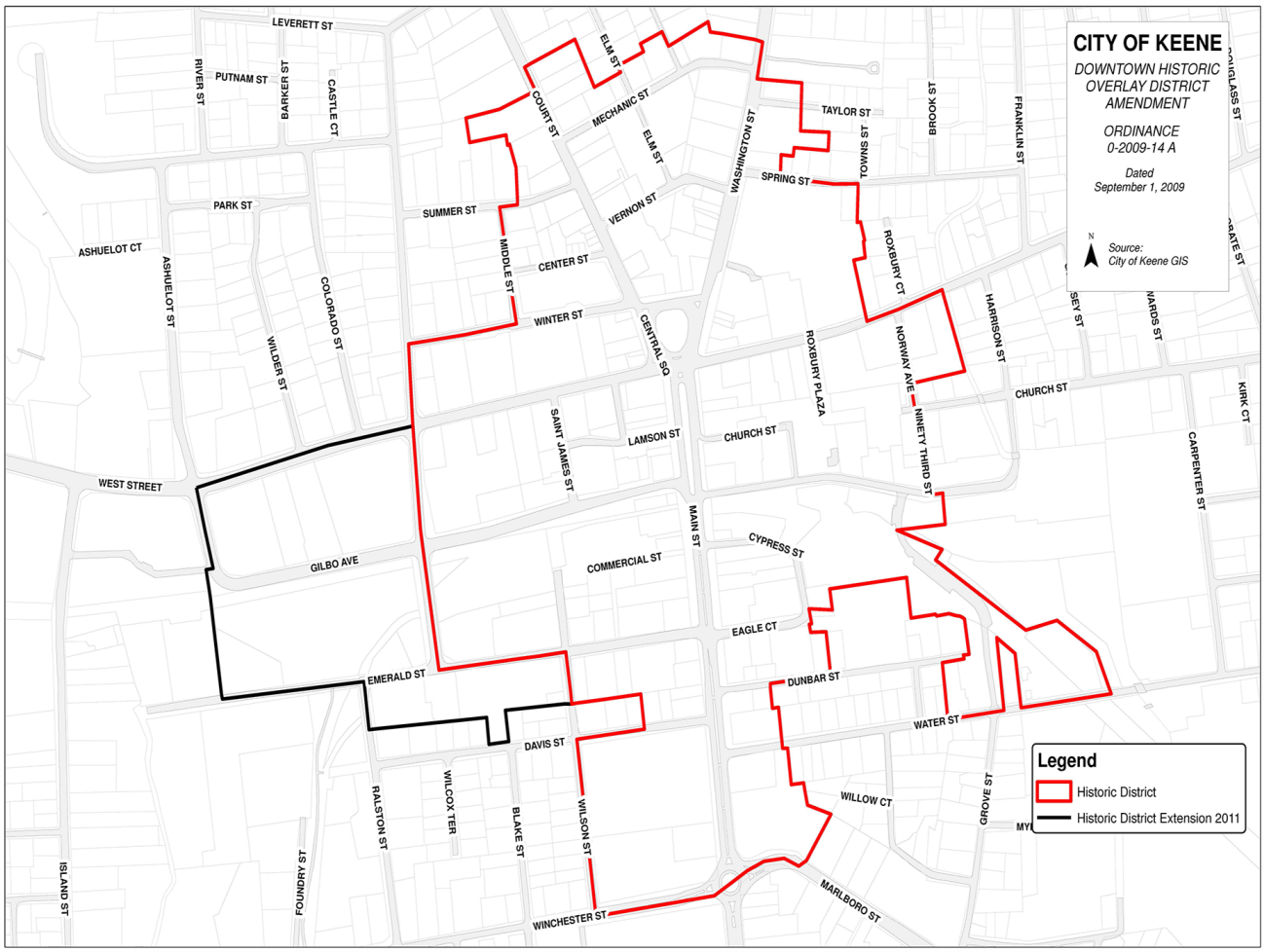
21.1.2 Purpose

The purpose of these Historic District Regulations is to recognize, preserve, enhance and perpetuate buildings, structures and sites within the City of Keene's Downtown Historic District having historic, architectural, cultural or design significance.

21.1.3 Period of Significance

These regulations shall apply to all buildings or structures located within the Downtown Historic District that were constructed during the "Period of Significance." The Period of Significance is the span of time during which the district attained its significance. This period starts in 1785, the year of the oldest extant building, and ends 50 years from present time.

Figure 21-1 Downtown Keene Historic District Map



21.2 ACTIVITIES REQUIRING A CERTIFICATE OF APPROPRIATENESS

The activities listed below shall require a certificate of appropriateness issued by the Historic District Commission (HDC) or its designee, in accordance with this Article and with the application and review procedures for certificates of appropriateness in Section 25.15 of this LDC.

A. Alteration, relocation, or demolition of a building or structure.

B. Construction, alteration, or relocation of any architectural feature of an existing building or structure that is visible from a public right-of-way or other public place.

C. Installation of new paving (excluding maintenance of existing paved areas).

D. Removal of 1 or more trees in excess of 15-in in diameter at a trunk height of 4-ft above grade, except where removal of such tree(s) is necessary for safety reasons as determined by a professional arborist or other qualified professional.

E. Removal of stone wall(s), granite post(s), iron fence(s) or any portion thereof.

F. Addition or alteration of existing exterior siding (e.g. vinyl, aluminum, stucco, wood, glass, etc.) of a building or structure.

G. Painting in part or whole of a brick or stone masonry building or structure.

H. Chemical or physical treatment to the exterior of a building (including paint removal), such as sandblasting or abrasive cleaning.

I. Installation and/or screening of a bulk container, a waste storage container, or a container pad if visible from a public way.

J. Installation of a satellite dish and/or telecommunications facilities on an existing building, structure, or site if visible from a public way.

K. Installation of renewable energy systems on an existing building, structure, or site if visible from a public way.

21.3 EXEMPTIONS

The activities listed below shall not require a certificate of appropriateness from the Historic District Commission or its designee.

A. Buildings or structures built outside of the Period of Significance (i.e. less than 50 years old), including new free-standing buildings and structures.

B. Any work or alteration to an existing building, structure, or site that is not visible from a public right-of-way or other public place. If the area to be impacted is screened from the public right-of-way only by landscaping, it shall be considered visible.

C. Ordinary maintenance and repair of a building, structure or site. Ordinary maintenance and repair is defined as any work, the sole purpose and effect of which is to prevent or correct deterioration, decay or damage, including repair of damage caused by fire or other disaster, and which does not result in a change to the historic appearance and materials, or alter the character defining features of the building, structure or property.

1. In terms of masonry repair, ordinary maintenance and repair may include in-kind, spot replacement of masonry units that are damaged or broken.

D. Painting or repainting of:

1. Already painted masonry, except for the repainting or covering of a historic painted advertisement, sign, or artwork, or painting over a mural that was previously approved by the Historic District Commission.
2. Unpainted concrete surfaces.
3. Metal roofs

E. Installation or replacement of storm doors and storm windows.

F. Repairs to windows, entrances, doors, porches, siding, trim, roof surfaces, and other architectural elements that do not involve a change in their location, design, dimensions, or materials.

G. Installation of outdoor features (e.g. benches, sculptures, patios, trellises, etc.) that do not disturb any historic site features.

H. Replacement, repair, or resurfacing of a driveway or walkway so long as such work does not result in a change in material or expansion of the existing driveway or walkway.

I. Utility meters that are not located on a front or street-facing building facade.

J. Roof antennas or satellite dishes that are less than 24-in in diameter.

K. New wall vent openings, including new caps that are less than 16 square inches.

L. Fencing required for public safety per the state building codes and state fire codes.

21.4 PROJECT CLASSIFICATION

An applicant proposing any activity in Section 21.2 shall meet with the Community Development Director or their designee prior to commencing work and/or submitting an application for a certificate of appropriateness.

21.4.1 Minor Project

A. A Minor Project is defined as any work, including alteration or modification, to one or more of the items listed in Table 21-2.

B. Minor Projects shall require a certificate of appropriateness issued by the Community Development Director or their designee.

C. The Community Development Director, or their designee, shall keep the Historic District Commission informed of approved Minor Project applications annually.

21.4.2 Major Project

A. A Major Project is defined as any work, including alteration or modification, to one or more of the items listed in Table 21-3 .

B. Major Projects shall require a certificate of appropriateness issued by the Historic District Commission.

C. Projects that meet the Major Project threshold criteria may be considered to be minor projects if proposed on properties designated as Non-Contributing or Incompatible Resources, and the Community Development Director, or their designee, determines that the project does not warrant review and approval by the Historic District Commission.

Table 21-2: Minor Project Threshold Criteria

Primary / Contributing Resources Criteria:	Non-Contributing / Incompatible Resources Criteria:
• Extensions to the expiration date of certificates of appropriateness where there is no change in project scope or specifications. • Replacement of less than 25% of existing exterior siding and/or trim when there is no change in general appearance. • Repair or repointing of masonry when there is no change in materials or general appearance. • Replacement of 2 or fewer windows or doors during the course of 1 calendar year (beginning with the date of approval). • Installation of HVAC and other mechanical equipment. • Removal of non-historic elements determined to conceal character-defining features. • Installation of fencing. • Installation of or changes to light fixtures that do not alter character defining features.	• Any activities classified as Minor Projects for Primary/ Contributing Resources shall also be considered Minor Projects for Non-Contributing/Incompatible Resources. • Removal, relocation or demolition of an existing building or structure. • Installation of prefabricated accessory buildings or structures with a gross floor area that does not exceed 125-sf. • Replacement of existing windows and doors or the installation of new windows or doors in former or existing openings. • Replacement of exterior masonry walls. • Changes to exterior materials other than those classified as Major Projects in Table 21-3. • Chemical or physical treatment to the exterior of a building or structure. • Installation of satellite dishes or telecommunications facilities. • Installation of dumpster, dumpster enclosure or pad. • Changes to grading or the installation of new paving. • Installation of renewable energy systems.

Table 21-3: Major Project Threshold Criteria

Primary / Contributing Resources Criteria:	Non-Contributing / Incompatible Resources Criteria:
• Any activities classified as Major Projects for Non-Contributing/ Incompatible Resources shall also be considered Major Projects for Primary/Contributing Resources. • Removal, relocation or demolition of an existing building or structure. • Replacement of exterior masonry walls. • Changes to exterior materials other than those classified as Minor Projects in Table 21-2. • Chemical or physical treatment to the exterior of a building or structure. • Installation of prefabricated accessory buildings or structures. • Changes to grading or the installation of paving. • Installation of dumpster, dumpster enclosure, or dumpster pad. • Installation of renewable energy systems. • Replacement of more than 2 windows or doors during the course of one calendar year. • Installation of telecommunications facilities or satellite dishes.	• Renovation, rehabilitation, or restoration of a building or structure. • Additions to a building or structure. • Alterations to storefronts. • Creation of new openings for windows or doors. • Painting of a previously unpainted brick or stone masonry building or structure. • Installation of decks, patios, or pools. • Installation of art attached to a building or structure. • Removal of trees in excess of 15-in in diameter at a trunk height of 4-ft above grade. • Installation of prefabricated accessory buildings or structures with a gross floor area that exceeds 125-sf.

21.5 STREETSCAPE & SITE DESIGN STANDARDS

21.5.1 Trees

A. Trees that exceed 15-in in diameter at a height of 4-ft above grade shall be retained, unless removal of such tree(s) is necessary for safety reasons as determined by a professional arborist or other qualified professional or is approved as part of a major project application for a certificate of appropriateness.

B. Grading or changes to the site's existing topography shall not be allowed if existing mature trees might be negatively impacted by altered drainage and soil conditions.

C. During construction, paving, and any site work, existing mature trees shall be protected.

D. If a mature tree is damaged during construction, or removed without approval, it shall be replaced with a new tree of the same or similar species that is at least 3-in in diameter, as measured 24-in from the ground after planting.

21.5.2 Fences, Walls, Posts & Site Features

A. Historic fences, walls, posts and granite site features (e.g. mounting blocks) shall not be removed from the site on which they are located and every effort shall be made to leave them undisturbed.

B. New fences or walls shall be simple in design and shall complement the materials and design of the building(s) on the site and the character of the site itself.

C. Fences and walls along the street frontage shall be no higher than 4-ft, unless it can be documented that a higher fence existed historically.

D. Chain link fencing and chain link fencing with slats shall be prohibited.

21.5.3 Walkways, Driveways, Alleys, and Parking Areas

A. Every effort shall be made to retain the location and configuration of historic driveways, walkways and alleys, as well as their historic materials, if granite, marble or brick.

B. New driveways on sites with residences or converted residences shall lead directly to the parking area, and new walkways shall lead directly to the front steps of the house, unless it can be documented that a different pattern existed historically.

C. Curb cuts for driveways on sites with residences or converted residences shall be the width of a single travel lane.

D. New onsite parking, if required, shall be unobtrusive, with appropriate screening and landscaping, and shall preserve any character-defining features of the site. Grading shall not dramatically alter the topography of the site or increase water runoff onto adjoining properties.

E. Where appropriate, parking and access drives shall be shared in order to reduce the amount of paved surface.

21.5.4 Utility, Service, and Mechanical Equipment

A. Mechanical equipment (e.g. HVAC units, transformers, etc.), telecommunications equipment, and antennas shall be set back on the roof of the building so as to be minimally visible from the street, or ground-mounted toward the rear of the building set as low to the ground as possible and with appropriate screening or landscaping to minimize visibility.

B. New mechanical supply lines, pipes, and ductwork shall be placed in inconspicuous locations and/or concealed with architectural elements, such as downspouts.

C. Bulk waste containers and waste storage containers shall be located and appropriately screened to be as inconspicuous as possible

from the public right-of-way and adjacent buildings in residential use. In addition:

1. Bulk waste and waste storage containers shall be located in rear or side yards and shall be to the rear of the front line of any building.
2. Screening shall be required if any portion of the bulk waste or waste storage container is visible from the public right-of-way.
3. Screening shall consist of a solid wall or fence and a gate. Screening shall be a minimum of 6-ft in height or a height equal to the height of the waste container if the container height is greater than 6-ft;
4. Screening shall be of a material, color, size, and pattern compatible with the building(s) or structure(s) on the site.
5. Chain link fence or chain link fence with interwoven slats shall not be acceptable screening.

D. Walls on front or street-facing facades shall not be penetrated for new vent openings larger than 70-square inches. New vent caps shall not be larger than 200-square inches.

21.5.5 Renewable Energy Systems

A. Renewable energy systems shall be installed in a location and manner on the building or lot that is least visible and obtrusive, and in such a way that causes the least impact to the historic integrity and character of the historic building, structure, site or district while maintaining efficient operation of the system.

B. The order of preference for the location of renewable energy systems is listed below in order of most to least preferential location. An applicant is required to prove the most preferential priority locations are not feasible in order for the Historic District Commission, or its designee, to approve system installations on more significant parts of the site.

1. The rear or side of the property not facing a public right-of-way.
2. On accessory buildings or structures (e.g. sheds, garages, barns, etc.) in a location that is least visible from the public right-of-way.
3. On newer additions to the principal structure in a location that is least visible from the public right-of-way.
4. On the flat roof of the principal structure, set back so as to be in the least visible location.
5. On secondary façades or roofs (i.e. not facing the public right-of-way) of the principal structure.
6. On facades or roofs facing the public right-of-way.

C. Renewable energy systems shall be installed in such a manner that they can be removed and not damage the historic building, structure, or site with which they are associated.

D. In order to minimize visual impacts, colors of equipment and assemblies associated with renewable energy systems shall either be muted or shall match nearby materials and colors, and solar panels shall have anti-reflective coating.

E. Roof-mounted solar photovoltaic systems on pitched roofs shall be on the same plane as the roof and positioned so as to be in the least visible location.

F. Solar array grids should be regular in shape and jointed. Multi-roof solutions should be avoided.

G. All supplementary equipment and supply lines associated with renewable energy systems shall be placed in inconspicuous locations and/or concealed from view with architectural elements (e.g. downspouts) or other screening.

21.6 BUILDING REHABILITATION STANDARDS

21.6.1 General for All Buildings

A. Masonry

1. Character-defining architectural masonry trim shall be retained and repaired when technically and economically feasible. If the trim is sufficiently deteriorated so that replacement is warranted, the new trim shall match the original in size, scale, placement, and detailing. Where possible, replacement trim should match the original material. If substitute material is used, it shall convey the same visual appearance as the historic trim.

2. Masonry shall be cleaned only when necessary to halt deterioration or remove heavy soiling.

3. Masonry shall not be sandblasted or abrasively cleaned, but cleaned with the gentlest method possible, such as low-pressure cleaning not to exceed 400 PSI, using water or detergents.

4. Limestone and marble shall not be cleaned with an acidic cleaner, as it may dissolve the surface.

5. If currently unpainted, masonry, other than concrete masonry, shall not be painted, unless there is physical, pictorial or documentary evidence that the building was historically intended to be painted or unless a painted mural is proposed that meets the standards for Art in Section 21.6.1.B.

6. Repointing shall only be undertaken to address deteriorated masonry or in areas where moisture infiltration is a problem.

a. The amount of wall area to be repointed shall be limited to the affected area.

b. The new mortar joints shall match the original as closely as possible in terms of profile, width, and mortar composition.

c. The new mortar shall match the color of the mortar used when the building was built, or it shall match aged or weathered mortar color, whichever is more appropriate.

d. The color of all mortar shall come from the aggregate and not the binder.

e. Upon completion of the repointing, all remaining mortar and residual film shall be cleaned from the façade of the building.

7. Brick walls that require repair with replacement brick shall be repaired with bricks that match the original as closely as possible in terms of size, color and texture.

B. Art

1. Artwork shall not conceal or result in the removal of character-defining details or architectural features.

2. Wall-mounted art, such as murals, mosaics or metal installations, shall be located to avoid areas that are important to the overall design or architectural rhythm of the building.

3. The art installation shall be installed in such a manner that it can be removed and not damage the associated historic building, structure, or site.

4. Accessories to the artwork, such as mounting hardware or lighting, should be unobtrusive and screened from view as much as possible. If visible, colors of equipment and accessories shall either be muted or shall match nearby materials and colors.

5. Murals proposed for unpainted brick or stone masonry surfaces on a building or structure shall meet all of the following criteria.

a. The mural will enhance or complement the historic or architectural features of the structure or site.

b. The mural will enhance or complement the historic character or context of the surrounding area.

c. The mural will be designed by a professional mural artist or sign painter.

d. The mural is not located on a primary elevation of a Primary or Contributing Resource.

e. The mural will not cover more than 40% of the surface area of a facade of a building or structure.

f. Surface treatments that are appropriate for historic brick or stone masonry materials shall be used.

i. Waterproof coatings are prohibited.

21.6.2 Specific Standards for Non-Contributing and Incompatible Resources

A. Materials used for siding shall be those that are common in the district. Acceptable materials include brick, stone, terra cotta, wood, metal and cement clapboard.

1. Materials commonly referred to as "vinyl siding" are prohibited except when repairing existing vinyl siding.

B. Replacement of missing features shall be substantiated by documentary, physical or pictorial evidence.

C. Restoration, rehabilitation, and/or alterations shall be based on physical, pictorial or documentary evidence and any surviving character-defining features shall be preserved.

D. Alterations shall not further disrupt or detract from the established historic architectural character of the surrounding area, nor to the relationship of any existing historical resources, including site features, on the site.

21.6.3 Specific Standards for Primary and Contributing Resources

A. General

1. Each building or structure shall be recognized as a physical and cultural record of its time, place and use. As such, the historic character of a building or structure shall be retained and preserved.

2. Deteriorated historic features significant to the building or structure shall be repaired, rather than replaced. If replacement is necessary due to extreme deterioration, the new feature shall match the historic in size, design, texture, color and, where possible, materials. The new feature shall maintain the same visual appearance as the historic feature.

3. All architectural changes shall be appropriate either to the original style or appearance of the building or structure (if it has not been significantly altered) or to its altered style or appearance (if it has been altered within the Period of Significance and those alterations have attained significance).

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.

B. Siding and Architectural Trim

1. Character-defining architectural trim shall be retained and repaired when technically and economically feasible. If the trim is sufficiently deteriorated that replacement is warranted, the new trim shall match the original in size, scale, placement, detailing, and ideally material. If substitute material is used, it shall convey the same visual appearance as the historic trim.

2. If replacing missing architectural trim, the appearance and material of the new trim shall be based on physical, documentary, or pictorial evidence.

3. Wood surfaces shall not be sandblasted or high-pressure washed.
4. Vinyl and aluminum siding are prohibited.
5. Historic siding shall be retained when possible. In considering an application for manmade or synthetic siding other than vinyl or aluminum, the Historic District Commission, or its designee, shall take into consideration all of the following.
    a. The condition and type of the existing siding.
    b. Whether the new siding will alter or remove any original trim or character-defining features, or affect their arrangement or proportions.
    c. Whether the proportion of the new siding faithfully duplicates the historic material.

C. Roofs and Roof Structures (e.g. chimneys, dormers, cupolas, iron cresting, flashing, gutters, downspouts)

1. The original or historic roofline shall not be altered. Raising or lowering the existing roofline shall only be allowed for the purpose of restoring the roof to its original profile.
2. Slate shall be retained, whenever economically feasible. Before slate on a visible roof slope is removed, the applicant shall obtain a written estimate from a roofing contractor highly experienced in slate work with the following information.
    a. The condition of the existing slate.
    b. The percentage of slate that is beyond repair.
    c. If some of the slates are salvageable, the cost of using new slate where replacement is warranted and reusing existing slate, including relocating some from non-visible roof slopes, if necessary.
    d. The cost of re-roofing with substitute materials.
3. If slate on the visible portion of the roof warrants replacement, the new material may be either replacement slate, slate salvaged from a non-visible portion of the roof, synthetic slate, or asphalt shingles that are similar in color to slate.
4. Character-defining chimneys shall not be removed, unless determined to be a safety hazard by the Building and Health Official or their designee, and repair constitutes an economic hardship. Details of these chimneys (e.g. corbelling, stepped bases, terra cotta chimney pots, paneled sides) shall not be altered.
5. Skylights shall be installed low to the roof, have a flat surface, and dark non-reflective frames. They shall not be installed on a highly visible roof slope. They are not allowed on mansard roofs or on any polychromatic slate roofs.
6. Historic dormers and cupolas on roofs shall be retained. Expansion of existing dormers or adding new dormers may be approved on a case-by-case basis, provided designs are based on physical, documentary, or pictorial evidence.
7. Iron cresting shall be retained.
8. Unpainted, mill-finished aluminum shall not be used for replacement flashing, gutters, or downspouts.

D. Windows

1. Removing character-defining historic window sash shall be discouraged, unless repair is not economically feasible.
2. Any 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, it shall have: clear-paned, non-tinted glass (except to replace historic stained or other types of translucent

or opaque glass); and 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.

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 Historic District Commission, or its designee, 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, or its designee.

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.

5. If the size or location of the original window opening has been altered, owners shall be encouraged to restore those openings if replacing windows.

6. Introducing new window openings into the primary elevations shall be prohibited.

7. Enlarging or reducing the window rough opening to fit new stock windows shall be prohibited.

8. Exterior blinds/shutters shall be installed only if documentary evidence shows that they are historically appropriate to that building.

9. If replacement blinds/shutters are installed, they shall be wood and match the height and one-half (½) the width of the window opening to replicate a traditional blind/shutter. Their design shall be appropriate to the style and period of the building.

E. Entrances, Doors and Porches

1. Historic doors, entrances and porches, including their associated features, shall be retained or replaced in-kind. If repair is necessary, only the deteriorated element shall be repaired, through patching, splicing, consolidating, or otherwise reinforcing the deteriorated section. If replacement is necessary, the new feature shall match the original in size, design, texture, color, and, where possible, materials. The new feature shall maintain the same visual appearance as the historic feature.

2. Introducing new door openings onto the primary elevations or enlarging or reducing door openings to fit new stock doors is prohibited.

3. Enclosing a front porch with wood-framed screens is allowed. Screens shall be placed behind posts or balustrades and shall be removable in the future without damaging historic elements of the porch.

F. Commercial Storefronts

1. Historic features of the storefront (e.g. iron or masonry columns or piers, window trim, glass, lintels and cornices, sills, steps,

railings and doors, etc.) shall be retained and repaired when technically and economically feasible.

2. If most of the historic storefront survives and the overall condition of its materials is good, any necessary replacement parts shall match the original or be of a material that conveys the same visual appearance as the historic parts.

3. If most or all of the historic storefront does not survive, the storefront shall either be restored to an earlier historic appearance based on physical, documentary, or pictorial evidence; or be redesigned to conform to the size, scale, and proportions of a traditional storefront appropriate to the building.

21.7 DEMOLITION

21.7.1 Primary and Contributing Resources

A. Demolition, or partial demolition, of a building and/or structure categorized as a Primary or a Contributing Resource, including secondary buildings and structures located on the same property as a Primary or a Contributing Resource, shall be prohibited unless:

1. The applicant can demonstrate that retaining the resource would constitute economic hardship due to unavoidable quantifiable and verifiable expenditures or a fiscal loss that would ensue should the building not be demolished; or

2. The building or structure has been determined structurally unsound, based upon a written technical report prepared by an architect or professional engineer licensed in the State of New Hampshire that clearly demonstrates that the building or structure presents a risk to public health, safety and welfare; or

3. Demolition is limited to a secondary building or a free-standing structure on the same property that has not been cited on the historic resource inventory form as a significant resource or character-defining feature; or

4. The Historic District Commission, by a two-thirds vote, determines that demolition is warranted due to extraordinary circumstances.

B. **Later Additions.** Demolition, or partial demolition, of later additions that are part of a Primary or a Contributing Resource may be allowed. Their removal will be evaluated and determined by the Historic District Commission on a case-by-case basis.

C. For the purposes of this Article, applications for relocation of a building or structure shall be subject to the same standards as demolition.

21.7.2 Non-Contributing and Incompatible Resources

Demolition, or partial demolition, of a building or structure categorized as a Non-Contributing or an Incompatible Resource shall be allowed, unless the Community Development Director determines that the proposal warrants review by the Historic District Commission.

21.7.3 On-Site Posting of Notice of Public Hearing

Applicants shall post a sign identifying the structure as proposed for demolition in a visible location on the premises at least 10 calendar days prior to the public hearing. The sign shall be available from the Community Development Department and shall be returned by the applicant prior to an issuance of a Demolition Permit.

21.8 CONSTRUCTION OF NEW ADDITIONS

21.8.1 Primary and Contributing Resources

The following standards shall apply to the construction of new additions on Primary and Contributing Resources, and shall not apply to additions to a building constructed outside the Period of Significance or new principal buildings.

A. Additions shall not radically change, obscure, damage, or destroy character-defining features.

B. Additions shall be designed to be compatible with, rather than imitative of the design of the historic building, so that they are clearly identified as new construction.

C. Additions shall be compatible in size and scale with the main building.

D. Additions that alter the front of the building, or that substantially increase the building's height above adjacent or nearby rooflines, shall not be allowed, unless it can be documented that the addition is historically appropriate for the building. If it is necessary to design additions that are taller than the main building, the addition should be set back from the primary or character-defining facades.

E. Whenever possible, additions shall be located at the rear or on an inconspicuous side of the building.

F. Additions shall take into account the historic relationships of existing buildings and site features on the site.

G. Materials used for siding on additions shall be compatible with existing materials on the building and shall be those that are common in the Historic District. Acceptable materials include brick, stone, terra cotta, wood, metal and cement clapboard.

H. Materials commonly referred to as "vinyl siding" are prohibited for use on additions except when the addition is to a building where the predominant existing siding type is vinyl. If the

proposed addition is larger than the existing building, only materials that are appropriate to the Historic District shall be used.

I. Additions shall reflect the context of surrounding historic buildings or structures and not detract from the overall character of the Historic District.

21.8.2 Non-Contributing and Incompatible Resources

The following standards shall apply to the construction of new additions on Non-Contributing and Incompatible Resources, and shall not apply to additions to a building constructed outside the Period of Significance or new free-standing structures.

A. Additions shall reflect the context of surrounding historic buildings or structures and not detract from the overall character of the Historic District.

B. Materials used for siding on additions shall be compatible with existing materials on the building and shall be those that are common in the Historic District. Acceptable materials include brick, stone, terra cotta, wood, metal and cement clapboard.

C. Materials commonly referred to as "vinyl siding" are prohibited for use on additions except when the addition is to a building where the predominant existing siding type is vinyl.

ARTICLE 22. PUBLIC INFRASTRUCTURE STANDARDS

22.1 GENERAL 22-2

22.2 PROCESS FOR APPROVAL & ACCEPTANCE OF PUBLIC INFRASTRUCTURE 22-4

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22.1 GENERAL

22.1.1 Purpose

The purpose of this Article is to describe the minimum standards required in the City for the development of new infrastructure to support proposed land development if such improvements are deemed necessary by the City's Public Works Director.

22.1.2 Authority

A. The City's Public Works Director is hereby authorized to develop, within the requirements of this Article, more detailed standards that they deem necessary to advance the purpose of this Article.

1. Any such standards so developed shall be known as the "City of Keene Standard Plans and Specifications." Such detailed standards shall become effective 30 calendar days following their notice of publication.

B. All design methods, computations, materials, products, and details of construction for public infrastructure are to be approved by the Public Works Director prior to the start of construction.

C. The Public Works Director is hereby authorized to collect security to ensure the timely completion of proposed public infrastructure prior to the start of construction. Upon completion of the work, the Public Works Director shall also collect security to ensure corrections or repairs necessary during the warranty period.

1. Security shall be in a form and amount deemed appropriated by the Public Works Director and from a financial institution deemed acceptable by the City's Finance Director.

D. The Public Works Director is hereby authorized to perform inspections at any reasonable time for the purpose of verifying that proper construction materials and techniques were utilized during the construction and that the work complies with City standards. Improvements subject to inspection include, but are not limited to the following.

1. Subdivisions.

2. Roadways.

3. Drainage facilities, structures, and ditches.

4. Water systems utilizing the public water system at its source.

5. Wastewater systems discharging to the public wastewater collection and treatment facilities.

6. Other utilities (e.g. gas, electric, telecommunications, etc.) located within the City right-of-way or on city-owned property.

7. Any other infrastructure to become the property of the City or located within the City right-of-way or on City property.

8. Service connections, whether public or private.

E. The Public Works Director is hereby authorized to levy and collect fees for the inspections of public infrastructure or service connections. The rate to be paid by the legally liable person for inspections performed by City personnel shall be as set forth in the schedule of fees in Appendix B of the City Code of Ordinances.

F. The Public Works Director shall have the power to review and approve, and to suspend, revoke or modify permits required in accordance with this Article.

22.1.3 Inspections Fees

A. Prior to the beginning of construction, an estimate of the total hours of work will be made by the City Engineer based on the approved plans. This estimate will include all anticipated inspections and testing for miscellaneous work items.

B. Administrative work required in the office or consultation for the resolution of problems that may be requested by the contractor are not subject to inspection fees.

C. Where an excavation permit fee has already been paid, the initial inspection will be at no charge.

D. The fees will be billed to the landowner, or utility company when their work is within the City right-of-way, or their authorized agent (i.e. contractor), through a written agreement on a monthly basis by the Public Works Department.

22.1.4 Public versus Private Ownership

A. Street access shall be private from the street edge of pavement, or the edge of the traveled portion of the right-of-way (in the case of unpaved roads), to the boundary line of the property to which street access is provided. Any drainage swales, pipes, structures, headwalls etc. required for the construction and maintenance of street access shall also be private.

B. Private mains shall be allowed when their need is demonstrated to the satisfaction of the Public Works Director.

1. Private mains shall be designed, constructed, and maintained by the property owner from the public main to their terminus, in accordance with standards adopted by, and available at, the Public Works Department, as may be amended from time to time.

2. Private water mains shall be equipped with a shut-off valve located within the public right-of-way. In addition, the developer shall provide a suitable shut-off valve for each domestic service taken off of the private main and shall grant to the City an easement to access and operate said valves.

3. Private sewer mains shall discharge into the Public collection system at an approved location.

4. The City shall have no responsibility to operate, maintain or repair private mains or appurtenant values, fittings, or equipment.

C. Fire lines shall be privately-owned and maintained by the owner from the main to the building in accordance with standards adopted by, and available at, the Public Works Department, as may be amended from time to time. Fire lines shall be equipped with a shut-off valve located within the public right-of-way.

D. Water services shall be public from the main to the curb stop or shut-off valve, inclusive. If the curb stop or shut-off valve is located underneath a sidewalk or on the City-owned side of the sidewalk, the water service shall be public from the corporation stop to the property line. If the curb stop or shut-off valve is located more than 15-ft inside the property line, the water service shall be public from the main to the property line. In the absence of a curb stop or shut-off valve, the water services shall be public from the main to the property line.

1. Water services from the points defined above to an individual building or structure shall be privately-owned.

2. The owner shall be responsible for the initial installation of the public portions of the water service in accordance with standards adopted by the Public Works Director and available at the Public Works Department, as may be amended from time to time.

3. The owner shall be responsible for constructing and maintaining the privately-owned portion of water services in accordance with standards adopted by the Public Works Director and available at the Public Works Department, as may be amended from time to time.

E. Sewer services shall be privately-owned from the building to the main, including any fitting used to connect the service to the main. The owner shall be responsible for maintaining sewer services in accordance with standards adopted by the Public Works Director, and available at, the Public Works Department, as may be amended from time to time.

F. The City has the right, but not the obligation, to repair, rehabilitate or replace any portion of a

private service or fire line in conjunction with its infrastructure construction work.

G. Any infrastructure that serves 2 or more residential parcels shall be public. Services shall be the only lines serving individual residential parcels. For the purpose of this Section only, a condominium parcel shall include sub-parcels and dwelling units that are not held in common.

H. All public infrastructure shall be located in city streets or public rights-of-way or easements. The City shall be responsible for maintaining all public infrastructure.

22.1.5 Other Permits Required

The developer of any public improvement shall obtain all required federal, state and local permits prior to the start of construction and shall fully comply with the conditions thereof. Copies of all such permits shall be provided to the Public Works Director.

22.2 PROCESS FOR APPROVAL & ACCEPTANCE OF PUBLIC INFRASTRUCTURE

All public infrastructure shall be formally laid out and accepted by the City Council following the processes described below. When City-owned utilities are in the proposed street, they shall be accepted in conjunction with the acceptance of the street.

22.2.1 Submission Requirements

A. Any petitioner who is requesting a public street layout from the City shall furnish the following documents, in a form and format acceptable to the Public Works Director, for consideration by the City Council.

1. Petition for layout.
2. Deed of warranty (fee title).
3. Return of layout.
4. Property plan acceptable for recording at the County Registry of Deeds.
5. Construction plan showing all existing and proposed infrastructure.
6. List of landowners whose property the road will cross.
7. Payment of any and all fees, as determined by the Public Works Director.

B. Any petitioner who is requesting City acceptance of public infrastructure that is not in a public street shall furnish the following documents, in a form and format acceptable to the Public Works Director, to the City Council.

1. Letter requesting City acceptance of and describing the need for such public infrastructure.
2. Easement Deed.
3. Property plan acceptable for recording at the County Registry of Deeds.
4. Construction plan showing existing and proposed infrastructure within the project area.
5. List of landowners whose property the easement will cross.

C. Any petitioner who proposes to replace or improve an existing public infrastructure shall furnish the following documents to the City Council.

1. Construction plan showing all existing conditions and proposed improvements
2. Evidence documenting the need to replace or improve existing facilities in order to support a proposed development.

22.2.2 Conditions of Approval

A. All public infrastructure shall be located in public rights-of-way or easements granting the City the right to access and maintain such improvements in perpetuity.

B. If the City Council, after due consideration, votes to accept the deed and to lay out the street as a public way and/or accept the utilities and/or improvements, any such approval vote shall, as a condition of such approval, require the completion of all infrastructure construction and acceptance by the Public Works Director within a 36-month period from such approval vote by the City Council. If construction has not been completed and accepted within this 36-month period, the City, as finally determined by the City Council, shall take one of the following courses of action.

1. Pursue discontinuance in accordance with state law;
2. Call the posted security and complete construction; or,
3. Extend the time period for completion to a new date certain. Such extension request can be made only once and shall be made in writing stating the exceptional circumstances necessitating the requested extension and must be made between 90- and 120-calendar days prior to the expiration of the 36-month period. City Council consideration of such extension is not subject to the appeal process described in Section 22.6.

C. No existing private street, utility and/or improvement shall be considered for layout and/or acceptance by the City as public infrastructure until such infrastructure has been demonstrated to the satisfaction of the Public Works Director to meet all standards in this Article.

22.2.3 Conditions for Final Acceptance

A. Prior to final acceptance by the City Council of any new public infrastructure, the Public Works Director shall certify in writing that all work has been completed in accordance with the standards in this Article.

B. No public infrastructure shall be finally accepted by the City for public maintenance or responsibility until all necessary easements and deeds have been provided to and meet the requirements of the City and such deeds and/or easements have been properly recorded with the County Registry of Deeds.

C. No public infrastructure shall be finally accepted by the City for public maintenance or responsibility until a complete set of record plans is provided to the Director in a form and format they deem acceptable.

22.2.4 Security & Warranty

A. Prior to the start of construction of any approved public infrastructure, the City shall be furnished with security in a form and from a financial institution satisfactory to the City.

B. Security shall be for an amount equal to the full construction cost of the approved public improvements, as determined by the City Engineer.

C. The security shall either be un-expiring, in which case the unreleased balance shall escalate by the Consumer Price Index, or by some other inflation escalator satisfactory to the City, or shall expire at the end of 3-years.

D. Any such expiring security shall be written in a manner that places all administrative responsibility on the financial institution writing it, and requires the face amount to automatically be paid to the City upon expiration, unless the City accepts new security satisfactory to it in its place.

E. Upon final acceptance of public infrastructure, the City will concurrently release the original security and be furnished with warranty period security in an amount determined by the City Engineer, normally 10% of the original security.

F. Developers shall, in all cases, provide the City with a 1-year unconditional warranty on all public infrastructure. This 1-year warranty period shall start after the final City acceptance of the improvements and the release of project's original security.

G. During the warranty period, the City shall be responsible for the routine operation of the public infrastructure (e.g. snow plowing, water main flushing, etc.). The developer shall be responsible for repairs or corrections, if required.

H. At the conclusion of the warranty period, the City Engineer shall inspect the improvements and direct corrections as they deem necessary.

I. After any corrections or repairs required have been completed, the City shall release the warranty period security.

22.2.5 Street Names

A. Extension of existing streets shall bear the same name as the original street.

B. Names of new streets shall not resemble names of existing streets in the City in their sound or spelling.

C. Street names may be suggested by the developer for consideration by the City Council upon layout and acceptance of deeds for the street.

D. The City Council shall have final authority to name new streets.

22.2.6 Street Numbering System

A. The street numbering for individual structures shall be assigned by the City Engineer upon request of the property owner.

B. Street numbers may be requested only after physical improvements to the parcel have been made (e.g. foundation installed).

C. The owner of any structure to which a street number has been assigned shall display said street number as required by the City Engineer.

22.3 DESIGN & CONSTRUCTION STANDARDS

22.3.1 Scope

A. All infrastructure, except as otherwise provided in this Article, whether public or private, shall be designed and constructed in accordance with the design and construction standards in this Article and the then-current version of the City of Keene Standard Plans and Specifications, as published by the Public Works Director.

B. All public infrastructure shall be designed and constructed in accordance with the applicable provisions of the Americans with Disabilities Act.

C. Portions of private driveways laying outside of the public right-of-way do not have to be constructed in accordance with the standards in this Article, but shall comply with all other applicable zoning, site plan or requirements of this LDC.

22.3.2 Lot Monuments

A. Lot monuments shall be set at all corners immediately upon receipt of final approval of the subdivision by the Planning Board.

B. Final subdivision plans shall not be signed and recorded until after the monuments have been installed by the developer and verified by the Public Works Director, or security in an amount deemed satisfactory to the Public Works Director is posted ensuring the monuments will be set.

C. Monuments will be of a size, type and frequency determined by the Public Works Director.

D. Accuracy of all pins and monuments shall be in accordance with the standards of the NH Land Surveyors Association and shall be signed and stamped by a NH licensed land surveyor.

22.3.3 Street and Utility Rights-of-Way

A. Street rights-of-way shall be sufficiently wide, as determined by the Public Works Director, so as to accommodate all modes of transportation, all required utilities, landscaping, lighting, parking and other amenities.

B. Utility rights-of-way shall be sufficiently wide, as determined by the Public Works Director, so as to allow full access for service or replacement.

C. The minimum and maximum widths in Table 22-1 shall apply.

D. No building or structure, except those housing utility systems, shall be allowed to be located within any right-of-way or easement, and no building or structure shall be placed on top of any utility line.

22.3.4 Streets

A. Street geometry, construction methods and materials shall be approved by the Public Works Director.

B. Proposed streets shall be designed and constructed in accordance with the appropriate typology described in the City of Keene Complete Streets Planning and Design Guidelines, as may be amended.

C. Dead-end streets are discouraged. In the absence of a waiver granted by the City Council, no dead-end street shall exceed 750-ft in length. All dead-end streets shall terminate in one of the turn-around types shown in Figure 22-1.

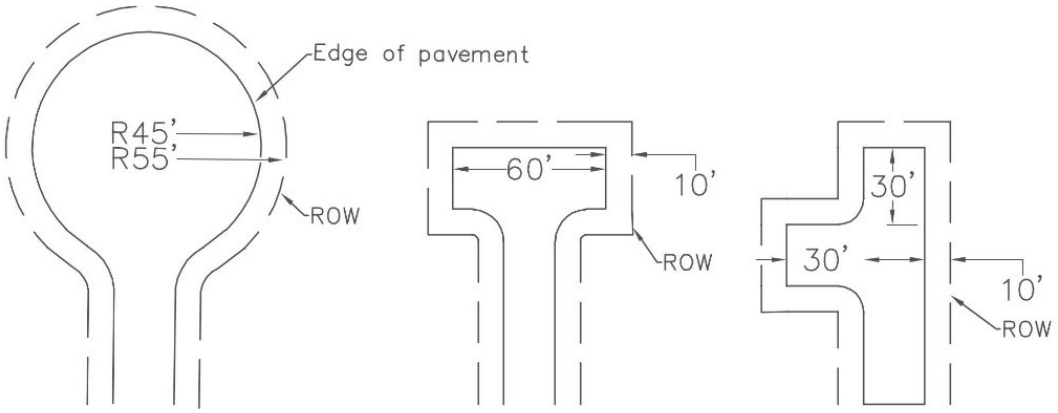
D. Proposed street intersections shall either coincide with or be removed a minimum distance of 200-ft on center from other existing and future entrances on the same street.

E. All Streets shall be constructed with drainage features designed in accordance with this Article.

Table 22-1: Minimum & Maximum Street Right-of-Widths

Purpose of Right-of-Way	Min Width	Max Width
Downtown Roadway	50 ft	120 ft
Arterial Roadway	50 ft	100 ft
Collector Roadway	50 ft	80 ft
Local Roadway	50 ft	60 ft
Utility easement < 6' deep	10 ft	25 ft
Utility easement 6' – 10' deep	20 ft	30 ft
Utility easement >10' deep	30 ft	3 x depth

Figure 22-1: Dead End Street Turn Around Types



Cul-de-sac **T-Type** **Branch Turnaround**

22.3.5 Grading

A. The maximum allowable street grade shall be 7% maximum for local and collector streets, and 6% maximum for all other streets.

1. Local streets in rural areas may have a maximum grade of 9%, if there is alternate access to any lot served by the road at a maximum of 7% grade. No road shall exceed 7% grade within 300-ft of an intersection.

B. In curbed areas, the minimum street grade shall be 0.5%.

C. Access to any new development shall be from an existing City street or state highway, the grade of which existing City street cannot exceed 10% for a distance of more than 50-ft at any point. The term "development" under this Subsection shall include any new multifamily dwelling, commercial or industrial construction, or any construction of new public or private streets. Subdivision or re-subdivision of a lot that exists at the time of adoption of the ordinance from which this Section derives into 4 or fewer lots for construction of single-family dwellings shall not be considered development in this Subsection. If the 10% standard cannot be met, the developer may request a waiver from the Public Works Director of this requirement. Such waiver request shall not be granted unless the following criteria are met.

1. City police, fire, street maintenance crews and school buses shall be able to safely serve such development without having to purchase new or different equipment or absorb abnormal maintenance costs.

2. The drainage system shall work without abnormal (more than would occur on a properly designed street of a grade of less than 10%) deterioration to the roadway or shoulders from runoff.

3. Safe pedestrian and bicycle passage can be provided.

4. The proposed new access off the City street shall meet the grading standards in this section.

D. For new streets in or crossing precautionary slopes as defined in Article 12, the following shall apply.

1. New streets shall be sited to follow the natural contours of the slope to minimize grading.

2. Cutting and filling of slopes shall be minimized.

22.3.6 Curbs

A. Curbs shall be required in the following locations.

1. Along both sides of new public roads, in all zoning districts except Agricultural, Rural, Low-Density-1, and Low-Density.

2. Where necessary to control erosion (road grade over 5%).

3. Where necessary to channel traffic movements for safety reasons.

4. Where the street edge of pavement is less than 5-ft from the adjacent sidewalk.

B. Curbs, except as provided in this subsection, shall be sawn granite curbing.

1. Asphalt curbing may be used to control erosion when protected from damage by a suitable guard rail.

2. Asphalt berms (i.e. "Cape Cod Berm") may be used, when approved by the Public Works Director, in order to direct runoff into an approved storm drain system.

C. Where curbs are not required, a minimum 3-ft wide gravel shoulder shall be provided. This shoulder may be loamed over.

22.3.7 Sidewalks

A. Sidewalks shall be required on at least one side of any proposed street in any residential zoning district, except for the Rural District, and on both sides of any proposed street in any other zoning district, with the exception of the Conservation and Agriculture zoning districts..

B. The City Council may, upon recommendation of the Planning Board, accept an alternative system, not parallel to the proposed street, so long as it meets these standards in all other respects.

C. Sidewalks shall be constructed of materials and methods approved by the Public Works Director and shall:

1. Have a width consistent with the City of Keene Complete Streets Planning and Design Guidelines and appropriate to the context of the location;

2. Have a minimum width of 6-ft in all cases; and,

3. Be located at least 5-ft from the edge of street pavement, right-of-way permitting.

22.3.8 Street Lighting

A. All new street lighting shall be solar-powered unless a grid-powered system is approved by the Public Works Director.

B. Streetlights shall be required at intersections in all zoning districts and along the length of proposed public streets in all residential zoning districts.

C. In the Downtown-Transition District, the Office District, and all residential zoning districts, lighting fixtures shall be a maximum of 400-ft apart.

1. In the Residential Preservation, Low Density, Medium Density, High Density, Downtown-Transition, and Office zoning districts, all such lighting shall be fed via underground conduit.

2. Street lighting in other residential zoning districts may be fed above-ground to wooden poles as provided by the local electric utility (mounting height of 28-ft).

D. When underground street lighting feed is required, telephone, electric and cable TV shall be located underground also.

E. Lighting fixtures shall be full cut-off light emitting diode (LED) type with a correlated color temperature between 3,000K and 4,000K.

F. Right-of-way lighting for any proposed streets shall be designed using the methodology determined by the Public Works Director.

22.3.9 Traffic Control Devices

A. General

1. Traffic Control devices within the City shall be applied, designed, and installed in accordance with the most recent edition of the Manual of Uniform Traffic Control Devices.

2. Traffic control devices on new streets shall be reviewed and approved in conjunction with the City Council's approval of the new street.

B. Signs

1. Regulatory signs (e.g. "STOP", "ONE WAY") shall not be installed unless approved by the City Council.

2. Signs shall meet material and performance standards determined by the Public Works Director

C. Signals

1. The design and installation of traffic signal systems shall be approved by the City.

2. When traffic signals are installed and/or upgraded at any intersection in the City, emergency preemption systems shall be standard at all affected intersections.

3. When new development projects require off-site improvements that affect existing City-owned traffic signals, the developer shall pay the cost of such improvements.

4. Traffic signal systems shall incorporate a controller complying with the most recent version of the Advanced Transportation Controller (ATC) Standards as published by the Institute of Transportation Engineers (ITE).

22.3.10 Stormwater Management

The following standards shall apply to enclosed storm drain systems as well as open drainage channels.

A. A drainage design report shall be submitted to the Public Works Director for any new stormwater management systems, or for the modification of existing stormwater systems.

B. Storm drainage systems shall be designed to convey the peak flow from a 25-year, 24-hour duration storm event, using the most recent data published by the Northeast Regional Climate Center.

1. Stormwater drainage systems in or crossing precautionary slopes, as defined in Article 12, shall additionally be designed to adequately accommodate the stormwater volume associated with a 50-year, 24-hour storm event.

2. Accommodation of stormwater volumes may be through any combination of detention, retention or conveyance.

C. Discharge of stormwater into a wellhead protection area is of special concern and will require review and approval of the Public Works Director.

22.3.11 Water Distribution

A. Water mains shall be looped unless the Public Works Director, in their sole discretion, determines that a looped main is not necessary.

B. Gate valves and hydrants shall be provided on public mains as required by the Public Works Director.

C. Water services shall be tapped into the water main and constructed from the main to the property line for each lot in a proposed subdivision. In any zoning district, except Rural Low Density-1 and Low-Density, a separate fire line shall be extended from the main to the property line of each lot in a proposed subdivision.

D. Every owner of a water service (except as provided for flat-rate service, unmetered fire lines, or fire apparatus) shall provide thereon a standard meter location, which must be maintained in such a manner as to be readily accessible without the removal of merchandise, rubbish, ill-fitting covers or other obstructions of any nature.

E. The owner of water service into a commercial, industrial, or institutional building or use shall install, maintain and inspect, at their own expense, a backflow prevention device approved by the Public Works Director.

F. Water mains and fire services shall be disinfected, flushed and tested to the satisfaction of the Public Works Director before being placed in service.

22.3.12 Wastewater Collection

A. All sanitary sewers and appurtenances shall be designed in accordance with all applicable federal and state regulations.

B. Individual private services shall be tapped into the main and constructed to the property line for each lot.

C. Sanitary sewers shall not be buried more than 10-ft below the surface, without special written city approval. Where such approval is obtained, such sewer shall be ductile iron.

D. Any person proposing to construct or modify a wastewater collection system that is required to submit a Sewer Connection Permit to the NH Department of Environmental Services shall demonstrate, to the satisfaction of the Public Works Director, that the receiving public sewer mains and wastewater treatment plant are, or will be, capable of adequately processing the added hydraulic flow and organic load at the time of connection.

E. All persons discharging or having the potential to discharge industrial process wastes into public or private sewers connected to the City's Wastewater Treatment Plant shall comply with applicable requirements of federal and state

industrial pretreatment regulations, as amended, in addition to the requirements of this Article.

1. Such discharges are prohibited without a valid industrial discharge agreement (IDA) executed by the owner and Public Works Department.
2. Design, construction and operation of required industrial pretreatment systems shall be in accordance with Chapter 98 of the City of Keene Code of Ordinances.
3. Grease and oil interceptors shall be provided on any sewer service when, in the opinion of the Public Works Director, they are necessary for the proper handling of liquid wastes containing floatable grease or flammable wastes, sand, or other harmful ingredients; except that, such interceptors shall not be required for private living quarters or dwelling units.

22.3.13 Telecommunications Infrastructure

A. Any person who proposes to develop a new public street or to replace 500-ft or more of existing City-owned utilities shall also install telecommunications infrastructure, which shall become the property of the City.

B. Such telecommunications infrastructure shall include, at a minimum, the following.

1. Two parallel 2-in conduits.
2. Vaults spaced at no greater than 500-ft intervals.
3. Service conduits from a vault to the property line of each property passed. Each service conduit shall serve no more than 1 parcel.

C. Materials and construction details for telecommunications infrastructure shall be approved by the Public Works Director.

22.3.14 Stabilized Unpaved Areas

All unpaved areas within a public right-of-way shall be stabilized according to stabilization and erosion control plans approved by the Public Works Director. These shall provide for stabilization and erosion control during construction and after.

22.3.15 Flood-Proofing

All structures and above-ground infrastructure located within a designated special flood hazard area shall be constructed in accordance with the requirements of Article 23.

22.3.16 Trees

A. There shall be at least one deciduous tree of a minimum 2-in caliper at planting and of a species approved by the Public Works Director for every 50-ft interval of each side of any new street or extension of any existing street.

B. Such trees shall either be within the City right-of-way or within 20-ft of the City right-of-way. In the latter event, the developer shall grant an easement to the City in a form satisfactory to it for access to and maintenance of such trees.

C. No tree species shall be used that is listed by the NH Department of Agriculture, Markets & Food as an invasive species per NH RSA 430:54 and NH Administrative Rules AGR 3800.

22.4 SERVICE CONNECTION PERMIT

A. A service connection permit shall be obtained from the City prior to connecting, disconnecting or modifying an existing connection to any City-owned utility, including water distribution, wastewater collection, stormwater management or telecommunications systems.

B. An application for a service connection permit shall be submitted to the Public Works Director on forms provided by the City and shall include payment of an application fee, as set forth in the schedule of fees in Appendix B of the City Code of Ordinances.

22.5 STREET ACCESS PERMIT

22.5.1 Applicability

A. A street access permit shall be obtained from the City prior to the construction of or alteration that changes grade, length or width of any driveway, entrance, exit or approach within the right-of-way of any City street, including temporary driveways, except when the driveway or its alteration is approved as part of a subdivision or site plan by the Planning Board.

B. An application for a street access permit to construct or alter street access shall be submitted in accordance with the application and review procedures for a street access permit in Section 25.16 of this LDC.

22.5.2 Purpose

A. It is the intent of these standards to:

1. Promote the safe passage of bicycles, pedestrians and vehicles;
2. Locate street access so as to ensure adequate sight distances;
3. Avoid disruption of existing drainage systems;
4. Ensure that drainage from new street access is properly channeled;
5. Avoid the creation of hazardous traffic conditions;
6. Ensure that city sidewalks are preserved; and,
7. Ensure that roadways and intersections are not overly burdened by improperly located or excessive numbers of street accesses.

22.5.3 Issuing Authority

A. Administrative Review

1. The City Engineer, or their designee, shall have the authority to review, and approve or disapprove street access permit applications for the following.
   - **a.** Single-family or two-family dwellings.
   - **b.** Single-family dwelling shared access.

c. Single-family or two-family dwelling second street access.

d. Agricultural street access.

e. Temporary street access.

2. The City Engineer may refer a street access permit application to the Planning Board for review if, in their sole discretion, the City Engineer determines that the facts and circumstances warrant such referral.

B. Planning Board Review

1. The Planning Board shall have the authority to review, and approve or disapprove street access permit applications for all uses other than those listed in Section 22.5.3.A.

2. The Planning Board shall consult with the City Engineer prior to rendering a decision on any street access permit application or prior to acting upon any street access proposals that are included on a subdivision plan or site plan.

C. The respective issuing authority shall only issue a street access permit when an applicant has demonstrated compliance with all standards listed in Section 22.5.4.

22.5.4 Standards for Review

A. The following standards shall apply to all street access installed or modified after April 28, 1989, as determined by the City Engineer based on a review of aerial photographs of the City of Keene taken on that date.

1. If the installation of a street access requires disrupting an existing sidewalk, the sidewalk must be restored or replaced in compliance with this Article.

2. Street access shall be placed so as to ensure that vehicles entering and exiting the street access have an all season safe sight distance in all directions, not only of the road, but also of bicycle and pedestrian traffic on the sidewalk. For purposes of this Section, an all season safe sight distance shall be at least 200-ft in all directions within which there are no visual obstructions.

3. For commercial and industrial activities, the use of service roads and/or common access is encouraged.

4. There shall be no more than 1 street access point for each residential lot.

5. No more than 2 single-family dwellings can share a common street access.

6. Street access shall not block the flow of drainage in gutters, drainage ditches or pipes.

7. Street access shall be constructed so that surface runoff runs neither from private property onto the City street nor from the City street onto private property.

8. Street access for single-family dwellings and two-family dwellings, including shared drives, shall not be more than 20-ft wide at the property line and 30-ft wide at the curbline.

9. Street access for uses other than single-family dwellings and two-family dwellings or temporary street access shall not be more than 25-ft wide at the property line and 50-ft wide at the curbline, unless additional width or lanes are required as the result of a traffic study and/or geometric analysis prepared by an NH licensed engineer.

10. New street access shall be placed so as not to conflict with existing street access.

11. Street access on opposite sides of the street shall be aligned or offset sufficiently, so as to avoid turning conflicts.

12. All street access shall be constructed to standards approved by the City Engineer.

13. Temporary street access used for earth-disturbing or forestry activities or events shall be constructed with a temporary construction exit complying with the requirements of the NH Stormwater Manual, Volume 3, as may be amended.

14. Temporary street access shall be restored to original condition at the conclusion of the activity or event for which they are

installed.

15. When the installation of a street access requires the cutting of trees or the disturbance of stone walls which are within the public right-of-way, separate permission for such cutting or disturbance must be obtained, in accordance with Sections 82-158 and 82-187 of the City Code of Ordinances, NH RSA 472:6, or other applicable laws.

22.5.5 Access on Class VI Highways

A. Parcels that have frontage and access only from a Class VI highway shall not be eligible for a street access permit.

B. Parcels created subsequent to May 1, 2000, which have frontage on both a Class IV or V and a Class VI highway shall be required to access said lot from the Class IV or Class V frontage.

C. Parcels created on or before May 1, 2000, having the requisite frontage on a Class IV or V highway, and abutting a Class VI highway, may use the Class VI highway abutting that parcel for access provided that:

1. Said access does not exceed 750-ft in length measured from the intersection of the Class IV or V highway; and,

2. The Class VI highway and the access meets the City of Keene Street Access Standards in this Article; and,

3. The owner of such parcel obtains a street access permit in accordance with this Article.

D. The Issuing Authority may issue a street access permit for access based upon a demonstration that the section of the Class VI highway to be used as a driveway is suitable for emergency vehicles on the date of issuance of the street access permit and further provided that the property owner executes and delivers to the City a document suitable for recording at the County Registry of Deeds which contains the following items:

1. Property owner name(s), address, description of the property, and where the owner's deed is recorded at the County Registry of Deeds.

2. Name of the highway, fact that the highway is Class VI, with the details of how it attained that status.

3. Description of the proposed structure to be constructed, including the number of units.

4. An acknowledgement by the owner of the property that the City has no legal duty to maintain the highway, or any intent of doing so, nor any liability for damages resulting from the use of the highway. Further, that the City will provide no winter maintenance, grading or other road repairs, and that, at times, the City may not be able to provide police, fire or other emergency services. That school bus, mail, or other services may be restricted or nonexistent and it is the property owner's responsibility to obtain such services.

5. An acknowledgement by the owner of the property that: the City does not maintain Class VI highways and does not have any intent of doing so; that any maintenance, or expense associated with the repair and maintenance of the Class VI highway in a condition to be used as a driveway is the responsibility of the property owner or their successors or assigns; that the portion of the Class VI highway used for a driveway shall be in conformance with the Driveway Standards in Section 9.3 of this LDC.

6. An acknowledgement by the owner of the property that any work performed by the property owner on the Class VI road must have prior approval from the Public Works Director or their designee.

7. An acknowledgement by the owner of the property that the Class VI highway shall remain a full public highway and that the property owner shall not prohibit or restrict use by the public.

8. An acknowledgement by the owner of the property that the City retains full authority, if it chooses, to regulate the public use of the

highway, pursuant to NH RSA 41:11 and NH RSA 231:21.

22.5.6 Exceptions to Street Access Standards

Requests for exceptions to the street access standards in Section 22.5 shall be made in writing to the appropriate permit issuing authority, as defined in Section 22.5.3, which shall have authority to approve or disapprove a requested exception in accordance with the application and review procedures for street access permits in Section 25.16 and upon evaluation the following criteria.

A. Issuance of the exception will not adversely affect the safety of pedestrians, bicyclists, and vehicles using adjacent streets and intersections.

B. Issuance of the exception does not adversely affect the efficiency and capacity of the street or intersection.

C. There are unique characteristics of the land or property which present a physical hardship to the requestor.

D. In no case shall financial hardship be used to justify the granting of the exception.

22.6 WAIVERS

A. Except as provided for in Section 22.5.6 with respect to exceptions to the Street Access Standards, requests for waivers from the requirements of this Article shall be addressed in writing to the City Engineer, who shall make a written recommendation to the City Council.

B. For waivers to the dead-end street standard, at least one of the following special circumstances shall be met.

1. The request for the waiver must demonstrate that the exemption is de-minimis in nature.

2. The request for the waiver must demonstrate that adequate private and/or public secondary access is provided and will be maintained year-round.

3. The request for the waiver must demonstrate that all 3 of the following criteria are met.

a. There are unique physical characteristics of the land, which present a hardship to the requestor.

b. The requested waiver is consistent with the intent of this Article and this LDC.

c. A recommendation from the Planning Board that the waiver request meets the intent of the Planning Board Site Development and Subdivision Regulations.

C. In no case shall financial hardship be used to justify the granting of a waiver.

D. The City Council shall retain final jurisdiction in all such waiver decisions.

ARTICLE 23. FLOODPLAIN REGULATIONS

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23.1 GENERAL

23.1.1 Authority

This Article is adopted pursuant to the authority of NH RSA 674:16, NH RSA 674:17, and NH 674:56.

23.1.2 Purpose

A. The floodplains and floodways of the City represent a substantial public interest. Collectively, they are an essential component of the City's natural resource infrastructure, and their capacity and function must be protected and, when possible, enhanced.

B. The regulations in this Article have been established to ensure that no construction takes place in high hazard floodway areas and that any development within the floodplain is done so as to preserve the full function and capacity of this essential resource system.

C. It is the specific purpose of this Article to:

1. Reduce flood hazard threats to the health, safety and general welfare of City residents.

2. Protect occupants of floodplain or floodway areas from a flood.

3. Protect the public from the burden of extraordinary financial expenditures for flood control or flood damage repair.

4. Protect and when possible enhance the capacity of the floodway and floodplain areas to absorb, transmit and store floodwaters.

5. Minimize prolonged disruption of commerce and public services.

6. Minimize damage to public facilities; utilities such as water and gas mains, electric, telephone and sewer lines; streets; and bridges located in special flood hazard areas.

7. Avoid increases in flood intensity, height, extent, or duration.

8. Ensure that those who occupy or develop in flood hazard areas recognize the risk to themselves, adjacent property owners and the general public.

23.1.3 Applicability

A. Certain areas of the City are subject to periodic flooding, causing serious damage to properties within these areas. Relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968. Therefore, the City has chosen to be a participating community in the National Flood Insurance Program (NFIP), and agrees to comply with the requirements of the National Flood Insurance Act of 1968, as amended, as detailed in this Article.

B. These Floodplain Regulations shall apply to all lands designated as special flood hazard areas by the Federal Emergency Management Agency (FEMA) in its "Flood Insurance Study for the County of Cheshire, New Hampshire", dated May 23, 2006 or as amended, together with the associated Flood Insurance Rate Maps (FIRM) dated May 23, 2006, or as amended, which are declared to be part of this Article and are hereby incorporated by reference.

C. This Article establishes a permit system and review procedure for development in a special flood hazard area of the City.

D. For the purposes of this Article, the term "new construction" means structures for which the "start of construction" commenced on or after the effective date the Floodplain Regulations were initially adopted by the City and includes any subsequent improvements to such structures.

23.2 ADMINISTRATIVE PROVISIONS

23.2.1 Floodplain Administrator

A. In accordance with NH RSA 676, the Floodplain Administrator shall enforce and administer the provisions of this Article.

B. The Building and Health Official, or their designee, is hereby appointed to administer and implement these regulations and is referred to herein as the "Floodplain Administrator."

C. The duties and responsibilities of the Floodplain Administrator shall include, but are not limited to the following.

1. Ensure that permits are obtained for proposed development in a special flood hazard area.

2. Review all permit applications for completeness and accuracy, and coordinate with the applicant for corrections or further documentation, as needed.

3. Interpret the special flood hazard area and floodway boundaries and determine whether a proposed development is located in a special flood hazard area, and if so, whether it is also located in a floodway.

4. Provide available flood zone and base flood elevation information pertinent to the proposed development.

5. Make the determination as to whether a structure will be substantially improved or has incurred substantial damage and enforce the provisions of this Article for any structure determined to be substantially improved or substantially damaged.

a. For the purposes of this Article, "substantial damage" shall mean damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the assessed value of the structure before the damage occurred.

6. Issue or deny a permit based on review of the permit application and any required accompanying documentation.

7. Ensure prior to any alteration or relocation of a watercourse that the required submittal and notification requirements in this Article are met.

8. Review all required as-built documentation and other documentation submitted by the applicant for completeness and accuracy, and verify that all permit conditions have been completed in compliance with this Article.

9. Notify the applicant in writing of either compliance or non-compliance with the provisions of this Article.

10. Ensure the administrative and enforcement procedures detailed in NH RSA 676 are followed for any violations of this Article.

11. Submit to FEMA, or require applicants to submit to FEMA, data and information necessary to maintain FIRMs, including hydrologic and hydraulic engineering analyses prepared by or for the City, within 6-months after such data and information becomes available, if the analyses indicate changes in base flood elevations, special flood hazard area or floodway boundaries.

12. Maintain and permanently keep and make available for public inspection all records that are necessary for the administration of these regulations, including local permit documents; flood zone and base flood elevation determinations; substantial improvement and damage determinations; variance and enforcement documentation; and, as-built elevation and dry floodproofing data for structures subject to this Article.

13. Delegate duties and responsibilities set forth in this Article to qualified technical personnel, inspectors, or other community officials as needed.

23.2.2 Determination of Flood Hazard Boundaries

A. The Floodplain Administrator shall determine whether any portion of a proposed development is located in a special flood hazard area and, if so, whether it is also located in a floodway, using the effective FIRM.

1. If the development is located wholly or partially in a special flood hazard area, the Floodplain Administrator shall determine the flood zone and the applicable requirements in this Article that shall apply to the development.

B. Where it is unclear whether a site is in a special flood hazard area or in a floodway, the Floodplain Administrator may require additional information from the applicant to determine the development's location on the effective FIRM.

C. If any portion of a development including a structure and its attachments (e.g. deck posts, stairs) is located in multiple flood zones, the flood zone with the more restrictive requirements documented in this Article shall apply.

D. Where a conflict exists between the floodplain limits illustrated on the FIRM and actual natural ground elevation, the base flood elevation(s) in relation to the actual natural ground elevation shall be the governing factor in locating the regulatory floodplain limits.

E. Within a riverine special flood hazard area designated as Zone A, the Floodplain Administrator shall obtain, review, and reasonably utilize any floodway data available from federal, state, or other sources. If floodway data is available, the applicant shall meet the floodway requirements in this Article.

23.2.3 Flood Elevation Determination

The Floodplain Administrator shall determine the flood elevation for a structure as applicable for each Floodplain Development Permit application in the following flood zones.

A. Zone AE

For Zone AE, the base flood elevation is determined from the data provided in the community's Flood Insurance Survey (FIS) and accompanying FIRM.

B. Zone A

1. For Zone A with no base flood elevation shown in the Flood Insurance Survey (FIS) or on the FIRM, the Floodplain Administrator shall obtain, review, and reasonably utilize any base flood elevation data available from any federal, state or other source, including data submitted to the community for development proposals (e.g. subdivisions, site plan approvals).

2. Where a base flood elevation is not available or not known, the base flood elevation shall be determined to be at least 2-ft above the highest adjacent grade. For the purposes of this Article, highest adjacent grade shall mean the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure

3. For a development either greater than 50 lots or greater than 5-acres, the applicant shall develop a base flood elevation for the site and provide it to the Floodplain Administrator with their permit application.

4. If a structure is affected by multiple base flood elevations, the highest base flood elevation shall apply.

23.2.4 Floodplain Development Permit

All proposed development within a special flood hazard area shall require a floodplain development permit from the Floodplain Administrator in accordance with the application and review

procedures for floodplain development permits in Section 25.17 of this LDC prior to the commencement of any development activities.

23.3 FLOODWAY REQUIREMENTS

23.3.1 General

All development, including new construction or substantial improvement, within any floodway within the City shall be discouraged and shall require a floodplain development permit from the Floodplain Administrator.

23.3.2 Floodway Defined

For the purposes of this Article, floodway is defined as the channel of a river or other watercourse and the adjacent land area that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

23.3.3 Standards for Development

A. The Floodplain Administrator shall not issue a building permit for any construction or substantial improvement within any floodway unless a floodplain development permit has been granted.

B. A floodplain development permit shall only be issued under the following conditions.

1. New freestanding buildings are not permitted in the floodway.

2. Floodproofing is not permitted in the floodway below the 100-year flood elevation.

3. Additions to existing buildings in the floodway are permitted, but only in the direction of the flow of water, either upstream or downstream. Additions are not permitted to project further into the floodway. See the illustration in Figure 23-1 entitled “Additions to Structures in the Floodway” for examples of how additions to an existing building in the floodway may be built.

4. Plans for any additions in the floodway shall show the limits of the floodway and floodplain in the area of the proposed addition, and the plan shall be signed and stamped by a NH licensed hydraulic engineer that the addition will not change the floodway or floodplain so as to affect any other properties.

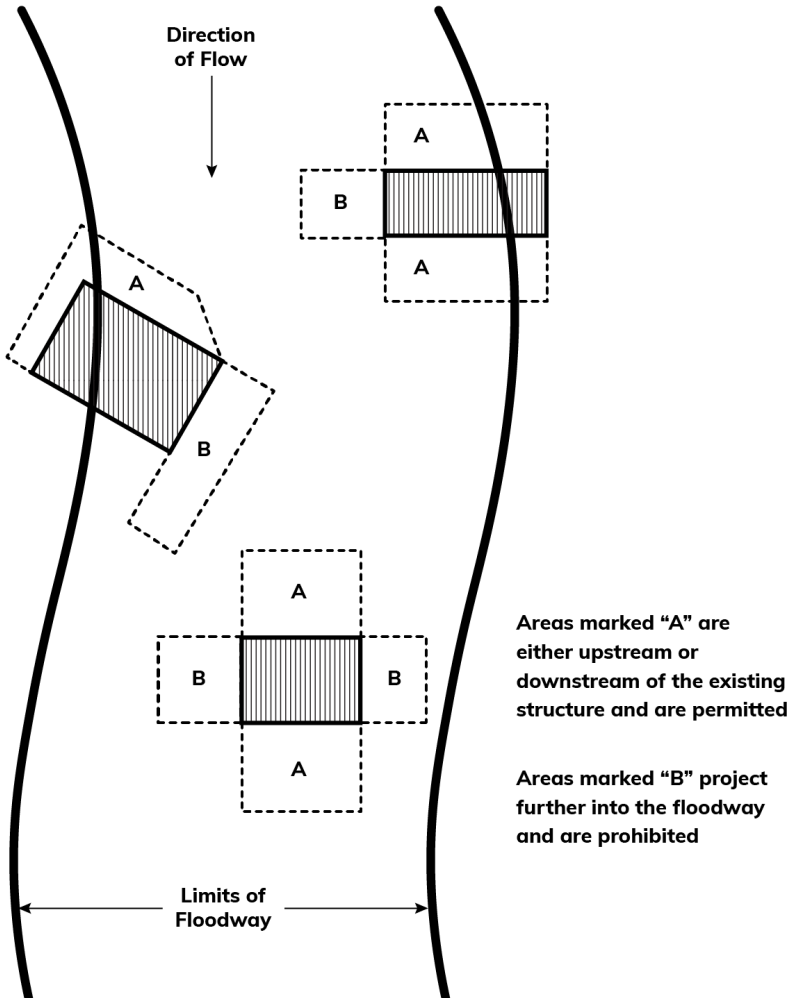
5. Any addition must have the lowest floor level, including basement, 1-ft above the 100-year flood elevation.

a. For the purposes of this Article, lowest floor level shall mean the lowest floor of the lowest enclosed area, including basement. An unfinished or flood-resistant enclosure usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a structure's lowest floor, provided that such an enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this Article.

6. A certification prepared by a NH licensed engineer, along with supporting technical data and analyses, shall be submitted for any development, including fill, new construction, substantial improvements and other development or land disturbing activity that demonstrates that such development will not cause any increase in the base flood elevation at any location in the community.

a. If the analyses demonstrate that the proposed activities will result in any increase in the base flood elevation, the applicant must obtain a Conditional Letter of Map Revision (CLOMR) from FEMA prior to permit issuance by the Floodplain Administrator. The Floodplain Administrator reserves the right to deny a floodplain permit for the project if concerns about the development being reasonably safe from flooding remain following issuance of the CLOMR.

Figure 23-1 Additions to Structures in the Floodway



b. If a permit is issued and the project completed, the applicant must also obtain a Letter of Map Revision (LOMR) from FEMA. CLOMR and LOMR submittal requirements and fees shall be the responsibility of the applicant.

7. Within a riverine special flood hazard area where a base flood elevation has been determined but a floodway has not been designated, for any development, including fill, new construction, substantial improvements and other development or land disturbing-activity, the applicant shall submit certification prepared by a NH licensed engineer, along with supporting technical data and analyses, that demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the base flood elevation more than 1-ft at any point within the community.

a. If the analyses demonstrate that the proposed activities will result in more than a 1-ft increase in the base flood elevation, the applicant must obtain a Conditional Letter of Map Revision (CLOMR) from FEMA prior to permit issuance by the Floodplain Administrator. The

Floodplain Administrator reserves the right to deny a permit for the project if concerns about the development being reasonably safe from flooding remain following issuance of the CLOMR. If a permit is issued and the project is completed, the applicant must also obtain a Letter of Map Revision (LOMR) from FEMA. CLOMR and LOMR submittal requirements and fees shall be the responsibility of the applicant.

8. Applicants must provide flood storage compensation either in the floodway or floodplain using the same rules for compensation as when building in the floodplain. Flood storage compensation is allowed off-site with the property owner's permission.

23.4 FLOODPLAIN REQUIREMENTS

23.4.1 General

A. All development, including new construction or substantial improvement, within any special flood hazard area within the City shall be discouraged and shall require a floodplain development permit from the Floodplain Administrator.

1. The Floodplain Administrator shall not issue a building permit for any construction or substantial improvement within special flood hazard areas unless a floodplain permit has been issued.

2. For the purposes of this Article, special flood hazard area shall mean the land in the floodplain within the City subject to a 1% or greater chance of flooding in any given year. The area is designated as Zone A and AE on the flood insurance rate map.

B. All development located in a special flood hazard area shall be:

1. Reasonably safe from flooding.

2. Designed and constructed with methods and practices that minimize flood damage.

3. Designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement (including structures and above ground gas or liquid storage tanks).

4. Constructed with flood damage-resistant materials.

5. Constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

6. Adequately drained to reduce exposure to flood hazards.

7. Compliant with the applicable requirements of the State Building Code and the applicable standards in this Article, whichever is more restrictive.

23.4.2 Structure Requirements

A. New construction of a residential structure, or an existing residential structure to be substantially improved or replaced, or that has incurred substantial damage, located in a special flood hazard area shall have the lowest floor elevated at least 1-ft above the base flood elevation.

B. New construction of a non-residential structure, or an existing non-residential structure to be substantially improved or replaced, or that has incurred substantial damage, located in a special flood hazard area shall:

1. Have the lowest floor elevated at least 1-ft above the base flood elevation; or

2. Together with attendant utility and sanitary facilities:

a. Be floodproofed at least 1-ft above the base flood elevation so that below this elevation the structure is watertight with walls substantially impermeable to the passage of water;

b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and

c. Be signed and stamped by a NH licensed professional engineer or architect that the dry flood-proofing design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this Section. Such certification shall be provided to the Floodplain Administrator in the form of a completed and signed Floodproofing Certificate for Non-Residential Structures.

C. A fully enclosed area for new construction of a structure, or an existing structure to be substantially improved or replaced, or that has incurred substantial damage located in a special flood hazard area that is below the lowest floor of a structure, below the base flood elevation, and therefore subject to flooding, shall meet the following requirements.

1. Be constructed with flood damage-resistant materials.

2. Be used solely for the parking of vehicles, building access, or storage.

3. Be constructed with the floor of the enclosed area at grade on at least one side of the structure.

4. Be constructed with flood openings installed in the enclosure walls so that they are designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must either be signed and stamped by a NH licensed engineer or architect or must meet or exceed the following minimum criteria.

a. A minimum of 2 flood openings on different sides of each enclosed area having a total net area of not less than 1-square inch for every square foot of enclosed area subject to flooding shall be provided.

b. The bottom of all flood openings shall be no higher on the enclosure wall than 1-ft above either the interior or exterior grade, whichever is higher.

c. Flood openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

D. A fully enclosed area that has a floor that is below grade on all sides, including below-grade crawlspaces and basements, is prohibited for new structures, existing structures to be substantially improved or replaced, or that have incurred substantial damage located in a special flood hazard area.

23.4.3 Detached Accessory Structures

A. In a special flood hazard area, new construction or substantial improvement of a small, detached accessory structure of 500-sf or less does not have to meet the elevation or non-residential dry floodproofing requirements as detailed in Section 23.4.2 if the following wet floodproofing standards are met.

1. The structure has unfinished interiors and is not used for human habitation.
2. The structure is not located in the floodway.
3. The structure is not used for storage of hazardous materials.
4. The structure is wet floodproofed and designed to allow for the automatic entry and exit of flood water as detailed in Section 23.4.2.C.4.
5. The structure shall be firmly anchored to prevent flotation, collapse and lateral movement.
6. When possible, the structure shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and be placed further from the source of flooding than the principal structure.
7. Service facilities, such as electrical, mechanical and heating equipment, shall be elevated or dry floodproofed to or above the base flood elevation.

23.4.4 Manufactured Home and Recreational Vehicle Requirements

A. A new manufactured home to be placed, or an existing manufactured home to be substantially improved or replaced, or that has incurred substantial damage, located in a special flood hazard area shall comply with the following standards.

1. Have the lowest floor elevated at least 1-ft above the base flood elevation.
2. Be on a permanent, reinforced foundation.
3. Be installed using methods and practices which minimize flood damage.
4. Be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. Methods of anchoring are authorized to include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.
5. Comply with the requirements of Section 23.4.2.C in cases where fully enclosed areas are present below an elevated manufactured home, including enclosures surrounded by rigid skirting or other material attached to the frame or foundation. Flexible skirting and rigid skirting not attached to the frame or foundation of a manufactured home are not required to have flood openings.

B. A recreational vehicle located within a special flood hazard area shall meet one of the following requirements.

1. Be on a site for fewer than 180 calendar days.
2. Be fully licensed, on wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions.
3. Meet the requirements for “manufactured homes” as stated in Section 23.4.4.

23.4.5 Water Supply & Sewage Disposal Systems

A. The following standards shall apply to all water supply, sanitary sewage, and on-site waste disposal systems located in a special flood hazard area.

1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
2. New and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood

waters into the systems and discharge from the system into flood waters.

3. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

23.4.6 Watercourse Alterations

A. Prior to a floodplain development permit being issued by the Floodplain Administrator for any alteration or relocation of any riverine watercourse, the applicant shall:

1. Notify the Wetlands Bureau of the NH Department of Environmental Services and submit copies of such notification to the Floodplain Administrator, in addition to the copies required by NH RSA 482-A: 3; and,
2. Submit to the Floodplain Administrator certification provided by a NH licensed engineer, assuring that the flood carrying capacity of an altered or relocated watercourse can and will be maintained.

B. Prior to a permit being issued for any alteration or relocation of any riverine watercourse, the Floodplain Administrator shall notify adjacent communities and the State NFIP Coordinating Agency, and submit copies of such notification to FEMA's Federal Insurance Administrator.

23.5 COMPENSATORY FLOOD STORAGE

No floodplain development permit shall be issued unless it can be demonstrated to the satisfaction of the Floodplain Administrator that the project will result in no reduction in the net flood storage capacity of the floodplain.

23.5.1 Location Requirements

A. Compensatory storage will be allowed where it can be demonstrated that properties adjacent to the compensatory storage site and the fill site will not experience increased flooding as a result of a 25-year storm event or as a result of drainage characteristics of the subject site(s) or adjoining properties.

1. Such storage compensation must be in close proximity to the area where flood storage capacity is being reduced and in the same hydraulic reach and the same watershed.
2. The conclusion that adjacent properties will not experience increased flooding shall be confirmed by a report stamped by a NH licensed engineer.

B. Unless otherwise approved, compensatory storage must be done on a foot-by-foot basis.

C. Compensatory storage will not be accepted at a higher elevation; but, may be provided at a lower elevation if approved by the Floodplain Administrator and if the applicant provides written certification from a qualified hydrologist or NH licensed engineer that the proposed compensation will meet the objective of 100% compensatory storage as well as the other objectives and requirements of this Article.

1. The City may require the applicant to pay the City for an independent third-party review of any compensatory storage proposal that does not meet the foot-by-foot rule.

D. Any excavation required for compensatory storage shall be within the same hydraulic reach of the same water body and the same watershed. Such excavation shall have an

unrestricted hydraulic connection to the same waterway or waterbody; shall avoid disruption of wetlands whenever possible; shall comply with the City's Surface Water Protection Overlay District in Article 11 of this LDC and obtain any required federal and state permits.

E. Compensatory storage that is located in an adjacent municipality may be permitted when any of the following is demonstrated.

1. There is an intermunicipal agreement between the City and the adjacent municipailty pursuant to which the adjacent municipality has agreed to enact and enforce an ordinance which incorporates the terms and conditions of the City's compensatory storage regulations with respect to properties within its municipal boundaries. A floodplain development permit shall be issued only upon adoption of said ordinance.

2. The owner of the property in the adjacent municipality imposes a covenant upon the land which is pledged to provide compensatory storage for the fill occurring in the City, which incorporates by reference the terms and conditions of the City's compensatory storage regulations and which restricts the use of said property in a manner that is consistent with and bound by the provisions of said ordinance, and which specifically confers upon the City the legal right and standing to enforce said restrictions. Said covenant and related documents shall be subject to the reasonable approval of the Floodplain Administrator as to form and content.

3. The adjacent municipality has acquired the necessary property rights in the land that is pledged to mitigate the filling in the City and, pursuant to which, it has imposed sufficient restrictions to ensure that any storage capacity pledged to offset the effects of filling in the City will remain viable and in place in perpetuity, and which confers upon the City the legal right and standing to enforce said restrictions. The form and content of said restrictions and the documentation in support thereof shall be subject to the reasonable approval of the Floodplain Administrator.

F. With respect to off-site compensation, whether in the City or an adjacent municipality, compensatory storage shall be permanently reserved for that purpose.

23.5.2 Storage Credit

A. Extra compensatory flood storage that is created on a site through construction or restoration may, on a case-by-case basis, subject to review and approval by the Floodplain Administrator, be "banked" for future credit within the same hydraulic reach of the floodplain. It should not be assumed that "extra" storage can be used at another site, and credit will not be granted if the receiving site is not in the same hydraulic reach and in close proximity to the donor site.

1. Transfer of storage credit from one site to another shall require formal written approval by the Floodplain Administrator and shall provide the permanent protection specified in Section 23.5.1.

23.5.3 Hydrologic Impact

A. For any proposed compensatory storage, the applicant must demonstrate that wetlands will not be disturbed. This shall require a wetlands delineation by a NH certified wetland scientist or high intensity soil survey, unless otherwise approved.

1. If wetlands will be disturbed, the applicant must demonstrate that such disturbance is unavoidable, that the disturbance has been minimized as much as possible, and that all disturbed wetland values and functions will be fully replaced on or adjacent to the site.

B. A high intensity soil survey must be submitted as part of any proposed compensatory excavation, and a full wetlands delineation in accordance with federal standards shall be

required if the high intensity soil survey indicates the probability of wetlands.

C. The applicant must identify the height of seasonal high groundwater as part of the design of any compensatory storage proposal. This shall normally require the installation of one or more observation wells, although the City may accept other sources of this information.

D. The bottom of a compensatory storage basin shall not come in contact with or go below the seasonal high groundwater elevation unless approved by the Floodplain Administrator.

1. Those portions of a compensatory basin which will be below seasonal high groundwater elevation may not be counted as storage, and calculations submitted by the applicant must demonstrate that this requirement has been taken into account.

2. The City may allow and in some instances will encourage compensatory basins at levels below seasonal high groundwater elevations in order to create additional wetlands. However, the applicant must demonstrate to the satisfaction of the Floodplain Administrator that compensatory basins at elevations below seasonal high groundwater levels will not result in groundwater contamination. The City may require the applicant to pay for an independent qualified third-party review to ensure that this standard is met.

3. Snow storage shall not normally be allowed in compensatory basins which come into contact with or go below seasonal high groundwater levels, and the City may require that stormwater be diverted or isolated from the bottom of such basins.

4. If wetlands are created as part of a compensatory basin, the City encourages, and for larger basins may require, that the wetland system be designed and planted so as to ensure high wetland values and functions.

E. The applicant shall provide certification and documentation from a NH licensed engineer with training and experience in the field of hydrology that the project, in combination with proposed compensatory storage, will result in no net loss of flood storage capacity.

23.6 SUBSTANTIAL IMPROVEMENT & DAMAGE

23.6.1 Determination of Substantial Improvement or Damage

A. For all development in a special flood hazard area that proposes to improve an existing structure, including alterations, movement, enlargement, replacement, repair, additions, rehabilitations, renovations, repairs of damage from any origin (e.g. flood, fire, wind, snow, etc.), and any other improvement of or work on such structure, including within its existing footprint, the Floodplain Administrator, in coordination with any other applicable community official(s), shall be responsible for the following.

1. Review description of proposed work submitted by the applicant to determine if the proposed work would be considered a substantial improvement. For the purposes of this Article, substantial improvement shall mean any combination of repair, reconstruction, rehabilitation, addition, or other improvement of a building or structure, taking place during a 5-year period, the cumulative cost of which equals or exceeds 50% of the market value of the building or structure before the improvement or repair is started.

a. If the structure has incurred substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. For the purposes of this Article, substantial damage shall mean damage of any origin sustained by a structure, whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the assessed value of the structure before the damage occurred.

2. Use the community's current assessed value of the structure (excluding the land) to determine the market value of the structure prior to the start of the initial repair or improvement, or in the case of damage, the market value prior to the damage occurring.

a. If the applicant disagrees with the use of the community's assessed value of the structure, the applicant is responsible for engaging a licensed property appraiser to submit a comparable property appraisal for the total market value of only the structure.

3. Review cost estimates of the proposed work including donated or discounted materials and owner and volunteer labor submitted by the applicant. Determine if the costs are reasonable for the proposed work, or use other acceptable methods, such as those prepared by licensed contractors or professional construction cost estimators and from building valuation tables, to estimate the costs.

4. Determine if the proposed work constitutes substantial improvement or repair of substantial damage as defined in Section 23.6.1.

5. Notify the applicant in writing of the result of the substantial improvement or substantial damage determination.

a. If the determination is that the work constitutes substantial improvement or substantial damage, the written documentation shall state that full compliance with the provisions of this Article is required.

B. Repair, alteration, additions, rehabilitation, or other improvements of historic structures shall not be subject to the elevation and dry floodproofing requirements of this Article, if the proposed work will not affect the structure's designation as a historic structure. The documentation of a structure's continued eligibility and designation as a historic structure shall be required by the Floodplain Administrator in approving this exemption.

23.6.2 Documentation of Substantial Improvement

Following completion of new construction of a structure or an existing structure that was substantially improved or replaced, or that incurred substantial damage, or the placement or substantial improvement of a manufactured home, the applicant shall submit the following to the Floodplain Administrator.

A. A completed and certified copy of an Elevation Certificate that includes the as-built elevation (in relation to mean sea level) of the lowest floor of the structure and whether or not the structure has a basement.

B. If a non-residential structure includes dry floodproofing, a completed and certified copy of the Floodproofing Certificate for Non-Residential Structures that includes the as-built elevation (in relation to mean sea level) to which the structure was dry floodproofed and certification of floodproofing.

ARTICLE 24. EARTH EXCAVATION REGULATIONS

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24.1 GENERAL

24.1.1 Purpose

The purpose of these Earth Excavation Regulations is to:

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

24.1.2 Applicability

A. The regulations in this Article apply to excavation activity, excavation operations, processing activities, and all other activities associated with the commercial taking of earth, production and processing of construction aggregate, transportation of earth and site restoration. Associated excavation and processing activities also include, but are not limited to, digging, drilling, blasting, bulldozing, crushing, washing, screening, sorting, scaling, weighing, stockpiling, loading, and transporting earth.

B. These regulations apply only to portions of land located in the Industrial, Industrial Park, Corporate Park, Agriculture, and Rural zoning districts. Earth excavation activities shall not be permitted within any other zoning districts.

C. These regulations shall not include any portion of land located within, over, or covering the areas identified as “Excluded Area” on Figure 24-1 "Earth Excavation Excluded Areas and Access Routes". These excluded areas include the following.

1. Lands identified as overlaying a stratified drift aquifer in the City.
2. Delineated primary and secondary wellhead protection areas in the City as well as existing and proposed maintained municipal well sites.
3. Land areas identified as Zone 1 or Zone 2 in the View Preservation Overlay (Figure 13-1) in Article 13 of this LDC, unless the applicant can demonstrate to the satisfaction of the Planning Board that the proposed operation will not be visible from vistas and public rights-of-way in the City.

D. For the purposes of this Article, the term existing excavation shall mean any excavation which lawfully existed as of August 24, 1979, and from which earth material greater than 1,000 cubic yards has been removed during the 2-year period before August 24, 1979. Said excavation shall not have expanded, without a permit issued pursuant to the City’s Code of Ordinances, beyond the limits of the City in the area that on August 24, 1979, and at all times subsequent thereto, has been contiguous to and in common ownership with the excavation site as of that date. Moreover, said excavation shall have been appraised and inventoried for property tax purposes as a part of the same tract as the excavation site as of that date. The excavation site is any area of contiguous land in common ownership upon which excavation takes place.

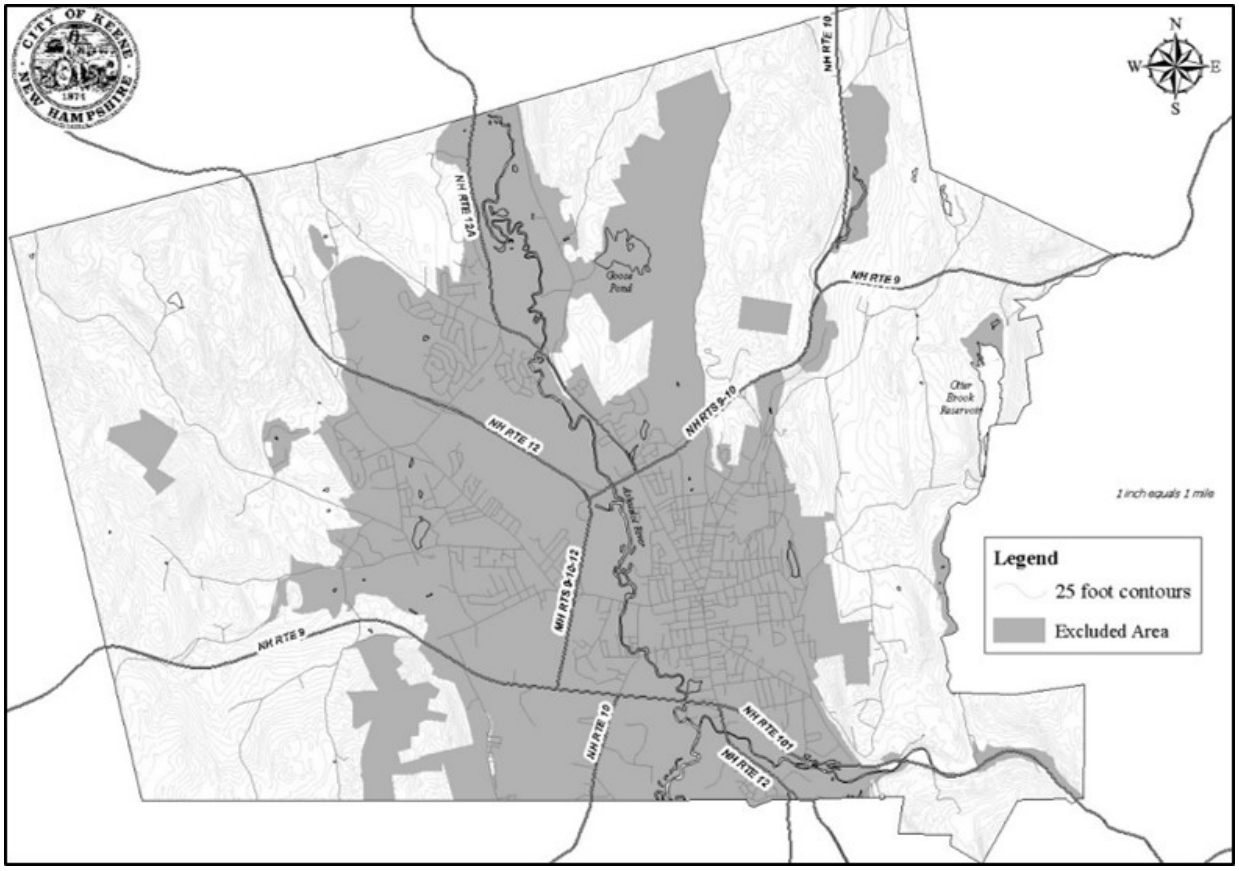
24.1.3 Earth Excavation Permit

A. No property owner shall permit any excavation of earth on their property without first obtaining an earth excavation permit from the Planning Board in accordance with Section 25.19, unless said excavation is expressly excepted from the permit requirement as set forth in Section 24.1.4, or in accordance with NH RSA 155-E.

24.1.4 Exceptions

In addition to the exceptions expressly set forth in NH RSA 155-E:2, the following types of excavations shall be excepted from the permit requirements of this Article. Such exceptions must still comply

Figure 24-1 Earth Excavation Excluded Areas and Access Routes



with the express operational standards of NH RSA 155-E:4-a, and the express reclamation standards of NH RSA 155-E:5.

A. Any excavation where no more than 1,000 cubic yards of earth material are removed every 2-years, and is exclusively incidental to the lawful construction or alteration of a building or structure and parking lot or way, including a driveway on a portion of the premises where the removal of earth materials occurs. Removal of earth shall not commence until all required state and local permits have been issued by the authority having jurisdiction.

B. Excavation incidental to agricultural or silvacultural activities, normal landscaping, and minor topographical adjustments.

1. For purposes of this Article,"normal landscaping" shall mean the planting of vegetation over a reasonably short period of time, with the sole purpose of enhancing or beautifying an existing developed condition, and not for the purpose of engaging in the commercial distribution of earth.

2. For purposes of this Article, "minor topographical adjustments" shall mean the sculpting of topography over a reasonably short period of time to directly support the intended function or effect of the agricultural, silvacultural or landscaping activity, and not for the purpose of engaging in the commercial distribution of earth.

C. Excavation from a granite quarry for the purpose of producing dimension stone, if such excavation requires a permit under NH RSA 12-E.

D. Any person owning land directly abutting a site that was taken by eminent domain or by any other governmental taking, upon which

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

24.2 PROHIBITED PROJECTS

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

A. When the excavation is not permitted by these regulations, zoning or other applicable ordinance, code, regulation, or state or federal law.

B. When all necessary local, state or federal permits have not been obtained.

C. When the issuance of a permit would present a potential hazard to human health, safety and welfare, or to the environment caused by adverse impacts associated with an excavation project. Examples of such hazards include adverse impacts caused by noise, traffic, dust or fumes; adverse visual impacts; premature degradation of roadways; erosion, soil instability, and/or sedimentation; adverse impacts to surface and ground waters; loss of fragmentation of important habitat; air quality degradation; pollution of soils; or diminution of the value of abutter properties.

D. When the excavation would violate the operational standards set forth in this Article and in NH RSA 155-E:4-a; or, when the applicant cannot comply with the reclamation standards set forth in this Article and in NH RSA 155-E:5 and NH RSA 155-E:5-a.

E. When the existing visual barriers in the areas specified in NH RSA 155-E:3, III, would be removed, except to provide access to the excavation.

F. When the excavation is proposed to be within 50-ft of the boundary of a disapproving abutter, or within 10-ft of the boundary of an approving abutter, unless requested by said approving abutter from the Planning Board.

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

24.3 SITE DESIGN & OPERATIONAL STANDARDS

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

24.3.1 Excavation Setback

All excavations shall comply with the setback requirements set forth in this Section to provide buffers to the proposed excavation operations. Buffer areas shall be managed in accordance with the buffer management standards set forth in Section 24.3.2.

A. Public Rights of Way. The excavation perimeter shall be at least 200-ft from any public right-of-way, unless such excavation is a highway excavation.

B. Abutting Boundary Lines. The excavation perimeter shall be at least 300-ft from the boundary line of any abutting property not owned by the applicant.

C. Access Driveway. The access driveway shall be at least 150-ft from the boundary line of any abutting property not owned by the applicant, and at least 150-ft from any public right-of-way, except where the access driveway intersects the public right-of-way.

D. Surface Water Resources. The excavation perimeter shall be set back at least 250-ft, and the access driveway shall be set back at least 150-ft, from any surface water resource.

1. If an applicant obtains a wetlands permit from the NH Department of Environmental Services to alter, fill, or otherwise disturb wetlands on the excavation site, the area covered by the wetlands permit shall be exempt from the setback requirement.

The use of an existing driveway for the primary excavation access, when said driveway is located within the setback to surface water resources, shall be permitted as long as said driveway complies with the Access Driveway Standards in Section 24.3.17 of this Article, and does not need to be widened or improved in such a way as to further encroach into the surface water resources setback.

24.3.2 Buffer Management Standards

Buffers around the excavation perimeter shall be sufficiently vegetated to provide full, opaque, and year round screening of the excavation perimeter from adjacent rights-of-way or abutting properties. The intent of this standard is to avoid adverse visual and noise impacts from excavation operations.

A. If buffers are not sufficiently vegetated to provide adequate visual and noise screening, the applicant shall provide adequate screening by other means, including planting additional vegetation and/or constructing a berm. To the extent that a berm is constructed, said berm shall be located within the excavation perimeter.

B. All buffer areas created by setback standards shall remain in a natural vegetated condition, except when additional plantings are approved as part of the application. No cutting or removal of living vegetation shall be permitted over the life of the excavation operation, except for the control and management of non-native and invasive species following best management practices as defined by the NH Department of Environmental Services.

C. The boundary between the excavation perimeter and the buffer areas shall be clearly marked on the site to avoid encroachment into the buffer. The boundary of approved setbacks from surface water resources within the excavation perimeter shall also be clearly marked on the site to avoid encroachment.

D. Buffer areas shall not be used for storage or disposal of stumps, boulders, earth materials, and/or other debris including, but not be limited to carelessly discarded rubbish, refuse, trash, garbage, dead animals and/or other discarded materials of every kind and description.

24.3.3 Excavation Below the Water Table

A. Excavation shall not be permitted lower than 6-ft above the seasonal high water table, as indicated by borings or test pits, without the issuance of an exception.

B. An exception to this standard shall be granted if the applicant demonstrates that such excavation will not adversely affect water quality or quantity, provided, however, that written notice of such exception shall be recorded in the County Registry of Deeds as part of the decision, and 1-copy filed with the NH Department of Environmental Services.

24.3.4 Ground Water Quantity

When the applicant proposes excavation below the seasonal high ground water table, the applicant shall complete a hydro-geologic analysis to demonstrate that the excavation activities will not affect ground water levels so as to adversely impact public or private wells, surface water levels, or wetlands. This analysis shall include pre-excavation ground water level measurements, a constant discharge pump test, and ongoing ground water level monitoring. The following procedures shall be used to perform the analysis and monitoring.

A. **Water Table Elevation.** The applicant shall determine the seasonal high ground water table elevations in the excavation area for the overburden and for the bedrock (if bedrock is to be excavated), as determined by digging test pits, borings and/or installing monitoring wells.

1. A sufficient number of test pits, borings and/or monitoring wells shall be analyzed to provide a reasonably accurate depiction of the ground water levels in and around the excavation area. The Community Development Director, in consultation with the Planning Board's consultant, shall make

a determination regarding the number of test pits, borings, and/or monitoring wells needed to meet this standard.

2. The applicant shall maintain a log of all test pits, borings and monitoring wells which shall include at least the location, depth, and profile description of the test pit, boring and/or well, as well as the elevation of the seasonal high ground water table at each location.

B. Baseline Measurements. The applicant shall identify the location of public and private wells within one half (½) mile of the proposed excavation area and the location of all surface water bodies and wetlands within 300-ft of the excavation perimeter.

1. The applicant shall notify all landowners with wells located within one half (½) mile of the excavation area of the permit requirement for ground water level monitoring. Said notifications shall be made in writing and shall indicate the procedures to be used for measuring ground water levels.

2. A baseline water depth or elevation for all public and private wells, surface water bodies and wetlands identified above shall be determined as follows.

   a. To establish a baseline water elevation in the case of drinking water wells, water depths shall be measured at least once every 8-hours for a 7-day period.

   b. To establish water elevations in surface waters, water elevations shall be measured at fixed stations at least once a day for a 7-day period.

3. The applicant shall conduct a 72-hour constant discharge pump test performed in accordance with the following procedure.

   a. A well shall be installed within the excavation area to a depth 50-ft greater than the maximum proposed depth of the excavation.

   b. A 72-hour constant discharge pump test shall be conducted at a rate great enough to draw the water elevation in the test well to a depth equal to or greater than the maximum proposed depth of the excavation. In the event that the bottom of the test well is above the ground water level existing at the time of the test, then the pump test shall not be required

   c. After the constant discharge test has been pumping for 72-hours, and while the constant discharge pump continues to operate, the applicant shall record the depth of the water in the test well and all of the wells, and surface waters identified above.

4. The applicant shall compare the baseline measurements with the post pump test measurements to determine the extent of any adverse impacts. For the purposes of this Section, adverse impacts are defined as a reduction greater than 10% of total available head in any well; and/or any draw down in the surface waters.

C. Ongoing Monitoring. Over the life of the excavation permit and any renewal thereof, the applicant shall monitor ground water levels and surface water levels on a monthly basis to determine the extent to which there are any adverse impacts.

1. Ground water levels shall be monitored using monitoring wells established during the permitting process.

2. Surface water levels shall be monitored at the fixed stations established for surface water bodies during the permit process.

3. Levels shall be recorded in the ground water monitoring log.

4. Adverse impacts will be said to occur when the excavation operation causes any abrupt changes in water levels. Adverse impacts will also be said to occur when the excavation operation causes the dewatering of a well located within one half (½) mile of

the excavation area.

a. The applicant shall notify the Community Development Department within 24-hours of any adverse impacts on ground water levels.

b. The applicant shall implement the approved protocol for providing replacement water supplies for water supplies that are disrupted as a result of the excavation operations.

D. Exempt Wells. If a well owner denies the applicant permission to measure water levels, then the applicant shall provide written evidence of said denial to the Community Development Department and the well shall be exempted from the monitoring program.

1. A notice regarding such exemption shall be filed in the County Registry of Deeds and shall include information regarding the right of current and future owners to be reinstated into the monitoring program, and contact information for reinstatement.

2. A landowner previously opting out of the monitoring program may become reinstated in the monitoring program upon making a written request to the applicant; however, the landowner shall bear the cost of performing baseline water level measurements. The applicant's acknowledgement of the written request shall be filed in the County Registry of Deeds.

24.3.5 Ground Water Quality

When the proposed operation includes the excavation of bedrock materials, the applicant shall collect and analyze pre- and post-excavation water quality data, as set forth below, to demonstrate that groundwater quality in drinking water wells within one half (½) mile of the excavation perimeter are not adversely impacted.

A. Notification. The applicant shall notify all land-owners within one half (½) mile of the excavation perimeter of the permit requirement for pre- and post-excavation water quality monitoring. Said notifications shall be made in writing and shall indicate the procedures to be used for collecting water samples.

B. Baseline Measurement. Pre-excavation monitoring is required to provide "background" drinking water quality data. Samples shall be taken from no more than 1 drinking water well on every parcel within one half (½) mile of the excavation perimeter:

1. Background data shall consist of two rounds of drinking water samples, collected at least 14 calendar days apart, each of which shall be analyzed for the presence of Volatile Organic Compounds (VOCs) according to EPA Method 524.1, and for nitrates. The results of pre-excavation monitoring shall be provided to the Community Development Department within 45 calendar days of sample collection.

2. All results of pre-excavation monitoring shall be recorded in a ground water quality monitoring log maintained by the applicant.

C. Ongoing Monitoring. Ongoing monitoring shall be conducted semi-annually throughout the term of the permit and any renewal thereof, and for a period of not less than 2-years following the cessation of excavation activities and reclamation of the excavation site.

1. One drinking water sample shall be collected by the applicant from the drinking water well of each consenting property owner located within one half (½) mile of the excavation perimeter. Each sample shall be analyzed as described above for the pre-excavation samples. The results of post-excavation monitoring will be provided to the Community Development Department within 45 calendar days of sample collection.

2. All results of post-excavation monitoring shall be recorded in a ground water quality monitoring log maintained by the applicant.

D. Adverse Impact. Drinking water quality will be said to have been adversely impacted if laboratory analysis by a certified laboratory

shows that in post-excavation monitoring, the NH Ambient Groundwater Quality Standards (AGQS) for nitrates and VOCs are exceeded. If the required post-excavation monitoring identifies an AGQS exceedance for nitrates or VOCs that did not exist prior to the issuance of said permit, then the applicant shall take the following actions.

1. Exceedances shall be reported to the NH Department of Environmental Services and the applicant will investigate and remediate the groundwater contamination as prescribed by the NH Department of Environmental Services.
2. No further blasting using compounds identified in the water samples shall be allowed until the source of the identified contamination is found.
3. If monitoring indicates that the excavation operation caused the identified contamination, then the applicant shall modify its excavation operation to ensure that future contamination is avoided and shall obtain any and all necessary approvals for such modified operations, including but not limited to an approval for an amendment to their earth excavation permit, if necessary.

E. Exempt Wells. If a well owner denies the applicant permission to sample any well, then the applicant shall provide written evidence of said denial and the well shall be exempted from the monitoring program.

1. A notice regarding such exemption shall be filed in the County Registry of Deeds and shall include information regarding the right of current and future owners to be reinstated into the monitoring program, and contact information for reinstatement.
2. A landowner previously opting out of the monitoring program may become reinstated in the monitoring program upon making a written request to the applicant; however, the landowner shall bear the cost of performing baseline water quality monitoring. The applicant's acknowledgement of the written request shall be filed in the County Registry of Deeds.

24.3.6 Toxic or Acid Forming Materials

When the proposed operation includes the excavation of bedrock materials, the applicant shall demonstrate that excavation activities will not adversely impact surface or ground water quality through the unearthing of toxic or acid forming elements or compounds resident in the bedrock or soils. Such demonstration shall be made by obtaining the opinion of a NH licensed engineer or professional geologist. Excavation of bedrock shall not be permitted where bedrock contains toxic or acid forming elements or compounds.

24.3.7 Stormwater Management

Excavation activities within the excavation perimeter and the access driveway shall not cause adverse impacts from stormwater runoff and/or groundwater drainage, including erosion, sediment transport, water quality degradation, and/or increases in volume or velocity of water leaving the site.

A. Excavation operations shall not be located on slopes where adverse impacts from storm water runoff and groundwater drainage cannot be avoided or mitigated.

B. Erosion control, sedimentation control, and drainage management devices shall be designed, constructed, inspected, and maintained according to Best Management Practices as set forth in "Storm water Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire," Rockingham County Conservation District, NH Department of Environmental Services, Soil Conservation Service (now the Natural Resources Conservation Service), August 1992, as amended, or as may be required by state or federal permits, which ever provides the highest level of protection.

1. Such devices shall include, but not be limited to, water detention ponds, sedimentation settlement areas, silt fences and other erosion control devices, flow dissipation measures, soil stabilization measures, water storage ponds used to support excavation operations, and/or any other measures necessary to avoid soil erosion and sedimentation of storm water or ground water discharge, and to promote soil stabilization.

C. Erosion control, sedimentation control, and drainage management shall be installed before any site preparation and/or excavation work begins.

D. Erosion control, sedimentation control, drainage management, and dust control devices shall be maintained in good working order during the excavation project.

E. All disturbed soils and exposed excavation sidewalls shall be stabilized following best management practices referenced in Section 24.3.7.B to prevent erosion and sedimentation.

F. Excavation areas from which no excavation has or will occur for a period of 30-days or longer shall be stabilized.

G. Drainage shall be designed to prevent the accumulation of freestanding water, except as part of an approved stormwater management system designed to minimize surface water run-off or for use in processing operations and dust control.

H. Any adverse impacts to off-site drainage systems and/or water resources degraded or damaged by pollution, erosion, and/or siltation from the excavation operation shall be restored and/or repaired by the applicant following best management practices, within a reasonable timeframe.

I. The applicant shall maintain a log documenting all inspections, maintenance, and repairs made to these systems; all related adverse impacts caused by the excavation operation; all remediation activities performed; and, all actions taken to prevent future adverse impacts.

24.3.8 Dust Control

Dust control activities and devices shall be incorporated into the excavation operation, on the site and on the access driveway, in a manner that minimizes generation of airborne dust or transportation of dust or mud off the site onto the adjacent roadways.

A. Visual monitoring of airborne dust shall be done on an ongoing basis.

B. Dust control measures such as applying water to access driveways and other areas within the excavation perimeter, washing dirt from truck tires, or other measures as may be deemed necessary, shall be employed to minimize the generation of airborne dust, and/or the transportation of dirt/mud off the site onto adjacent roadways.

C. Inspection of access driveway stabilized construction entrances, designed to eliminate the deposit of dust or mud onto public streets, shall be conducted on a weekly basis to ensure proper functioning. Maintenance of these entrances shall be performed as necessary and any dirt or mud deposited on public streets shall be removed.

D. The applicant shall maintain a log documenting dust control activities, inspection and maintenance of dust and dirt control structures and devices, and clean up of dirt deposited on roadways leading from the site.

24.3.9 Important Habitat

Excavation operations within the excavation perimeter and the access driveway shall not fragment, degrade, or adversely impact the quality and functioning of important wildlife habitat.

24.3.10 Historic Resources

Excavation operations within the excavation perimeter and the access driveway shall be located and designed to avoid removing, covering, altering or otherwise disturbing known important archeological sites as may be listed in the NH Division of Historical Resources databases, unless permitted by the state.

24.3.11 Cultural Resources

All operations shall be designed to avoid disturbing historically significant manmade features including, but not limited to, stonewalls, and cellar holes.

A. If the disturbance of such features cannot be avoided, the applicant shall describe in detail the feature and shall prepare an accurate map locating the feature for historic documentation prior to disturbance or removal.

B. Such documentation shall be submitted to the Community Development Department for inclusion in the City's GIS database. The intent of this standard is to preserve historic features on the landscape, or knowledge thereof.

24.3.12 Steep Slopes

A. Where slopes in the excavation area exceed a 1:1 slope, a fence or other suitable barricade at least 4-ft in height shall be erected along the top and sides of the slope.

B. Any fencing erected around the excavation area shall be placed along the outside edge of the active work area but not within the buffer area, so as to minimize the visibility of the fence from abutting properties and public rights-of-ways.

24.3.13 Maximum Excavation Area

The total combination of any unreclaimed, inactive and active excavation areas shall not exceed 5-acres at any time. The intent of this standard is to allow for reasonable opportunities for excavation while maintaining an operational scale that will minimize the magnitude of any unintended adverse impacts that might occur.

24.3.14 Hours of operation

A. Excavation activities shall only occur between the hours of 7:00 am and 5:00 pm, Monday through Friday.

1. The sale and loading of stockpiled materials may also occur from 8:00 am to 1:00 pm on Saturdays; however, no other excavation activities shall be permitted on this day.

B. No excavation activities, including sale of stockpiled materials, shall be permitted on Sundays, legal holidays, or at times other than those indicated in Section 24.3.14, except when prior written consent to temporarily operate during other hours is provided by the Community Development Department due to a local or regional emergency.

24.3.15 Noise

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

A. **Monitoring Devices.** All sound level monitoring devices shall meet American National Standards Institute S 1.4 type 1 or 2 standards, with the device set to “Fast” response. Monitoring devices shall be properly calibrated and maintained in good working order. Monitoring devices shall include data recording capabilities that enable continuous documentation of sound levels during the operating day.

B. **Monitoring Locations.** Sound levels shall be monitored from at least 2 locations as determined by the Community Development Director, or their designee, with the advice of other City staff and the Planning Board’s consultant.

1. The locations for noise monitoring shall include at least 1 location on the property boundary, either along the public right-of-way or at a point in direct line with the

closest dwelling on an abutting property, and at least 1 location on the property boundary or beyond, at whichever point is deemed by the Community Development Director or the Planning Board's consultant, as having the greatest likelihood for adverse impact considering the nature of the topography and vegetation, and the exposure of the abutting lands to the excavation operations.

2. If a monitoring location is selected at a point beyond the property boundary, written permission to use that location for monitoring shall be obtained from the property owner of the monitoring site.

3. As noise-generating equipment is relocated within the approved excavation perimeter, new monitoring locations may be selected to help ensure continued compliance with the noise standard.

4. The excavation operator shall maintain a log of all monitoring activities indicating the date, time period and location of the recorded measurements; the operations being performed on the site at the time of monitoring; the weather conditions at the time of the measurement, including temperature, wind direction, wind speed, cloud cover and precipitation; and the results of the monitoring, including a graph of the continuous monitoring record, the calculated A weighted sound pressure level exceeded 90% of the measurement time (hereinafter 'dB(A) L(90)') and the calculated maximum dB(A) sound level (hereinafter 'L(max)').

C. **Ambient Sound Levels**. At the selected locations, the background ambient sound levels shall be measured prior to the commencement of the initial operation.

1. The background sound levels shall be measured on the dB(A) scale, by recording continuous measurements during proposed operating hours over 5 consecutive business days prior to the commencement of site preparation activities, and calculating the dB(A) L(90) for the entire monitoring period. Such measurements shall be performed by a consultant hired by the Planning Board at the applicant's expense.

2. The applicant/operator may request that the background sound level be re-measured. Such re-measurement shall be done at a time selected by the Community Development Director in consultation with the applicant and a consultant hired by the Planning Board to perform the measurement at the applicant's expense.

D. **Ongoing Monitoring.** To determine compliance with the noise standard after commencement of the operation, the applicant shall monitor at the selected monitoring locations the sound levels generated by the operation, as follows.

1. On an annual basis, at a time selected by the Community Development Director, in consultation with the applicant, sound levels shall be monitored and recorded continuously during operating hours for a period of not less than 20 consecutive operating days. Monitoring shall be made using the dB(A) scale and the dB(A) L(90) during the operating hours for each day and the L(max) sound level throughout each day shall be calculated and entered into a noise monitoring log maintained by the applicant.

2. At any time when new or additional noise generating equipment is placed into operation following the initial 20-day monitoring period, or when noise generating equipment is relocated within the approved excavation perimeter, sound levels shall also be monitored continuously and recorded during operating hours for a period of not less than 5 consecutive operating days. The dB(A) L(90) during the operating hours for each day and the L(max) sound level throughout each day shall be calculated and entered into a noise monitoring log maintained by the applicant.

3. When new or additional noise generating equipment or activities including but not limited to drilling or blasting activities were

not measured during the initial 20-day monitoring period and are to be used only for short durations ranging from a period of hours to several days, not exceeding 5 operating days, sound levels shall be monitored and recorded continuously for the duration of the activities.

4. In the event that the measurements exceed the noise standards in this Article, the applicant shall bring the operation into compliance by reducing the number of sound sources contributing to the sound level, by relocating equipment on the site, by adding noise attenuating structures around or attachments to the equipment, or by taking whatever other actions may be necessary to bring the operation into compliance.

    a. Any corrective action taken shall be clearly described in the noise monitoring log along with a record of the noise level measurements before and after said correction.

    b. Additional noise levels shall be monitored for no less than 5 consecutive days after the corrective action is taken.

E. Complaints. If complaints are received regarding the level of noise generated from the operation, the applicant/operator shall, upon notification by the Community Development Department of the complaint, take measurements at the location where the complaint originates, if permission for entry is granted by the complainant, and at the designated monitoring locations.

1. The date, time, and location of the complaint shall be recorded in the noise monitoring log. Monitoring device readings for the location of the complaint (if permission to monitor is provided) and for the designated monitoring locations shall be recorded for a duration of not less than 5-minutes at each location with the dB(A) L(90) and the L(max) levels calculated for those time periods. All such measurements shall be documented in the noise monitoring log.

2. These measurements shall be compared to the noise level standards set forth in this Article to determine whether the L(max) noise level standard or the dB(A) L(90) limit above the ambient background level established for the operation are being exceeded. The measurements at the complaint location shall use the higher of the ambient background levels determined for the designated monitoring locations.

3. If the measurements taken on the complainant's property or at the designated monitoring locations exceed the noise standards set forth in this Article, the applicant shall take corrective action as specified in the this Article to bring the operation into compliance.

4. If, at the location of the complaint, the limit above the ambient background level standard is being exceeded, the operator shall record continuous measurements for a period of not less than 60-minutes to recalculate the dB(A) L(90) for the measurement period. If after this re-measurement the dB(A) L(90) standard is exceeded, the operator shall take whatever actions are necessary to bring the operation into compliance.

    a. Any corrective action taken shall be clearly described in the noise monitoring log along with a record of the noise levels measured.

5. At the applicant/operator's expense, and with the landowners consent, the operator may be permitted to establish the complaint location as an additional designated monitoring site. As such, background ambient noise levels would be established in accordance with the protocol set forth in this Article.

24.3.16 Travel Routes & Site Access

A. All vehicles and equipment used in excavation operations, except the personal vehicles of employees, agents, and representatives of the applicant or operator, shall travel upon streets

and highways designated for such use and shown on a plan approved by the Planning Board during the permitting process.

B. Access to an excavation site shall be accomplished directly from a state numbered highway. Direct access to the excavation site from a City street shall only be permitted when all of the following conditions are met.

1. The travel route along the City street from the excavation access driveway to the nearest state numbered highway is the shortest route to the state numbered highway.

2. The travel route along the City street, from the excavation access driveway to the nearest state numbered highway shall not pass any properties with residential dwellings.

3. The excavation access driveway at its intersection with the City street shall be no closer than 150-ft to the property boundary of any abutting property containing a residential dwelling.

C. No excavation shall occur below any road level within 50-ft of any highway right-of-way, unless such excavation is for the purpose of constructing or maintaining the highway at that location.

24.3.17 Access Driveway Standards

An excavation operation shall be permitted to have only one access driveway. The access driveway shall comply with the following design standards.

A. The access driveway layout shall be articulated so that the excavation area and any processing and stockpiling areas will not be visible from the entrance of the access driveway.

B. The access driveway shall accommodate safe passage of all vehicles.

C. The access driveway shall be designed and constructed with stabilized construction entrances to prevent dust and earth materials from being deposited on City streets or highways by vehicles leaving the excavation site.

D. The access driveway shall be constructed so that stormwater from the driveway is treated according to best management practices (as referenced in Section 24.3.7.B) prior to leaving the site or entering any surface waterway, and does not cause erosion or sedimentation.

E. The access driveway shall be gated at the entrance to prevent unauthorized site access during non-operating hours.

F. The access driveway shall be posted in both directions with a speed limit, not to exceed 15 MPH, to minimize dust, noise, and vibration from truck traffic entering and leaving the site.

24.3.18 Traffic

A. Traffic associated with a proposed excavation operation shall not diminish the safety or capacity of City streets, bridges, or intersections.

B. If an applicant proposes to generate 100 or more vehicle trips per day, the applicant shall be required to provide technical studies to demonstrate compliance with this operational standard.

C. The applicant shall propose a maximum number of trips per day for trucks used to transport earth materials and shall demonstrate that this number and the respective weight loads do not diminish the safety or capacity of city streets, bridges, or intersections.

D. The excavation operation shall not exceed the proposed number of trips per day for trucks used to transport earth materials without first seeking to amend the earth excavation permit, unless prior written consent to temporarily exceed the number of trips is provided by the Community Development Department due to a local or regional emergency.

24.3.19 Roadway Degradation

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

A. Damage or premature degradation of a City roadway that is attributed in whole or in part to the excavation operation, as determined by the Public Works Director, shall be repaired by, and at the expense of, the permit holder to the satisfaction of the Public Works Director.

24.3.20 Scenic Impact

A. Excavations proposed to be located within Zone 1 or Zone 2 of the View Preservation Overlay (Figure 13-1) in Article 13 of this LDC, shall not be permitted unless the applicant demonstrates that the excavation operation will not be visible from any public right-of-way, abutting property, or prominent overlook not located on the excavation site.

1. For the purposes of this Article, a prominent overlook shall mean any tract of land or portion of a tract of land other than the excavation site, with an elevation higher than the excavation area, with an established view point or clearing, and a viewshed that includes the excavation perimeter and would allow direct viewing of excavation operations within the excavation perimeter from said view point or clearing. An established view point is a cleared or naturally created vantage point, either publicly or privately owned, that can be demonstrated as having been customarily used as a view point.

24.3.21 Explosive Management

A. Applicants using explosives in an earth excavation operation shall obtain all necessary state and local permits.

B. No explosive materials shall be stored on an excavation site.

24.3.22 Blasting Notification

No explosive substances shall be used for purposes of excavation without providing public notice of the proposed blasting.

A. **Publication.** At the beginning of each blasting period, at least 10-days prior to the commencement of blasting, the applicant shall publish a blasting notification in a newspaper of general circulation in every city, town or incorporated place wherein the proposed excavation is to be located.

1. Said notice shall include the address at which blasting will occur, the dates or range of dates during which blasting is likely to occur, the approximate number of blasting days during the period and an estimate of the average number of blasts per day. The notice shall also provide contact information for the applicant and excavation operator and shall offer to provide any interested parties with telephone notification on the morning of each day that blasting will occur. The notice shall indicate that requests for telephone notification must be made to the applicant in writing.

2. Said telephone notification shall be made each morning of any day on which a blast is scheduled, at least 1-hour prior to the commencement of blasting.

B. **Telephone.** At the beginning of each blasting period, at least 10-days prior to the commencement of blasting, the applicant shall provide the blast notification described in Section 24.3.22.A by certified mailed, to all property owners with property located in whole or in part, within one-half (½) mile of the excavation site.

1. Said notification shall inform the property owner that the applicant will provide telephone notification each morning on days when a blast will be performed and that the property owner may opt out of the

telephone notification program by making such a request to the applicant in writing.

2. The applicant shall provide such telephone notification to all property owners with property located in whole or in part, within one half (½) mile of the excavation site each morning of any day on which a blast is scheduled, at least 1-hour prior to the commencement of blasting.

3. Property owners with property located in whole or in part, within one half (½) mile of the excavation site may choose to opt out of the telephone notification requirement by sending a written request to the operator to cancel telephone notification. Such a request shall not relieve the operator from providing written notification of the blasting schedule at the beginning of each blasting period.

C. Changes. Any changes or additions to the proposed blasting schedule during the year shall require the issuance and publication of a revised schedule.

24.3.23 Disposal

Boulders, stumps, vegetation and other debris shall be disposed of in a lawful manner on the excavation site, or shall be removed.

24.3.24 Hazardous Materials

A. All fuels, lubricants and other toxic, polluting, or hazardous substances shall be used, stored, and disposed of in compliance with local and state laws pertaining to the storage of such materials.

B. A list of all hazardous and toxic substances to be used or stored on the site and a list of agencies and officials to be notified in the event that a spill has occurred shall be maintained on the excavation site.

24.3.25 Record Keeping

All logs required to be maintained by the applicant/operator pursuant to this Article shall be retained by the applicant for a period of not less than 5-years and shall be made available for inspection by the Community Development Department, or its designated agent, upon request.

24.3.26 Other Permits

Applicants for an earth excavation permit shall provide to the Community Development Department, copies of all local, state and/or federal permits required by local, state and federal law.

24.4 RECLAMATION STANDARDS

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

24.4.1 Incremental Reclamation

A. Except for excavation sites of operating stationary manufacturing plants, any excavated area of 5 contiguous acres or more that is depleted of commercial earth materials (excluding bedrock), or any excavation from which earth materials greater than 1,000 cubic yards have not been removed for a 2-year period, shall be reclaimed in accordance with this Article and pursuant to NH RSA 155-E:5 within 12-months following such depletion or non-use, regardless of whether other excavation is occurring on adjacent land in contiguous ownership.

A. Pursuant to state law, existing operations in use as of the effective date of this Article shall complete reclamation in compliance with NH RSA 155-E:5 within 1-year following the cessation of the excavation or any completed section thereof.

1. Failure of the City to notify the owner of an existing operation shall not exempt an existing operation from its obligation to comply with the reclamation provisions of this Article.

24.4.2 Requirement

A. At the time of reclamation, all lands that are no longer being used for excavation activities, including excavation areas, processing areas, stockpiling areas, and stormwater management areas, except for exposed ledge, shall be reclaimed.

B. Areas to be reclaimed shall be graded to a natural repose for the type of soil of which they are composed so as to control erosion.

C. Once reclaimed, changes of slope, except for exposed ledge, shall be smooth and graduated rather than sharp, sudden or abrupt.

D. To assure adequate drainage and soil stabilization, and to prevent erosion and sedimentation, the topography of the land shall be left so that water draining from the site leaves the property at the original, natural drainage points and in the natural proportions of flow.

24.4.3 Topsoil

A. Except for exposed rock ledge, all areas to be reclaimed shall be spread with native topsoil to a depth of not less than 4-in unless a waiver has been granted.

B. Topsoil of at least the minimum amount needed to restore the site shall be stockpiled on the site until reclamation. The intent of this standard is to ensure that adequate native top soils are available on the site to complete reclamation, and to limit introduction of invasive species seed stocks that could be resident in non-native soils that might otherwise be introduced to the site.

C. Topsoil and overburden stockpiling areas shall be stabilized to prevent erosion by and sedimentation of stormwater runoff following best management practices.

D. Topsoil in excess of the minimum amount needed to restore the site, but in no case any volume of topsoil greater than 50-cubic yards, may be removed from the site without permit approval from the Planning Board. The intent of this standard is to ensure that all earth materials removed from the site in commercial quantities are properly permitted.

24.4.4 Vegetation

A. Except where ledge rock is exposed, all areas to be reclaimed as specified in a reclamation plan approved by the Planning Board shall have permanent cover vegetation established to assure soil stabilization and to prevent erosion and sedimentation, in accordance with best management practices and as set forth in an approved reclamation plan.

B. Any portions of lands within the excavation perimeter that are visible from any public way, from which trees have been removed, shall be replanted with tree seedlings in accordance with acceptable horticultural practices.

C. Reclamation activities that include planting of vegetation and/or cover crop shall provide adequate soil conditioning and mulching according to best management practices.

D. Seed and plant species to be used in restoring the site shall be native species similar to those species typically found surrounding the site.

24.4.5 Monitoring

A. All excavation sites where reclamation has been completed shall be monitored annually by the applicant over a period of 2-years following the completion date to ensure that reclamation measures have been effective in accordance with these standards and that all planted vegetation has survived.

B. Any plantings shown on a reclamation plan approved by the Planning Board that do not survive within 2-years following completion of the reclamation process shall be replaced with similar sized plant species.

C. The property owner shall use best efforts to remove non-native and invasive species, as defined by the NH Department of Environmental Services, that become established during the monitoring period in the reclaimed areas.

24.4.6 Remediation

Excavation operations that cause adverse impacts shall abate and/or remediate those impacts, restoring all affected areas to a pre-impact condition. Reclamation shall not be said to be complete until all adversely impacted areas have been successfully remediated.

24.5 ENFORCEMENT

A. After a duly noticed public hearing, the Planning Board may suspend or revoke the earth excavation permit of any person who has violated any provision of the permit, this Article, NH RSA 155-E, or of any person who made a material misstatement in the application upon which their permit was 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.

ARTICLE 25. APPLICATION PROCEDURES

25.1 REVIEW BODIES & ADMINISTRATORS 25-2

25.2 COMMON APPLICATION & REVIEW PROCEDURES 25-6

25.3 ZONING TEXT OR ZONING MAP AMENDMENT 25-12

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25.6 ZONING SPECIAL EXCEPTION 25-19

25.7 EXPANSION OR ENLARGEMENT OF A NONCONFORMING USE 25-22

25.8 EQUITABLE WAIVER OF ZONING DIMENSIONAL REQUIREMENTS 25-24

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25.1 REVIEW BODIES & ADMINISTRATORS

This Section describes the powers and duties of the review and decision-making authorities pursuant to this LDC.

25.1.1 Establishment

The review and decision-making authorities specified in this LDC are established by the City Code of Ordinances, including the City Charter.

25.1.2 Powers & Duties

Table 25-1 provides a summary of which authority makes recommendations or decisions on each application type.

25.1.3 Designees

Certain officials within this LDC are cited as having powers that may also be administered by a designee. The ability to direct powers to a designee applies to the actions of such officials throughout this LDC.

25.1.4 Limit of Authority

The omission of a citation in this LDC to any authority conferred upon the officials and decision-makers under the constitution or laws of the State of NH or the City Code of Ordinances, including the City Charter, shall not be construed as limiting the actions of such officials and decision-makers taken in accordance with and in reliance upon such authority.

25.1.5 City Council

In addition to other general authority by state law or the City Code of Ordinances, including the City Charter, the City Council shall have the following powers pursuant to this LDC.

A. To initiate, hear, and/or decide on proposed amendments to this LDC, including amendments to the zoning map or text.

B. To adopt and periodically update a schedule of fees for applications and permits specified in this LDC.

C. To hear and decide on requests for the formal layout and acceptance of public infrastructure.

D. To hear and decide on requests for waivers from Article 22 - "Public Infrastructure" of this LDC, except as provided for in Section 22.5.6 related to Street Access Standards.

25.1.6 Joint Committee of the Planning Board and Planning, Licenses & Development Committee

In addition to other general authority by the City Code of Ordinances, the Joint Committee of the Planning Board and Planning, Licenses and Development Committee shall have the authority to make recommendations to the City Council on proposed amendments to this LDC, including amendments to the Zoning Map or text of the Zoning Regulations.

25.1.7 Zoning Board of Adjustment

In addition to other general authority by state law or the City Code of Ordinances, the Zoning Board of Adjustment shall have the following powers pursuant to this LDC.

A. To hear and decide on applications for variances from the Zoning Regulations; special exceptions from the Zoning Regulations; applications to expand or enlarge a nonconforming use; and, applications for an equitable waiver of dimensional requirements from the Zoning Regulations.

B. To hear and decide on appeals of an administrative decision of the Zoning Administrator and of decisions of the Historic District Commission in granting or denying certificates of appropriateness.

C. To hear and decide on requests for extensions to approvals for variances, special exceptions, or expansions or enlargements of a nonconforming use.

25.1.8 Planning Board

In addition to other general authority by state law or the City Code of Ordinances, the Planning Board shall have the following powers pursuant to this LDC.

A. To make recommendations to the City Council on proposed amendments to this LDC, including amendments to the Zoning Map or text of the Zoning Regulations.

B. To initiate, hear, and decide on proposed amendments to the Site Development Standards, Subdivision Regulations, and Earth Excavation Regulations of this LDC.

C. To hear and decide on applications for major site plan review; subdivisions (including boundary line adjustments and conservation residential development subdivisions); conditional use permits; street access permits for commercial, industrial, and multifamily sites; and, earth excavation permit applications.

D. To hear or decide on voluntary merger applications, or appoint a designee to hear or decide on such applications.

E. To hear and grant waivers from the Site Development Standards, Subdivision Regulations and Earth Excavation Regulations, and associated application procedures in this LDC.

F. To hear and decide on appeals of an administrative decision on street access permits, Minor Project Review Committee decision on minor site plans, or an administrative planning review decision.

G. To hear and decide on requests for extensions to major site plan, subdivision, conditional use permit, and earth excavation permit approvals.

25.1.9 Minor Project Review Committee

In accordance with NH RSA 674:43(III), the Minor Project Review Committee is hereby designated by the Planning Board to have the following powers pursuant to this LDC.

A. To hear and decide on minor site plan review applications.

B. To review and comment on proposed projects for site plan review or subdivision review prior to the formal submission of a site plan or subdivision application.

C. To hear and decide on requests for extensions to minor site plan approvals.

25.1.10 Historic District Commission

In addition to other general authority by state law or the City Code of Ordinances, the Historic District Commission shall have the following powers pursuant to this LDC.

A. To initiate, hear, and decide on proposed amendments to the Historic District Regulations in this LDC.

B. To hear and decide on major project applications for a certificate of appropriateness.

C. To hear and grant waivers from the Historic District Regulations.

D. To hear and decide on appeals of an administrative decision of the Community Development Director, or their designee, on minor project applications for a certificate of appropriateness.

E. To hear and decide on requests for extensions to certificates of appropriateness.

25.1.11 Conservation Commission

In addition to other general authority by state law or the City Code of Ordinances, the Conservation Commission shall have the authority to make recommendations to the Planning Board on surface water protection conditional use permit applications and earth excavation permit applications.

25.1.12 Zoning Administrator

The City of Keene Zoning Administrator, or their designee, has the following duties and powers pursuant to this LDC.

A. To review and make decisions on voluntary merger applications, as designated by the Planning Board.

B. To make written interpretations of and issue administrative decisions in accordance with the Zoning Regulations of this LDC and the Zoning Map.

C. To review and make decisions on requests to expand a nonconforming structure.

D. To review applications for completeness for all matters decided by the Zoning Board of Adjustment.

25.1.13 Community Development Director

The Community Development Director, or their designee, shall have the following duties and powers pursuant to this LDC.

A. To review and decide on minor modifications to previously approved site plans.

B. To review and verify that proposals for development or redevelopment (excluding single-family and two-family dwellings), which do not meet the thresholds for site plan review, conform with the Site Development Standards prior to the issuance of a building permit.

C. To review and decide on voluntary merger applications, in the absence of the Zoning Administrator.

25.1.14 Building & Health Official

The Building and Health Official, or their designee, shall have the following duties and powers pursuant to this LDC.

A. To interpret, administer, and enforce the State Building Code.

B. To review and make decisions on floodplain development permits.

C. To enforce provisions of this LDC with respect to property outside of the right-of-way, including the authority to issue stop-work orders and fines for violations of this LDC, in accordance with Article 27 - "Enforcement" of this LDC.

25.1.15 Public Works Director

The Public Works Director, or their designee, shall have the following duties and powers pursuant to this LDC.

A. To develop technical standards and specifications in accordance with Article 22 of this LDC.

B. To perform engineering inspections of public infrastructure and service connections in accordance with Article 22 of this LDC, and to levy and collect fees for such inspections.

C. To approve the street geometry, construction methods and materials of streets.

D. To review and make decisions on service connection permits.

E. To review and approve, and to suspend, revoke or modify permits required in accordance with Article 22 of this LDC.

25.1.16 City Engineer

A. To review and decide on street access permit applications for single-family or two-family dwellings, agricultural uses, or temporary street access.

B. To review and make recommendations to the Planning Board on street access permit applications.

C. To assign street numbers for individual structures.

D. To review applications for subdivisions, site plans, building permits, street access permits, and conditional use permits for compliance with Article 12 of this LDC, and make recommendations to the Planning Board on hillside protection conditional use permits applications.

Table 25-1: Development Applications Decision Authority

Application Type		Zoning Board of Adjustment	Planning Board	Minor Project Review Committee	City Council	Historic District Commission	Joint Committee	Conservation Commission	Zoning Administrator	Community Development Dir.	City Engineer	Floodplain Administrator
Amend-ments to the LDC	Articles 1-18 & 22-28				**D / PH**		PW					
	Articles 19 & 20		**D / PH**		**D**							
	Article 21				**D**	**D / PH**						
Zoning	Amendments to Zoning Text / Zoning Map				**D / PH**		PW					
	Variance	**D / PH**										
	Special Exception	**D / PH**										
	Equitable Waiver	**D / PH**										
	Enlarge or Expand Nonconforming Use	**D / PH**										
	Zoning Administrator Decision								**D**			
Sub-division Review	Subdivision		**D / PH**	PS								
	Conservation Residential Development Sub.		**D / PH**	PS								
	Boundary Line Adjustment		**D**									
	Voluntary Merger								**D**			
Site Plan Review	Administrative Planning Review									**D**		
	Minor Project			**D / PH**								
	Major Project		**D / PH**	PS								
Conditional Use Permit (CUP)	Hillside Protection		**D / PH**	PS							*R*	
	Surface Water Protection		**D / PH**	PS				*R*				
	Telecommunications		**D / PH**	PS								
	Congregate Living & Social Services		**D / PH**	PS								
	Solar Energy System		**D / PH**	PS								
Historic District	Minor Project									**D**		
	Major Project			PS		**D / PH**						
Other Permits	Floodplain Development											**D**
	Sign								**D**			
	Street Access		**D**								**D**	
	Earth Excavation		**D / PH**					*R*				

"R" = Recommendation "D" = Final Decision "PW" = Public Workshop "PH" = Public Hearing
"PS" = Presubmission Meeting Required

25.2 COMMON APPLICATION & REVIEW PROCEDURES

25.2.1 Applicability

The following requirements are common to many of the application review procedures in this LDC. Additional or slightly varying application and/or review requirements and procedures may be specified elsewhere in this Article or LDC.

25.2.2 Application Requirements

A. Pre-Submission Meeting

Prior to formal submittal of an application, the applicant may request a pre-submission meeting with City staff.

1. The purpose of this meeting is to review the proposed project when it is still at a conceptual stage, to identify any potential concerns with project design, and to ensure that the applicant is aware of all information that must be submitted with the application.
2. This meeting does not require a formal application or fees.
3. Some applications require attendance at a pre-submission meeting prior to application submission. Such requirement shall be specified in this LDC.

B. Submittal Requirements

1. All applications pursuant to this LDC shall be submitted in accordance with the requirements of this Article, and the established submittal requirements of the appropriate review or decision-making authority.
2. Applications pursuant to this LDC shall be filed with the appropriate review or decision-making authority, or their designee, on forms provided by the Community Development Department, or the Public Works Department for street access or service connection permits.
3. Application submission deadlines shall not be waivable, unless otherwise specified in this LDC.

C. Application Fees

1. Upon submittal of an application, any applicable fees shall be paid in accordance with the LDC Fee Schedule in Appendix B of the City Code of Ordinances.
2. No refund of the fee or any part of the fee shall be made unless the application is withdrawn prior to noticing the application for a public hearing or decision, in which case, the applicant may be eligible for a refund of the notice fee.
3. Application fees shall not be waivable, unless otherwise specified in this LDC.

D. Exemptions from Submittal Requirements

1. An applicant may make a request to the appropriate review authority, or their designee, to exempt their application from specific submittal requirements when such requirements are not applicable to the evaluation of the application and are not necessary for proper documentation of the project.
2. Exemption requests shall be made at the time of application submission and shall include a brief explanation as to why the information specified for exemption is not relevant to the appropriate review authority's evaluation of the application.
3. The appropriate review authority may grant an exemption of specific submittal requirements, if it finds that the information is not applicable to its determination of whether the applicant complies with this LDC.
4. In the event the appropriate review authority determines that the information specified for exemption is necessary for it to complete its review, then it shall notify the applicant as soon as possible and table the application to give the applicant time to provide the required information.

E. Completeness Review

1. An application is not considered complete until all necessary forms, submittal requirements, and applicable fees are received by the appropriate review authority or its designee.
2. If the appropriate review authority, or its designee, finds that the missing application materials or information are central to its review of the application, then the application shall not be accepted and shall be returned to the applicant along with any submitted application fees.
3. If the appropriate review authority, or its designee, finds that the application is missing materials or information that are necessary for proper documentation, but are not central to the review of the application, it shall provide written notice of the application's incompleteness to the applicant, and shall permit the applicant to provide the required materials or information by a specified revision deadline. If the missing materials or information are not received by this revision deadline, the appropriate review authority, or its designee, shall have the authority to reject the application.
4. At the discretion of the appropriate review authority or its designee, any substantive changes made by the applicant to the scope of the project or to materials included in a submitted application following the specified revision deadline may require resubmittal of the entire application and a new completeness review.
5. Applicants wishing to appeal a determination of completeness may do so to the appropriate authority by submitting a letter indicating the request for appeal. The appeal request shall outline the basis for the incompleteness finding and shall provide a specific explanation for why the applicant believes the application meets the submission requirements.

F. Withdrawal of Application

Unless otherwise specified in this LDC, an application may be withdrawn at any time prior to the final decision on the application. Requests for withdrawal shall be made in writing by the applicant to the appropriate review or decision-making authority. Applications to amend this LDC, including the Zoning Regulations or Zoning Map, may be withdrawn by the applicant in accordance with this Section.

G. Burden of Proof

It shall be the sole responsibility of the applicant to demonstrate that their application satisfies all applicable standards of review.

25.2.3 Staff Review

A. Prior to consideration of an application pursuant to this LDC by a City board or commission, City staff may prepare a staff report for the application, which contains a brief summary of the proposal and a summary analysis of how the proposal relates to the applicable standards in this LDC.

   a. Sample motions, including any suggested findings and/or conditions, may also be provided in this report.

   b. Such staff report shall be shared with the board or commission in advance of the meeting, and shall be made available to the public.

B. Some applications pursuant to this LDC may require review and comment from other City departments prior to a public hearing or action on the application. Comments received from City staff in other departments following their review of an application shall be forwarded to the appropriate review or decision-making authority and shall be shared in writing with the applicant as soon as they are all received.

25.2.4 Public Notice

The general public notice requirements for applications and procedures subject to this LDC, including, but not limited to, notice of public body meetings and public hearings, are included in this Section. Table 25-2 indicates the type of public notice required for applications that require public notice in accordance with state law or the City Code of Ordinances.

A. Mailed Notice

1. When a mailed notice is required, the applicant shall submit 2 sets of mailing labels for each abutter or person entitled to such notice in accordance with state law or the City Code of Ordinances, and a mailing fee equal to the cost of the current United States Postal Service Certified Mail rate, at the time of application submission, unless otherwise specified in this LDC.
2. The appropriate review authority, or their designee, shall be responsible for issuing the mailed notice.
3. The mailed notice shall include, at a minimum, the date, time, place, and purpose of such public hearing; the names of the applicant and property owner; and the address of the subject property. Such information shall be current to within 10-days of application submittal.
4. The mailed notice shall be sent to the address used for mailing local property tax bills, which may be obtained from the City of Keene Assessing Department.
5. The required timeframe for issuing mailed notice is specified in Table 25-2. This timeframe shall not include the day such notice is postmarked or the day of the public hearing or public meeting at which the application is first considered.

B. Published Notice

1. When published notice is required, the appropriate review authority, or their designee, shall publish notice in a newspaper of general circulation within the City, and in at least 2 public places.
2. The required timeframe for issuing published notice is specified in Table 25-2. This timeframe shall not include the day notice is posted or the day of the public hearing or public meeting at which the application is first considered.
3. At the time of application submission, the applicant shall submit a fee to cover the cost of the published notice in accordance with the LDC Fee Schedule in Appendix B of City Code of Ordinances.
4. The published notice shall include, at a minimum, the date, time, place, and purpose of such public hearing; the names of the property owner and applicant; and the address of the subject property.

25.2.5 Site Visits

A. Submittal of an application in accordance with this Article shall be deemed as granting permission to City staff, the appropriate review or decision-making authority, or their designees, to enter onto the subject property for purposes of review.

1. Permission to visit the property extends from the date an application is submitted until the project is formally denied or construction of an approved project is complete, a certificate of occupancy has been issued, or final security has been returned to the applicant, whichever occurs later.
2. If an applicant wishes to place limitations upon access to the property subject to review, then the limitations shall be requested in writing at the time of application. Any such request shall include the reasons for the limitations, and the appropriate review authority shall use reasonable judgment in determining the

Table 25-2: Public Notice Requirements

Application Type		Notice Type			
		Mailed	Published	On-Site	# Days[1]
	Amendments to this LDC	●	●		10
Zoning	Amendments to Zoning Text or Zoning Map	●	●		10
	Variance	●	●		5
	Special Exception	●	●		5
	Equitable Waiver	●	●		5
	Expand or Enlarge Non-conforming Use	●	●		5
Sub-division Review	Subdivision	●	●		10
	Conservation Residential Development	●	●		10
	Boundary Line Adjustment	●			10
Site Plan Review	Minor Project	●	●		10
	Major Project	●	●		10
Condi-tional Use Permit	Hillside Protection	●	●	●	10
	Surface Water Protection	●	●	●	10
	Tele-communications	●	●	●	10
	Congregate Living & Social Services	●	●	●	10
	Solar Energy System	●	●	●	10
Historic District	Major Project	●	●	○	5
Other	Earth Excavation Permit	●	●		10

○ *= The requirements of on-site posting of notice for a public hearing for major project applications for a certificate of appropriateness shall be limited to proposals related to demolition of a structure in the Historic District.*

[1]*The number of days before a public hearing or public body meeting that notice is to be issued, not including the day of posting/postmark or day of public hearing/meeting.*

extent to which the request may be granted.

B. City boards and commissions may elect to conduct a formal site visit of a project site prior to the meeting at which an application will be considered. The decision to schedule a formal site visit shall be at the discretion of the board or commission chairperson or vice-chairperson.

25.2.6 Public Hearing Procedures

A. Applications Subject to Public Hearing

Table 25-1 summarizes which types of applications require a public hearing. If an application is not listed, this indicates that a public hearing is not required for that application.

B. Conduct of the Public Hearing

Public hearings shall be conducted in accordance with all applicable requirements of this LDC, the City Code of Ordinances, state law, and the rules of the board or commission conducting the public hearing. During the public hearing, the following may occur.

1. The presiding officer of the decision-making authority shall call the proceedings to order and announce that the public hearing has begun.
2. The applicant or their legal counsel or representatives shall present in support of the application, and answer questions from the decision-making authority.
3. City staff may present on the application, with respect to its conformance with the regulations in this LDC, and shall share comments from other City departments that reviewed the application. City staff may also answer questions from the decision-making authority.
4. The presiding officer shall open the public hearing for public testimony.
   a. Each person who speaks at a public hearing shall state their name and address for the record.
   b. Any abutter or other person with a direct interest in the application may testify at the public hearing or in

writing either before or at the public hearing. Other persons may testify at the discretion of the decision-making authority.

5. The applicant shall be given an opportunity to respond to any testimony raised by City staff or the public, and to answer any questions raised by the decision-making authority.
6. The presiding officer shall close the public hearing following public testimony, and the decision-making authority shall openly deliberate on the application before reaching a decision.
7. The decision-making authority shall evaluate the application based upon the submitted application materials and any evidence presented at the public hearing, pursuant to any applicable approval standards or regulations in this LDC.
8. Once a public hearing is closed, no further public testimony shall be taken, unless the presiding officer chooses to reopen the public hearing for additional testimony or argument.

C. Decisions

When the decision-making authority has completed its deliberation, it will either approve, approve with conditions, or disapprove an application. All decisions shall be delivered in writing to the applicant and shall include any conditions for approval or reasons for denial.

D. Continuations

The decision-making authority conducting the public hearing, upon a majority vote of its members, may continue a public hearing. No new notice (published, mailed or on-site) is required to reopen the public hearing if the hearing is continued to a date specific, provided that a public announcement of the future date, time, and place of the continued hearing is made and recorded in the minutes.

25.2.7 Hiring of Consultants

A. At any point prior to a decision on an application, the appropriate review or decision-making authority may determine that it needs additional information from the applicant to complete its review, including, but not limited to, special studies or technical analysis.

B. The cost of any such information or consultants shall be at the applicant's expense, and failure to agree to pay for the cost of the information or consultant(s) shall be ground for denial of the application.

C. The appropriate review or decision-making authority shall make every effort to be reasonable in its requests for information or consulting services, recognizing that such studies can add both time and cost to a project.

D. City staff shall follow the City's purchasing procedures for hiring a consultant on behalf of the applicant.

E. With respect to Planning Board applications, decisions regarding the need to hire consulting services and the scope of the consultant's work may be made by the Planning Board Steering Committee prior to the Board's determination of completeness on an application.

25.2.8 Notice of Decision

A written notice of decision, including the minutes of the public hearing at which a vote was taken to approve, conditionally approve, disapprove, or continue an application by the review or decision-making authority, shall be placed on file at the Community Development Department, unless otherwise specified in this LDC, and shall be available for public inspection within 5-calendar days of such vote.

25.2.9 Conditional Approval

A. For some conditions established as part of a conditional approval, a compliance hearing may be required.

1. The appropriate decision-making authority, or their designee, will inform the applicant at the time of the conditional approval as to whether a compliance hearing will be required.
2. The applicant shall pay for all abutter notification and public notice associated with a compliance hearing in accordance with the LDC Fee Schedule in Appendix B of the City Code of Ordinances.

B. Conditions for which approval may become final without further public hearing based upon evidence of satisfactory compliance include any of those listed below.

1. Conditions which are in themselves administrative or involve minor plan changes that do not require discretionary judgment on the part of the decision-making authority.
2. Conditions with regard to the applicant's obtainment of permits or approvals granted by other boards, commissions or agencies.

25.2.10 Modifications to Approved Plans

Unless another method is expressly provided by this LDC, any request to amend or revise an approved application shall be considered a new application, which shall be decided in accordance with the procedures governing the original application and the standards in effect at the time such new application is filed with the City.

25.2.11 Expirations

In such event that an approval expires, including conditional approvals, the following shall occur.

A. All site work associated with the expired approval shall immediately be halted.

B. Prior to initiating additional site work associated with the expired approval, a new application shall be submitted and reviewed in accordance with this LDC.

C. Any uses of the property associated with the expired approval shall be prohibited.

25.3 ZONING TEXT OR ZONING MAP AMENDMENT

25.3.1 Description

The standards and requirements set forth in the Zoning Regulations of this LDC (Articles 2 through 18), and the boundaries of zoning districts as shown on the City's Zoning Map may be amended in response to changed conditions or changes in the City's goals or policy.

25.3.2 Authority

The City Council, after receiving a recommendation from the Planning Licenses and Development Committee and the Planning Board, shall take action on requests to amend the Zoning Regulations or Zoning Map.

25.3.3 Submittal Requirements

An applicant seeking to amend the City's Zoning Regulations or Zoning Map shall submit a completed Zoning Amendment application to the City Clerk, which shall include the following.

A. A typed or neatly printed narrative explaining the purpose and effect of, and justification for, the proposed change.

B. A properly drafted ordinance containing the proposed zoning amendment in a format meeting the requirements of the City Clerk.

C. If a zoning map amendment is proposed, 2-copies of a map clearly displaying the zoning district boundary proposed to be changed and the surrounding area. One copy shall be 8½-in by 11-in, and the other shall be at the City Tax Map Scale.

D. 2-sets of mailing labels and a list of each property owner within the area proposed for a zoning map amendment, including property directly abutting the area proposed to change. Such list and labels shall include the owner's name and mailing address and the tax map parcel number for each property subject to the proposed amendment.

E. If a proposed zoning amendment would change the zoning district boundary of or the minimum lot sizes and permitted uses in a zoning district containing 100 or fewer parcels, 4-sets of mailing labels and a list of property owners of each property subject to the proposed amendment shall be submitted, in addition to the requirements of the foregoing section. Such list and labels shall include the owner's name and mailing address and the tax map parcel number for each affected property.

F. Application fee as set forth in the LDC Schedule of Fees in Appendix B of the City Code of Ordinances, including the costs of published and mailed notice (when required) for both the public workshop and public hearing. Mailed notice shall be First-Class Mail.

25.3.4 Procedure

In addition to the common application and review procedures of this Article, the following review and approval procedures shall apply to applications for proposed amendments to the Zoning Regulations or Zoning Map.

A. First Reading of City Council

1. Once an application for an amendment to the Zoning Regulations or Zoning Map is determined to be complete, the City Clerk shall forward it to the City Council for a first reading, and to the Community Development Department for review.
2. The City Council shall refer the application, including the draft ordinance, to the Planning, Licenses and Development Committee, and Joint Committee of the Planning, Licenses, and Development Committee and the Planning Board.

B. Staff Report

1. Upon receipt of the completed application, the Community Development Department shall review the proposed change(s), in coordination with other City departments. This review shall evaluate consistency of the proposed change with the City's Comprehensive Master Plan.

2. This review will be summarized in a staff report that will be submitted to the Joint Committee of the Planning, Licenses and Development Committee and Planning Board in advance of the first public workshop on the application.

C. Joint Public Workshop

1. Upon receipt of the application and draft ordinance from the City Council, the Joint Committee of the Planning, Licenses and Development Committee and the Planning Board shall hold a public workshop, with published and mailed notice.
2. This public workshop is not a due process public hearing and is intended to: prepare information for the City Council on the proposed change; provide a method by which the City Council and the Planning Board may receive public comment throughout a changing legislative process; and, afford an opportunity for adjustment to or modification of the draft ordinance.
3. At the public workshop, the applicant, or their representative, shall present on the proposed amendment. The Community Development Director, or their designee, shall present the staff report.
4. The Joint Committee of the Planning, Licenses and Development Committee and the Planning Board may make changes to the proposed ordinance throughout the public workshop process, without any requirement that additional published or mailed notice be provided.
5. At the conclusion of the public workshop, the Planning Board shall vote on the degree to which the proposal is consistent with the City's Comprehensive Master Plan and the Planning, Licenses and Development Committee shall vote on a recommendation as to when the public hearing should be held.
6. Following the public workshop, the Community Development Director, or their designee, shall submit the following materials to City Council.
   a. Any revisions to the draft ordinance recommended by the Joint Committee of Planning, Licenses and Development Committee and the Planning Board.
   b. The staff report.
   c. Minutes of the public workshop(s) held on the draft ordinance.

D. Council Public Hearing

1. Upon receipt of a recommendation to hold a public hearing from the Planning, Licenses and Development Committee, the City Council shall schedule a public hearing on the application and draft ordinance.
2. The City Clerk shall provide published and mailed notice of the public hearing in accordance with NH RSA 675:7.

E. Decision on Application

1. After closing the public hearing, the City Council shall refer the application and draft ordinance back to the Planning, Licenses and Development Committee for its recommendation.
2. Further comment from the public on the application and draft ordinance will not be accepted at this meeting of the Planning, Licenses, and Development Committee.
3. Following receipt of a recommendation from the Planning, Licenses, and Development Committee, the City Council shall vote to approve or disapprove the application.

25.3.5 Filing

Following approval by City Council, amendments to the text of the Zoning Regulations or the Zoning Map shall be placed on file with the City Clerk in accordance with NH RSA 675:8, and a copy of the amended regulations shall be sent to the NH Office of Strategic Initiatives (OSI) for filing, pursuant to NH RSA 675:9; provided, however, that failure to file the amended regulations with OSI shall not affect their validity.

25.3.6 Approval Standards:

The City Planning Board shall make written findings of fact on, and the City Council shall consider, the following criteria when deciding on an application for a zoning text or zoning map amendment:

A. The proposed zoning amendment is consistent with the spirit and intent of this LDC and the City's Comprehensive Master Plan.

B. The proposed zoning amendment is compatible with the existing form, pattern, use and zoning of nearby property, or it reflects a change in City goals and policies.

25.4 LAND DEVELOPMENT CODE AMENDMENTS

25.4.1 Description

The standards and requirements set forth in the City of Keene Land Development Code (also referred to as "this LDC") may be amended from time to time. The process for amending this LDC varies depending upon which article or articles are proposed to change. The process for amending the Zoning Regulations, which are contained in Articles 2 through 18 of this LDC, shall be as described in Section 25.3.

25.4.2 Authority

The City Council, after receiving a recommendation from the Planning Licenses and Development Committee, and from the Planning Board with respect to Articles 19, 20 and Sections 25.10 through 25.14 of Article 25, and from the Historic District Commission with respect to amendments to Article 21 and Section 25.15 of Article 25, shall take action on proposed amendments to this LDC.

25.4.3 Procedure

In addition to the common application and review procedures of this Article, the following procedures shall apply with respect to proposed amendments to this LDC.

A. Articles 1 through 18, and Articles 22 through 28. For amendments proposed to Articles 1 through 18 and Articles 22 through 28 of this LDC, the same application and review procedures shall be followed as those described in Section 25.3 of this LDC, with respect to amendments to the Zoning Regulations and Zoning Map.

B. Articles 19 and 20 - "Subdivision Regulations" and "Site Development Standards." For amendments proposed to Articles 19 and 20 of this LDC, the following procedures shall apply.

1. ***Planning Board Public Hearing.*** In accordance with NH RSA 675:6, the Planning Board shall hold a public hearing on the proposed amendments, and shall decide on whether they should be approved, approved with amendments, or denied. If the Planning Board denies the proposed amendments, the process shall come to an end.
    a. Notice for this public hearing shall be provided pursuant to NH RSA 675:7.
2. ***Introduction to and Review by City Council.*** Following either approval or approval with amendments by the Planning Board, the proposed amendments shall be submitted to City Council as a draft ordinance. Such ordinance shall be referred to the Planning, Licenses, and Development Committee for a recommendation to City Council. Upon receipt of such recommendation, the City Council shall vote to approve or disapprove the ordinance.
3. ***Filing.*** Following approval by City Council, the amended regulations shall be certified by a majority of the Planning Board, and shall be placed on file with the City Clerk in accordance with NH RSA 675:8. A copy of the amended regulations shall be sent to the NH Office of Strategic Initiatives (OSI) for filing pursuant to NH RSA 675:9; provided, however, that failure to file the amended regulations with OSI shall not affect their validity.

C. Article 21 - Historic District Regulations. For amendments proposed to Article 21 of this LDC, the following procedures shall apply.

1. ***Historic District Commission Public Hearing.*** In accordance with NH RSA 675:6, the Historic District Commission shall hold a public hearing on the proposed amendments, and shall decide on whether they should be approved, approved with amendments, or denied. If the Historic District Commission denies the proposed amendments, the process shall come to an end.
    a. Notice for this public hearing shall be provided pursuant to NH RSA 675:7.

2. ***Introduction to and Review by City Council.*** Following either approval or approval with amendments by the Historic District Commission, the proposed amendments shall be submitted to City Council as a draft ordinance. Such ordinance shall be referred to the Planning, Licenses, and Development Committee for a recommendation to City Council. Upon receipt of such recommendation, the City Council shall vote to approve or disapprove the ordinance.

3. ***Filing.*** Following approval by City Council, the amended regulations shall be certified by a majority of the Historic District Commission, and shall be placed on file with the City Clerk in accordance with NH RSA 675:8. A copy of the amended regulations shall be sent to the NH Office of Strategic Initiatives (OSI) for filing pursuant to NH RSA 675:9; provided, however, that failure to file the amended regulations with OSI shall not affect their validity.

25.5 ZONING VARIANCE

25.5.1 Description

Zoning variances are intended to address unnecessary hardships or practical difficulties resulting from the strict application of the Zoning Regulations. The purpose of the variance process is to provide a narrowly limited means by which relief may be granted from the unforeseen applications of the Zoning Regulations.

25.5.2 Initiation

The applicant for a variance shall either own the fee simple interest in the property(s) that is the subject of the review or have written permission of the fee simple owner.

25.5.3 Authority

The Zoning Board of Adjustment has the authority to authorize variances from the provisions of the Zoning Regulations of this LDC, subject to the requirements of this Article, the Zoning Regulations, and NH RSA 674:33.

25.5.4 Submittal Requirements

An applicant for a zoning variance shall submit a completed variance application to the Community Development Department, which shall include the following.

A. A written narrative that describes the property location, owner of the subject property, and explains the purpose and effect of, and justification for, the proposed variance, including a response to each of the variance criteria.

B. A scaled plot plan clearly displaying the location and dimensions of all structures and open spaces on the lot in question and on the adjacent lots, as well as any proposed changes to the site, such as, but not limited to, additions to existing structures or the construction of new structures.

C. 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.

D. 2 sets of mailing labels for each abutter and others requiring notice, including the owner of the subject property and their authorized agent.

E. Application fee as set forth in the LDC Schedule of Fees in Appendix B of the City Code of Ordinances, including the costs for published and mailed notice, which shall be Certified Mail.

25.5.5 Procedure

In addition to the common application and review procedures of this Article, the following review and approval procedures shall apply to applications for a zoning variance.

A. Once an application is determined to be complete, the Zoning Administrator, or their designee, shall forward it to the Zoning Board of Adjustment for a public hearing.

B. The Zoning Administrator, or their designee, shall provide published and mailed notice of this public hearing pursuant to NH RSA 676:7.

C. Prior to deciding on the application, the Zoning Board of Adjustment shall render, as appropriate, findings of fact by majority vote.

D. The Zoning Board of Adjustment shall give reasons for all decisions on variance applications and shall make reference to the appropriate sections of the Zoning Regulations, where applicable.

25.5.6 Approval Standards

The Zoning Board of Adjustment may authorize a variance from specific requirements of the Zoning Regulations only when the Board finds that all of the following conditions apply.

A. The variance will not be contrary to the public interest.

B. The proposed variance is not contrary to the spirit of the Zoning Regulations.

C. By granting the variance substantial justice would be done.

D. The values of surrounding properties would not be diminished.

E. Literal enforcement of the provisions of the Zoning Regulations would result in unnecessary hardship.

25.5.7 Expiration

A. Any variance granted by the Zoning Board of Adjustment shall be void if the use or structure authorized by the variance has not been begun within 2-years from the date of final approval.

B. Any application for an extension shall be heard as a new application; any other time limitation shall be specifically prescribed by the Zoning Board of Adjustment.

25.6 ZONING SPECIAL EXCEPTION

25.6.1 Description

A special exception seeks permission to do something that the Zoning Regulations permit only under certain special circumstances. All special exceptions shall be made in harmony with the general purpose and intent of the Zoning Regulations and shall be in accordance with the rules contained therein.

25.6.2 Initiation

The applicant for a special exception shall either own the fee simple interest in the property(s) that is the subject of the review or have written permission of the fee simple owner.

25.6.3 Authority

The Zoning Board of Adjustment shall have the authority to hear and decide special exceptions from the provisions of the Zoning Regulations of this LDC, subject to the requirements of this Section and NH RSA 674:33.

25.6.4 Submittal Requirements

An applicant for a special exception shall submit a completed special exception application to the Community Development Department, which shall include the following.

A. A written narrative that describes the property location, owner of the subject property, and explains the purpose and effect of, and justification for, the proposed special exception, including a response to each of the special exception criteria.

B. A scaled plot plan clearly displaying the location and dimensions of all structures and open spaces on the lot in question and on the adjacent lots, as well as any proposed changes to the site, such as, but not limited to, additions to existing structures or the construction of new structures.

C. 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.

D. 2 sets of mailing labels for each abutter and others requiring notice, including the owner of the subject property and their authorized agent.

E. Application fee as set forth in the LDC Schedule of Fees in Appendix B of the City Code of Ordinances, including the costs for published and mailed notice, which shall be Certified Mail.

25.6.5 Procedure

In addition to the common application and review procedures of this Article, the following review and approval procedures shall apply to applications for a special exception.

A. Once an application is determined to be complete, the Zoning Administrator, or their designee, shall forward it to the Zoning Board of Adjustment for a public hearing.

B. The Zoning Administrator, or their designee, shall provide published and mailed notice of this public hearing pursuant to NH RSA 676:7.

C. Prior to deciding on the application, the Zoning Board of Adjustment shall render, as appropriate, findings of fact by majority vote.

D. The Zoning Board of Adjustment shall give reasons for all decisions on special exception applications and shall make reference to the appropriate sections of the Zoning Regulations, where applicable.

25.6.6 Approval Standards

The Zoning Board of Adjustment may approve a special exception application, only when the Board finds that all of the following conditions apply.

A. The nature of the proposed application is consistent with the spirit and intent of the Zoning Regulations, this LDC and the City's Comprehensive Master Plan, and complies with all applicable standards in this LDC for the particular use.

B. The proposed use will be established, maintained and operated so as not to endanger the public health, safety, or welfare.

C. The proposed use will be established, maintained, and operated so as to be harmonious with the surrounding area and will not impede the development, use, and enjoyment of adjacent property.

D. The proposed use will be of a character that does not produce noise, odors, glare, and/or vibration that adversely affects the surrounding area.

E. The proposed use will not place an excessive burden on public improvements, facilities, services, or utilities.

F. The proposed use will not result in the destruction, loss, or damage of any feature determined to be of significant natural, scenic, or historic importance.

G. The proposed use will not create a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity of the use.

25.6.7 Conditions

A. In the event that the Zoning Board of Adjustment decides to approve a special exception, they may choose to impose conditions and restrictions as are directly related to and incidental to the proposed special exception. Such conditions may address limits on location, scale, intensity, design, lighting, signs, hours of operations, provisions for recreation and open space, buffers and screening, and other performance standards. Examples of such conditions may include, but shall not be limited to, the following.

1. Setbacks larger than the minimums required by the Zoning Regulations.
2. Landscaping and/or screening of the premises from the street or adjacent property in excess of the minimum requirements of the Zoning Regulations.
3. Modification of the design of any building, structure, or site feature involved in the proposed use.
4. Limitations on the size of buildings and other structures more stringent than the minimum or maximum requirements of the Zoning Regulations.
5. Limitations on the number of occupants or employees upon the premises, and restrictions on the method or time of operation, and the size or extent of the use.
6. Regulation of design of access drives, sidewalks, crosswalks, and other traffic features.
7. Off-street parking spaces in excess of the minimum requirements of the Zoning Regulations.
8. Regulation of the number, size, and/or lighting of signs more stringent than the requirements of the Zoning Regulations.

B. Failure to comply with any condition or restriction constitutes a violation of the special exception, which shall be enforced through the provisions established in Article 27 of this LDC.

25.6.8 Modifications to Approved Applications

No use allowed by a special exception may be enlarged or increased in intensity without approval from the Zoning Board of Adjustment for a new special exception. The Zoning Administrator may, however, allow for an exception to this restriction for the following circumstances.

A. There is an addition or expansion of 20% or 500 sf of gross floor area, whichever is less, of the area of the existing structure.

B. The addition of any accessory structure customarily found in association with the use allowed by the special exception.

25.6.9 Expiration

A. A special exception granted by the Zoning Board of Adjustment shall be valid if exercised within 2-years from the date of final approval, or as further extended by the Zoning Board of Adjustment for good cause. Within this 2-year time period, the use must be started or construction begun on the structure.

B. Any application for an extension shall be heard as a new application; any other time limitation shall be specifically prescribed by the Zoning Board of Adjustment.

25.7 EXPANSION OR ENLARGEMENT OF A NONCONFORMING USE

25.7.1 Description

A nonconforming use of a structure or land may be expanded or enlarged with approval from the Zoning Board of Adjustment, provided such expansion or enlargement does not violate any of the basic zone dimensional requirements of the zoning district in which it is located.

25.7.2 Initiation

The applicant seeking approval to expand or enlarge a nonconforming use shall either own the fee simple interest in the property(s) that is the subject of the review or have written permission of the fee simple owner.

25.7.3 Authority

The Zoning Board of Adjustment shall have the authority to hear and decide on applications to expand or enlarge a nonconforming use.

25.7.4 Submittal Requirements

An applicant shall submit a completed application to the Community Development Department, which shall include the following.

A. A written narrative that describes the property location, owner of the subject property, and explains the purpose and effect of, and justification for, the proposed expansion or enlargement of a nonconforming use, including a response to each of the relevant approval standards.

B. A scaled plot plan clearly displaying the location and dimensions of all existing structures and open spaces, as well as any proposed changes to the site, such as, but not limited to, additions to existing structures or the construction of new structures.

C. 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.

D. 2 sets of mailing labels for each abutter and others requiring notice, including the owner of the subject property and their authorized agent.

E. Application fee as set forth in the LDC Schedule of Fees in Appendix B of the City Code of Ordinances, including the costs for published and mailed notice, which shall be Certified Mail.

25.7.5 Procedure

In addition to the common application and review procedures of this Article, the following review and approval procedures shall apply to applications to expand or enlarge a nonconforming use.

A. Once an application is determined to be complete, the Zoning Administrator, or their designee, shall forward it to the Zoning Board of Adjustment for a public hearing.

B. The Zoning Administrator, or their designee, shall provide published and mailed notice of this public hearing pursuant to NH RSA 676:7.

C. Prior to deciding on the application, the Zoning Board of Adjustment shall render, as appropriate, findings of fact by majority vote.

25.7.6 Approval Standards

The Zoning Board of Adjustment may approve an application for an expansion or enlargement of a nonconforming use, only when the Board finds that all of the following conditions apply.

A. Such expansion or enlargement would not reduce the value of any property within the zoning district, nor otherwise be injurious, obnoxious or offensive to the neighborhood.

B. There will be no nuisance or serious hazard to vehicles or pedestrians.

C. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.

25.7.7 Conditions

In the event that the Zoning Board of Adjustment decides to approve the application, they may choose to impose conditions and restrictions as are directly related to and incidental to the proposed expansion or enlargement.

25.7.8 Expiration

A. An approval granted by the Zoning Board of Adjustment to expand or enlarge a nonconforming use shall be valid if exercised within 2-years from the date of final approval, or as further extended by the Zoning Board of Adjustment for good cause. Within this 2-year time period, the expansion or enlargement of the use must be started.

B. Any application for an extension shall be heard as a new application; any other time limitation shall be specifically prescribed by the Zoning Board of Adjustment.

25.8 EQUITABLE WAIVER OF ZONING DIMENSIONAL REQUIREMENTS

25.8.1 Description

In situations where a lot or structure is discovered to be in violation of a physical layout or dimensional requirement of the Zoning Ordinance, and such lot or structure is not legally nonconforming, a waiver from the requirement may be sought under certain conditions.

25.8.2 Applicability

A. An equitable waiver shall only apply to waivers from physical layout, mathematical or dimensional requirements, and shall not apply to use restrictions.

B. An equitable waiver shall not be construed as a nonconforming use and shall not exempt future use, construction, reconstruction, or additions on the property from full compliance with the Zoning Regulations.

25.8.3 Initiation

The applicant for an equitable waiver of dimensional requirements shall either own the fee simple interest in the property(s) that is the subject of the review or have written permission of the fee simple owner.

25.8.4 Authority

The Zoning Board of Adjustment shall have the power to hear and decide on equitable waivers of zoning dimensional requirements, subject to the requirements of this Section and NH RSA 674:33-a.

25.8.5 Submittal Requirements

An applicant for an equitable waiver of dimensional requirements shall submit a completed application to the Community Development Department, which shall include the following materials.

A. A written narrative that describes the property location, owner of the subject property, and explains the purpose and effect of, and justification for, the proposed waiver, a response to each of the equitable waiver criteria.

B. A scaled plot plan clearly displaying the locations and dimensions of all structures and open spaces on the lot in question and on the adjacent lots.

C. A 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.

D. 2 sets of mailing labels for each abutter and others requiring notice, including the owner of the subject property and their authorized agent.

E. Application fee as set forth in the LDC Schedule of Fees in Appendix B of the City Code of Ordinances, including the costs for published and mailed notice, which shall be Certified Mail.

25.8.6 Procedure

In addition to the common application and review procedures of this Article and NH RSA 676:5 through 676:7, the following review and approval procedures shall apply to applications for an equitable waiver of dimensional requirements.

A. Once an application is determined to be complete, the Zoning Administrator, or their designee, shall forward it to the Zoning Board of Adjustment for a public hearing.

B. The Zoning Administrator, or their designee, shall provide published and mailed notice of this public hearing pursuant to NH RSA 676:7.

C. Prior to deciding on the application, the Zoning Board of Adjustment shall render, as appropriate, findings of fact by majority vote.

D. The Zoning Board of Adjustment shall give reasons for all decisions on equitable waiver of dimensional requirements applications and shall

make reference to the appropriate sections of the Zoning Regulations, where applicable.

25.8.7 Approval Standards

The Zoning Board of Adjustment shall grant an application for an equitable waiver from the zoning dimensional requirements, if it makes all of the following findings, pursuant to NH RSA 674:33-a.

A. The violation was not noticed or discovered by any owner, former owner, owner's agent or representative, or municipal official, until after a structure in violation had been substantially completed, or until after a lot or other division of land in violation had been subdivided by conveyance to a bona fide purchaser for value.

B. The violation was not an outcome of ignorance of the law or ordinance, failure to inquire, obfuscation, misrepresentation, or bad faith on the part of any owner, owner's agent or representative, but was instead caused by either a good faith error in measurement or calculation made by an owner or owner's agent, or by an error in ordinance interpretation or applicability made by a municipal official in the process of issuing a permit over which that official had authority.

C. The physical or dimensional violation does not constitute a public or private nuisance, nor diminishes the value of other property in the area, nor interferes with or adversely affects any present or permissible future uses of any such property.

D. Due to the degree of past construction or investment made in ignorance of the facts constituting the violation, the cost of correction so far outweighs any public benefit to be gained that it would be inequitable to require the violation to be corrected.

E. In lieu of the first two findings in this list, the owner may demonstrate that the violation has existed for 10 or more years, and that no enforcement action, including written notice of violation, has been commenced against the violation during that time by the City or any person directly affected.

25.9 ZONING ADMINISTRATOR WRITTEN INTERPRETATION

25.9.1 Description

The provisions of the Zoning Regulations of this LDC cannot, as a practical matter, address every specific zoning issue. As such, the Zoning Administrator has the authority to make interpretations of the Zoning Regulations, so long as their interpretation does not add to or change the essential content of these regulations.

25.9.2 Initiation

Anyone may submit an application for a written zoning interpretation, provided the request is for the purpose of furthering actual development.

25.9.3 Authority

The Zoning Administrator shall have the authority to make interpretations concerning the provisions of the Zoning Regulations of this LDC.

25.9.4 Submittal Requirements

A person or entity seeking a written interpretation of the Zoning Regulations shall submit a completed written zoning interpretation form to the Community Development Department. A completed form shall include the following.

A. A written narrative that describes the property location and owner of the subject property if the question of interpretation relates to a specific tract of land.

B. The section of the Zoning Regulations from which a written interpretation is requested.

C. An explanation of the zoning question or issue for which the applicant is seeking an interpretation and any supporting documentation.

D. Application fee as set forth in the LDC Schedule of Fees in Appendix B of the City Code of Ordinances.

25.9.5 Procedure

A. Within 21 business days following the submission of a completed application, the Zoning Administrator shall render a written opinion or interpretation in response.

B. The Zoning Administrator shall provide the written interpretation to the applicant and the property owner (if the property owner is not the applicant and if the question of interpretation relates to a specific tract of land).

C. The Community Development Department shall maintain an official record of all written interpretations.

D. The Zoning Administrator shall publish their written interpretation on the City website within 5 calendar days from the date of issuance.

25.9.6 Expiration

If amendments are made to the Zoning Regulations in accordance with this LDC and state law, which might alter or affect a written interpretation issued by the Zoning Administrator prior to such amendments, the written interpretation shall no longer be valid.

25.10 SUBDIVISION REVIEW

25.10.1 Description

Subdivision review allows for the orderly division or consolidation of lots, as well as the alteration or adjustment of lot boundary lines.

25.10.2 Initiation

The applicant for subdivision review shall either own the fee simple interest in the property(s) that is the subject of the review or have written permission of the fee simple owner.

25.10.3 Authority

A. The Planning Board shall have the authority to hear and decide on applications for subdivision review including boundary line adjustments and conservation residential development subdivisions.

B. For voluntary merger applications, the Planning Board designates the Zoning Administrator as their designee to review and decide on such applications, and in their absence, the Community Development Director.

25.10.4 Applicability

Subdivision review shall be required for the following types of subdivisions.

A. **Subdivision.** Any division of a lot, tract or parcel of land into 2 or more lots, plats, sites, or other divisions of land for the purpose, whether immediate or future, of sale, rent, lease or building development.

B. **Conservation Residential Development Subdivision.** Applications for subdivision review consisting of 3 or more proposed lots and the layout and construction of a new road, where the existing parcel to be subdivided is located in either the Rural, Low Density, or Low Density-1 zoning districts, and meets the minimum lot size requirements specified in Article 19, shall follow the conservation residential development subdivision process set forth in Section 19.3 of this LDC.

C. **Boundary Line Adjustment.** The adjustment of boundary lines between 1 or more contiguous, preexisting approved or subdivided lots.

D. **Voluntary Mergers.** The merger of 2 or more contiguous pre-existing approved or subdivided lots owned by the same property owner.

25.10.5 Submittal Requirements

An applicant for subdivision review shall submit a completed application on the appropriate form to the Community Development Department, and shall provide sufficient information to enable City staff and the Planning Board to evaluate the proposal for compliance with this LDC. Submittal requirements for the different types of subdivision review are included below.

A. Voluntary Merger Applications

A completed voluntary merger application shall include the following.

1. A completed and notarized voluntary merger form.
2. A map, drawn to scale, displaying the layout and boundaries of the lots proposed to be merged.
3. Application fee as set forth in the LDC Schedule of Fees in Appendix B of the City Code of Ordinances.

B. Subdivision & Boundary Line Adjustment Applications

A completed application for subdivisions and boundary line adjustments shall include the following.

1. A written narrative describing the type, scope and scale of the proposal including the following information.
   - **a.** The sizes of the existing and proposed lot.
   - **b.** Existing and proposed uses.
   - **c.** The location of access points for the existing and proposed lots.

d. An explanation of how the proposal complies with the applicable standards in this LDC.

2. A complete plan set signed and stamped by a NH licensed surveyor (7-copies on 22-in by 34-in paper or larger size; 1-copy on 11-in by 17-in paper; and, an electronic pdf file), which shall include the following materials.

a. A location map of the proposed subdivision or boundary line adjustment.

b. An existing conditions plan (at a scale of 1-in = 100-ft or a larger scale) showing all parcels affected by the proposal, and depicting the following information.

i. Contours of at most 5-ft intervals

ii. Owner names and tax map parcel numbers for all abutters.

iii. Boundaries and acreage of the existing lot(s) subject to review.

iv. Surface waters, including wetland areas delineated by a NH certified wetland scientist, and any manmade waterways, ponds, ditches, etc.

v. Precautionary and prohibitive slopes.

vi. Delineation of 100-year floodplain and floodways as shown on current FIRM maps.

vii. Location of any public streets, rights-of-way, and easements.

viii. Location of existing structures, wooded and vegetated areas, site features (e.g. fences, walls, ground-mounted equipment, utilities, stormwater facilities, wells, septic systems, stonewalls, etc.), driveways, and parking areas on the subject property, and to the extent practicable on directly abutting properties.

c. A proposed conditions plan (at a scale of 1-in = 100-ft or at a larger scale) showing all parcels affected by the proposal, and depicting the following information.

i. Owner names and tax map parcel numbers for all direct abutters.

ii. Boundaries and acreage of the proposed lots subject to review.

iii. Location of any existing structures or site features, driveways, parking areas, public streets, rights-of-way, easements, surface waters (including wetland areas delineated by a NH certified wetland scientist), precautionary and prohibitive slopes, 100-year floodplain and floodways delineation, and wooded and vegetated areas that are displayed on the existing conditions plan, and are proposed to remain.

iv. The location of proposed structures and site features, lot lines, public streets, rights-of-way, easements, driveways and parking areas.

3. Any additional information the Planning Board, or its designee, may reasonably deem necessary to determine compliance with the applicable regulations of this LDC.

4. Any technical reports prepared by a NH licensed engineer or qualified professional, which may be required or reasonably requested by the Planning Board, or its designee, based on the nature and scope of the proposal. Such reports may include, but are not limited to drainage, traffic, and/or soils analyses.

5. A 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.

6. 2 sets of mailing labels for each abutter and others requiring notice, including the owner of the subject property and their authorized agent.

7. Application fee as set forth in the LDC Schedule of Fees in Appendix B of the City Code of Ordinances, including the costs for published and mailed notice, which shall be Certified Mail.

C. Conservation Residential Development Subdivision Applications

In addition to the submittal requirements for a subdivision or boundary line adjustment in Section 25.10.5.B, a completed application for a proposed conservation residential development subdivision shall include the following.

1. An overview plan (1-copy on 22-in by 34-in paper or larger size; 1-copy on 11-in by 17-in paper; and, an electronic pdf file), which displays the entire tract and any existing public roads, public or private protected lands, woodlands areas, surface waters, and precautionary or prohibitive slopes located within 200-ft of the tract.

2. An existing conditions plan displaying the location of primary and secondary conservation values as defined in Section 19.3 of this LDC.

3. A proposed conditions plan including the following.

a. The area(s) designated as Open Space, any common land and any specifically protected conservation values.

b. Any proposed uses of the Open Space (e.g. agriculture, recreation, forestry, etc.) and/or common lands shall be noted on the plan.

c. The location and dimensions of any proposed roads, sidewalks, and trails.

4. A landscaping plan (1-copy on 22-in by 34-in paper or larger size; 1-copy on 11-in by 17-in paper; and, an electronic pdf file) providing the following information:

a. The location of existing wooded and vegetated areas and proposed changes to the outline of these areas.

b. The location, species and size of all landscaping materials proposed to be installed on the site, including street trees.

c. A table listing all plant species to be installed on the site, indicating the size (average height and width) at planting and at maturity as well as the number of each species to be installed.

5. Written documentation of the process applied by the applicant in the layout of the proposed conservation residential development subdivision to ensure that proposed or future development does not adversely impact primary and secondary conservation areas as defined in Section 19.3 of this LDC.

6. Applications that include a request for the Solar Density Incentive in Section 19.3.6.B shall include the following information:

a. A written request for the density incentive that describes how the application meets the requirements of Section 19.3.6.B.

b. A solar access plan that displays the building areas or locations of structures on all solar-oriented lots in order to demonstrate that it would be possible to site a structure which is unshaded by other nearby structures, site features, or topography. This solar access plan shall demonstrate that the building areas or structures on solar-oriented lots are not obscured by any vegetation, building, or object for a minimum of four hours between the hours of 9:00 AM and 3:00

PM Standard time on any day of the year. This plan may be included as an overlay to the subdivision plan or site plan, if required.

7. Applications that include a request for the Workforce Housing Density Incentive in Section 19.3.6.C shall include the following information:

a. A written request for the density incentive that includes a calculation of the number of units provided under this section and a description of each unit's size, type, number of bedrooms, estimated cost, location within the development, and other relevant data.

b. Written statement describing how the proposed development will meet the requirements of Section 19.3.6.C.3.

c. The Planning Board shall request additional information if, in their judgment, it is necessary to determine whether the requirements of Section 19.3.6.C have been met.

25.10.6 Submittal Requirement Exemptions

A. An applicant may make a request to the Community Development Director, or their designee, to exempt their application from specific submittal requirements.

B. Any exemption granted by the Community Development Director, or their designee, shall be evaluated and approved by the Planning Board during its review of application completeness. If the Board determines the exempted material is necessary to complete its review of the application, they may deny the exemption request and determine the application to be incomplete.

C. If a requested exemption is not granted by the Community Development Director, or their designee, the applicant may appeal the decision to the Planning Board prior to the Board's determination of application completeness.

25.10.7 Application Submittal Deadline

A completed application shall be submitted to the Community Development Director, or their designee, no later than 26-business days prior to the Planning Board meeting date at which the applicant desires the application to be reviewed.

25.10.8 Procedure

In addition to the common application and review procedures of this Article, the following review and approval procedures shall apply to applications for subdivision review.

A. Voluntary Merger Procedure

1. Except where such merger would create a violation of then-current ordinances or regulations, all voluntary merger applications shall be approved administratively, and no public hearing shall be required.

2. No new survey plat need be recorded, but a notice of the merger, sufficient to identify the relevant parcels and endorsed in writing by the Planning Board, or its designee, shall be filed for recording in the County Registry of Deeds, and a copy sent to the City of Keene Assessing Department.

3. No such merged parcel shall thereafter be separately transferred without subdivision approval.

B. Boundary Line Adjustment Procedure

1. All boundary line adjustment applications shall be reviewed by the Planning Board without a public hearing. However, mailed notice to abutters and other persons requiring notice is required.

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

C. Subdivision & Conservation Residential Development Subdivision Procedure

1. ***Presubmission Meeting.*** Applicants for subdivision review that propose the creation of 3 or more lots shall attend a pre-submission meeting at least 2-weeks prior to the Planning Board submittal deadline.

2. ***Staff Determination of Application Completeness.*** Within 2 business days following the application submittal deadline, the Community Development Director, or their designee, shall complete an initial review of the application to evaluate whether the submittal requirements have been met.

   a. If the missing application materials or information are necessary for proper documentation, but are not central to the initial departmental review, the applicant will be permitted to provide the required materials or information by the revision deadline of 14 calendar days prior to the corresponding regularly scheduled Planning Board meeting date.

3. ***Departmental Review***. Once the Community Development Director, or their designee, has made an initial determination that an application is complete, copies of the application and associated materials shall be sent to the City's Engineering Division, Fire Department, Police Department, Zoning Administrator, and Building and Health Official for technical review.

   a. City staff will be requested to return comments on the application to the Community Development Department within 5-business days of the distribution date.

   b. The Community Development Director, or their designee, shall communicate departmental comments to the applicant, as soon as they are all received.

4. ***Revision Deadline.*** Any plan revisions or additional information requested of the applicant by City staff following departmental review of the application shall be delivered to the Community Development Department no later than the revision deadline of 14 calendar days prior to the corresponding regularly scheduled Planning Board meeting date. The revision deadline shall not be waivable.

5. ***Site Visits.*** At the discretion of the Community Development Director or Planning Board Chair, a formal Planning Board site visit to the subject property may be scheduled prior to the Planning Board public hearing on the application.

6. ***Compliance with Zoning***.

   a. Applications requiring approval from the Zoning Board of Adjustment shall not be noticed for public hearing until such approvals have been obtained.

   b. Applications shall be in compliance with the Zoning Regulations prior to the issuance of public notice for the public hearing.

7. ***Notice of Public Hearing.*** The Community Development Director, or their designee, shall forward applications for subdivision review to the Planning Board for a public hearing, and shall provide published and mailed notice of this public hearing pursuant to NH RSA 675:7(I).

8. ***Board Determination of Application Completeness.*** The Planning Board shall vote to determine whether the application is complete prior to opening the public hearing.

   a. The Planning Board shall consider advice from the Community Development Director, or their designee, in reaching a determination of application completeness.

   b. If the Planning Board determines that an application is incomplete, the Board will either issue a written decision of

incompleteness or, with the applicant's consent, table the application until the next regular meeting of the Board.

9. ***Public Hearing.*** Upon reaching a finding that an application is complete, the Planning Board may open the public hearing for the application.

10. ***Decision.*** The Planning Board shall finish its review of an application within 65 calendar days of the meeting at which the Board accepted the application as being complete. If the Board feels that more time is needed, or if the applicant requests additional time, the timeframe provided for review under NH RSA 676:4 can be extended by mutual agreement of the Board and the applicant, so long as the applicant requests the extension in writing.

25.10.9 Filing

A. Building permits shall not be issued until approved subdivision plans have been signed by the Planning Board Chair or Vice Chair. Said signature shall signify that the plan has been duly approved by the Board and that all conditions precedent to plan signature have been met as specified in the approval.

B. Prior to Planning Board Chair or Vice Chair signature of a plan approved by the Board, the applicant shall:

1. Demonstrate to the satisfaction of the Community Development Director, or their designee, that all conditions of approval have been met as specified by the Board; and,

2. Provide complete copies of the approved plan set in a number and form as specified by the Community Development Department, including 2-copies of the approved subdivision plan printed on mylar in a format pursuant to NH RSA 478:1-a and displaying the owners signature(s).

C. For approved conservation residential development subdivision applications, applicants shall also submit written documentation of any legal instruments required for the management of the designated Open Space land. In addition, applicants shall submit written documentation of any legal instruments required to demonstrate compliance with the criteria of any and all optional density incentives granted by the Planning Board. Such documents shall be submitted to the Community Development Department and are subject to the review and approval of the City Attorney prior to signature.

D. Unless otherwise specified in Section 25.10, the Community Development Department shall record the approved subdivision plan with the County Registry of Deeds.

25.10.10 Approval Standards

Subdivision review by the Planning Board, or its designee, shall include an analysis of land characteristics and access potential to determine if each proposed new lot or each lot affected is of such character that it can be accessed and used for building in a manner that avoids or mitigates the potential for adverse impacts to health, safety, and welfare of the community and the environment. The criteria for Board determination are established in Article 19 "Subdivision Regulations" and Article 20 "Site Development Standards."

25.10.11 Expirations

A. Any failure to meet the deadlines in this Section shall result in automatic expiration of Planning Board approval. This Section shall not be waivable.

B. **Conditional Approvals.** If an application is conditionally approved, the applicant has 180 calendar days (starting the day following the Board's decision) to meet any conditions that shall be met prior to signature of the Planning Board Chair on the plan.

1. All conditions that must be met after the plan is signed shall be satisfied within 2-years (starting the day following the Board's decision).

2. The applicant may request a reasonable extension of the time limit for satisfying the conditions prior to the Planning Board

granting a conditional approval.

C. **Active & Substantial Development**. Active and substantial development of an approved project shall be completed within 2-years, starting the day following the Board's decision to approve or conditionally approve the application. Plans approved in phases shall be subject to a determination of active and substantial development for the current phase. For purposes of this Section, active and substantial development shall include all of the following.

1. Construction of and/or installation of basic infrastructure to support the development in accordance with the approved plan, including at least 1 building foundation wall/ footing, roadways, access ways, etc., to a minimum of gravel base and utilities placed in underground conduit ready for connection to proposed buildings/structures.

2. Construction and completion of drainage improvements to service the development in accordance with the approved plans.

3. All erosion control measures (as specified on the approved plans) shall be in place and maintained on the site.

4. Movement of earth, excavation, or logging of a site without completion of items 1-3 above, shall not be considered active and substantial development.

25.10.12 Extensions

A. Prior to the expiration of an approval, an applicant may request an extension of the timeframe for meeting conditions or achieving active and substantial development from the Planning Board.

1. No modifications to the approved or conditionally approved plan shall be considered in conjunction with the request to extend the deadline.

2. Extension requests shall be submitted in writing to the Community Development Director, or their designee, at least 10 business days prior to the Planning Board Meeting at which the request will be considered.

B. The maximum time length for each approved extension is 6-months for meeting conditions of approval and 1-year for achieving active and substantial development. An extension of the conditional approval deadline by 6-months will automatically extend the deadline for active and substantial development by 1-year.

C. Under no circumstances shall an applicant be granted more than 3 extensions total for their application.

1. ***First Extension.*** The Planning Board shall grant a first extension of the approval, if the applicant demonstrates the necessity of the extension and provides an update to the Board about the nature of the project and its status.

2. ***Second Extension.*** Prior to expiration of the first extension, the Planning Board may grant the application a second extension, if said applicant demonstrates the necessity of the second extension and summarizes what changes, if any, have since occurred to applicable state law or City regulations.

a. The Planning Board shall consider whether any changes identified by the applicant would have influenced the Board's initial decision with respect to the project.

b. If the Planning Board finds that substantive changes to applicable state law or City regulations have been adopted that would have resulted in either modification of the project, the imposition of additional or different conditions in the approval, or disapproval of the project, then the extension request shall not be granted.

3. ***Third Extension.*** Prior to expiration of the second extension period, an applicant may request a third extension.

a. Such extension shall only be granted by the Planning Board where an

applicant can demonstrate that there are extraordinary circumstances that warrant a third extension of the deadline. Extraordinary circumstances may include, but not be limited to, litigation that is entered into after the conditional approval is granted and which prevents the applicant from completing conditions required for signature or from completing active and substantial development.

b. If the extension request is denied by the Planning Board, prior to expiration of the approval, the applicant may submit an application for modification of the conditional approval to address concerns leading to the Board's denial of the extension.

25.10.13 Security

A. The Planning Board shall have the authority to require applicants post a security deposit for the following.

1. Public improvements, including but not limited to roads, sidewalks, parks, and utilities, and for performance of site improvements as specified by the Board at the time of approval.

2. All landscaping installed on a site to ensure its survival for 1 full growing season after installation (a minimum of 1-year).

3. Erosion and sedimentation control to assure that erosion control provisions are working, and required technical inspections take place.

4. "As Built" plans signed and stamped by a NH licensed surveyor or engineer that include the exact location, size, and materials of sewer, water, gas, drainage and any underground utilities (e.g. phone, electric, cable) as well as catch basins, hydrants, compensatory wetlands or flood storage areas, sidewalks, drainage basins, edge of pavement, edge of buildings, and other improvements as may be indicated by the Community Development Director or their designee.

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

b. All digital plans shall be named using the following convention: "[Insert Project Name]_As-Builts".

c. All data should be provided in the NAD 1983 StatePlane New Hampshire FIPS 2800 (US Feet) coordinate system.

d. All CAD data should contain all assignment files to be plotted and projected appropriately.

e. Any missing or un-openable files will result in rejection of the submission.

5. Other elements of the project to ensure that they function concurrent with and subsequent to construction.

B. The security shall be in a form acceptable to the Community Development Director, or their designee, and shall be either 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.

2. The Planning Board may require a written security agreement that specifies when various improvements will be completed. Such agreement may be required to link the completion of phases of improvement with the issuance of building permits or certificates of occupancy.

25.10.14 Waivers

A. Unless otherwise set forth in this LDC, the Planning Board may grant a waiver from strict compliance with provisions of the Subdivision Regulations in Article 19, applicable Site Development Standards in Article 20, or subdivision review standards in Section 25.10

on a case-by-case basis, so long as the Board finds, by majority vote, that:

1. Specific circumstances relative to the subdivision, or conditions of the land in such subdivision, indicate that the waiver will properly carry out the spirit and intent of the regulations; and,
2. Granting the waiver will not increase the potential for creating adverse impacts to abutters, the community or the environment; and,
3. Consideration will also be given as to whether strict conformity with the regulations would pose an unnecessary hardship to the applicant.

B. The Planning Board may grant a waiver from the requirement that a subdivision be a conservation residential development subdivision, upon reaching a finding that:

1. Conservation values on a property would be better protected by a conventional subdivision design;
2. A conservation residential development subdivision would significantly detract from the character of the surrounding neighborhood; and,
3. A conventional subdivision design provides the only reasonable alternative to developing the parcel to be subdivided given the parcel configuration and site constraints.

C. In granting a waiver, the Planning Board may require any mitigation that is reasonable and necessary to ensure that the spirit and intent of the standard being waived will be preserved, and to ensure that no increase in adverse impacts associated with granting the waiver will occur.

D. Any waiver request shall be in writing and shall cite the specific regulation or standard the waiver is requested from and the reason(s) it cannot be met.

E. Waiver requests shall be submitted following the same process and timeframe as is required for formal applications to the Planning Board.

25.11 PLANNING BOARD ADVICE & COMMENT

25.11.1 Description

Advice and comment is an opportunity for prospective applicants to seek preliminary advice from the Planning Board on project proposals in regards to their consistency with City policies, goals, standards and regulations. The primary purposes of this non-binding discussion are to:

A. Inform the Planning Board about the concept for the proposed development and familiarize the Board with the location and general character of the land and its surroundings;

B. Discuss the proposed project in light of the City's Comprehensive Master Plan, goals and policies; and,

C. For the Board to provide the prospective applicant with guidance about the application and procedural requirements set forth in this LDC.

25.11.2 Submittal Requirements

A. Information for the Planning Board to consider shall be submitted by the applicant to the Community Development Department no later than 10 business days prior to the regularly scheduled Planning Board meeting date at which the applicants desires to be on the agenda.

B. Proposed plans or information may be submitted to the Planning Board for consideration, but specific design and engineering details shall not be discussed.

C. Applicants submitting plans for Planning Board consideration should submit 3-copies on 22-in by 34-in paper or larger size, 1-copy on 11-in by 17-in paper, and an electronic pdf file.

25.11.3 Procedure

A. Advice and comment is a preliminary and informal review and shall not require published or mailed notice or a public hearing.

B. City staff are not required to conduct an analysis of the information submitted by the applicant.

C. Anything said on the proposal by the applicant, Planning Board, or City staff will not affect any subsequent review of the proposed development or redevelopment.

25.12 SITE PLAN REVIEW

25.12.1 Description

Site plan review establishes a process for reviewing proposed improvements to commercial and multi-family structures to assure that such development, redevelopment, or use of land in the City occurs in a manner that is harmonious with surrounding properties, and is consistent with the City's Comprehensive Master Plan and adopted land use policies.

25.12.2 Initiation

The applicant for site plan review shall either own the fee simple interest in the property(s) that is the subject of the review or have written permission of the fee simple owner.

25.12.3 Applicability

A. Site Plan Review Thresholds. Site plan review is required for the following types of improvements described in Sections 25.12.3.A.1 (Major Site Plan) and 25.12.3.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 uses.

1. ***Major Site Plan.*** Major site plan review is required for any proposal that meets or exceeds the below thresholds.
   - **a.** New principal buildings or structures greater than 5,000 sf in gfa.
   - **b.** Additions to existing buildings or structures that are greater than 15% of the gfa of the existing principal building.
   - **c.** Change or increase of vehicle trips per day of 100, or per peak hour of 50.
   - **d.** Installation of impervious surfaces (e.g. pavement or gravel) that exceeds 10,000 sf in contiguous area.
   - **e.** Land disturbance that impacts 1-acre or greater of land area.
   - **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 major site plan review.
   - **g.** 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 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 that are between 10% and 15% of the gfa of the existing principal building.
   - **c.** 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.
   - **d.** 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.
   - **e.** 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.

f. 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 20** of this LDC prior to the issuance of a building permit. The application and review procedures associated with Administrative Planning Review are described in **Section 25.13**.

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.

25.12.4 Authority

A. Major Site Plan Review. The Planning Board shall have the authority to hear and decide on applications for: major site plans; requests for waivers from the Site Development Standards in Article 20 and from the standards related to site plan review in Section 25.12; and minor site plans at the request of the applicant or where a conditional use permit or waiver is required.

B. Minor Site Plan Review. The Minor Project Review Committee shall have the authority to hear and decide on applications for minor site plans.

1. The Community Development Director has the authority to schedule a minor site plan application to be heard by either the Planning Board or the Minor Project Review Committee.

2. An applicant can request to have a minor site plan heard by the Minor Project Review Committee or the Planning Board.

3. The Minor Project Review Committee cannot act on a minor site plan application where either, a conditional use permit or a waiver from the Site Development Standards in Article 20 or the site plan review standards in Section 25.12 is required.

25.12.5 Submittal Requirements

An applicant for site plan review shall submit a completed application on the appropriate form to the Community Development Department, and shall provide sufficient information to enable City staff and the respective decision-making authority to evaluate the proposal for compliance with this LDC. Submittal requirements for major and minor site plan review are included below. A completed application for major and minor site plan review shall include the following information.

A. A written narrative describing the type, scope and scale of the proposal including the following information.

1. Existing and proposed uses

2. An explanation of how the proposal complies with the Site Development Standards in Article 20.

B. A complete plan set signed and stamped by a NH licensed engineer or architect (7-copies on 22-in by 34-in paper or larger size; 1-copy on 11-in by 17-in paper; and, an electronic pdf file), which shall include the following materials.

1. A location map of the proposed improvements.

2. An existing conditions plan (at a scale of 1-in = 100-ft or a larger scale) showing all parcels affected by the proposal, and depicting the following information.

a. Contours of at most 5-ft intervals.

b. Owner names and tax map parcel numbers for all direct abutters.

c. Boundaries and acreage of the existing lot(s) subject to review.

d. Surface waters, including wetland areas delineated by a NH certified wetland scientist, and any manmade waterways, ponds, ditches, etc.

e. Precautionary and prohibitive slopes.

f. Delineation of 100-year floodplain and floodways as shown on current FIRM maps.

g. Location of any public streets, rights-of-way, and easements.

h. Location of existing structures, wooded and vegetated areas, site features (e.g. fences, walls, ground-mounted equipment, utilities, stormwater facilities, wells, septic systems, stonewalls, etc.), driveways, and parking areas on the subject property, and to the extent practicable on directly abutting properties.

3. A proposed conditions plan (at a scale of 1-in = 100-ft or at a larger scale) showing all parcels affected by the proposal, and depicting the following information.

a. Contours of at most 5-ft intervals.

b. Owner names and tax map parcel numbers for all direct abutters.

c. Boundaries and acreage of the lot(s) subject to review.

d. Location of any existing structures or site features, public streets, rights-of-way, easements, driveways, parking areas, surface waters (including wetland areas delineated by a NH certified wetland scientist), precautionary and prohibitive slopes, 100-year floodplain and floodways delineation, and wooded and vegetated areas that are displayed on the existing conditions plan, which will not be altered or relocated.

e. Location of proposed structures and site features, public streets, rights-of-way, and easements.

f. Locations and design details for proposed provisions for vehicular and pedestrian traffic (e.g. parking areas, access driveways, and sidewalks, etc.).

4. A grading plan (drawn at a scale of 1-in = 50-ft or at a larger scale) showing proposed erosion and sedimentation control and stormwater management facilities that will be constructed or utilized to control stormwater volume, velocity and water quality. This plan shall include the following.

a. Contours of at most 2-ft.

b. All finish slopes that will exceed 25%.

c. Surface waters (including wetland areas delineated by a NH certified wetland scientist), precautionary and prohibitive slopes, 100-year floodplain and floodways delineation, and wooded and vegetated areas.

d. Location of existing and proposed structures, roads, rights-of-way, driveways, impervious surfaces, and easements (including utility or drainage).

e. The location and dimensional information, as appropriate, of existing and proposed utilities (e.g. water lines, sewer lines, storm drain lines and catch basins, gas lines, gas storage tanks, fire hydrants, irrigation lines, grease traps, pump stations, ground water monitoring wells, ground water source wells, septic systems, electric lines, transformers, etc.).

f. Location and design details for all proposed erosion and sedimentation

control, and stormwater management structures, devices, and processes (e.g. catch basins and storm water lines, stormwater detention or retention ponds or devices, sediment settlement area, silt fences and other erosion control devices, flow dissipation measures, soil stabilization measures, etc.) and any other measures proposed to minimize erosion and sedimentation, and promote soil stabilization.

g. A note describing the procedures and timing for inspecting, maintaining, and repairing erosion and sedimentation control, and stormwater management structures, devices and processes.

h. A note indicating the requirement for documenting all inspection and maintenance activities, all adverse impacts identified during inspections, and actions taken to remediate the adverse impacts.

5. A landscaping plan (drawn at a scale of 1-in = 50-ft or at a larger scale) providing the following information.

a. The location, species and size of all landscaping materials proposed to be installed on the site.

b. Plants shall be drawn to scale and shall show the drip line diameter of each plant at the time of planting and a second circle displaying the average drip line diameter at maturity.

c. A table listing all plant species to be installed on the site, indicating the size (average height and width) at planting and maturity as well as the number of each species to be installed.

d. A table indicating the number of trees and shrubs required and proposed to meeting landscaping or screening requirements of this LDC.

e. Design details following best management practices for installing landscaping materials.

6. A lighting plan providing the following information.

a. The location of existing and proposed structures, roads, rights-of-way, driveways, easements, lot lines, walkways, and sidewalks on the subject property and, to the extent practicable, on abutting properties.

b. Location and outline of wooded and vegetated areas.

c. Location of all existing and proposed exterior lighting fixtures with a notation differentiating the types of fixtures.

d. Manufacturer's specifications (i.e. cut-sheets) for all proposed light fixtures, indicating the type of fixture and bulb, wattage of bulb, and height of fixture head.

e. Photometric plan showing light intensity in foot candles across the site and immediately (minimum of 20-ft) beyond the perimeter of the site.

f. An analysis of the minimum, maximum and average light intensity in foot candles for the site.

g. A separate analysis for full lighting and security lighting shall be provided when security lighting is proposed by the applicant or required by the Planning Board.

C. Any technical reports prepared by a NH licensed engineer or qualified professional, which may be required or reasonably requested by the respective decision-making authority, based on the nature and scope of the proposal. Such reports may include, but are not limited to drainage, traffic, and/or soils analyses. They may also include historic evaluation, screening analysis, or architectural and visual appearance analysis.

D. Elevations (3 color copies on 22" x 34" sized paper or larger size, 1-color copy on 11"x17" paper and an electronic pdf file) showing the visual appearance and architectural details of all proposed structures, with proposed façade height and length dimensions, construction materials, finishes, and colors clearly labeled. Landscaping should not be included on elevations.

E. Additional color representations, simulations, or renderings of a proposed development may be required by the respective decision-making authority, during the review process.

F. Any additional information the respective decision-making authority may reasonably deem necessary to determine compliance with the applicable regulations of this LDC.

G. 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.

H. 2 sets of mailing labels for each abutter and others requiring notice, including the owner of the subject property and their authorized agent.

I. Application fee as set forth in the LDC Schedule of Fees in Appendix B of the City Code of Ordinances, including the costs for published and mailed notice, which shall be Certified Mail.

25.12.6 Submittal Requirement Exemptions

A. An applicant may make a request to the Community Development Director, or their designee, to exempt their application from specific submittal requirements.

B. Any exemption granted by the Community Development Director, or their designee, shall be evaluated and approved by the respective decision-making authority during its review of application completeness. If the Planning Board or Minor Project Review Committee determines the exempted material is necessary to complete its review of the application, they may deny the exemption request and determine the application to be incomplete.

C. If a requested exemption is not granted by the Community Development Director, or their designee, the applicant may appeal the decision to the Planning Board, in the case of major site plan applications, or the Minor Project Review Committee, in the case of minor site plan applications, prior to the respective decision-making authority's determination of application completeness.

25.12.7 Application Submittal Deadline

A. Major Site Plan Application

A completed major site plan application shall be submitted to the Community Development Director, or their designee, no later than 26 business days prior to the Planning Board meeting date at which the applicant desires the application to be reviewed.

B. Minor Site Plan Application

A completed minor site plan application shall be submitted to the Community Development Director, or their designee, no later than 14 business days prior to the Minor Project Review Committee meeting date at which the applicant desires the application to be reviewed.

25.12.8 Procedure

In addition to the common application and review procedures of this Article, the following review and approval procedures shall apply to applications for site plan review.

A. Minor Site Plan Procedure

1. ***Confirmation of Project Classification.*** Upon receipt of a minor site plan application, the Community Development Director, or their designee, shall verify whether the request qualifies for classification as a minor site plan project in accordance with this LDC.
2. ***Staff Determination of Application Completeness.*** Within 2 business days following the application submittal deadline, the Community Development Director, or their designee, shall complete an initial review of the application to evaluate whether the submittal requirements have been met.
3. ***Minor Project Review Committee Review.*** Once the Community Development Director, or their designee, has made an initial determination that an application is complete, copies of the application and associated materials shall be sent to the Minor Project Review Committee for initial review at least 5 business days prior to the corresponding Minor Project Review Committee meeting date at which the public hearing on the application will be opened.
4. ***Site Visits.*** At the discretion of the Community Development Director, a formal site visit to the subject property may be scheduled prior to the Minor Project Review Committee public hearing on the application.
5. ***Compliance with Zoning.***
   a. Applications requiring approval from the Zoning Board of Adjustment shall not be noticed for public hearing until such approvals have been obtained.
   b. Applications shall be in compliance with the Zoning Regulations prior to the issuance of public notice for the public hearing.
6. ***Notice of Public Hearing.*** The Community Development Director, or their designee, shall forward applications for minor site plan review to the Minor Project Review Committee for a public hearing, and shall provide published and mailed notice of this public hearing pursuant to NH RSA 675:7(I).
7. ***Committee Determination of Application Completeness.*** The Minor Project Review Committee shall vote to determine whether the application is complete prior to opening the public hearing.
   a. If the Minor Project Review Committee determines that an application is incomplete, the Committee will either issue a written decision of incompleteness or, with the applicant's consent, table the application until the next meeting of the Committee.
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.
9. ***Decision.*** The Minor Project Review Committee shall finish its review of an application within 60 calendar days of the meeting at which the Committee accepted the application as being complete.
   a. If the Committee feels that more time is needed, or if the applicant requests additional time, the timeframe provided for review under NH RSA 676:4 can be extended by mutual agreement of the Committee and the applicant, so long as the applicant submits a request for the extension in writing.

B. Major Site Plan Procedure

1. ***Presubmission Meeting.*** Applicants for major site plan review shall attend a pre-submission meeting at least 2-weeks prior to the Planning Board submittal deadline.
2. ***Staff Determination of Application Completeness.*** Within 2 business days following the application submittal deadline, the Community Development Director, or their designee, shall complete an initial review of the application to evaluate whether the submittal requirements have been met.
    a. If the missing application materials or information is necessary for proper documentation, but are not central to the initial departmental review, the applicant will be permitted to provide the required materials or information by the revision deadline of 14 calendar days prior to the corresponding regularly scheduled Planning Board meeting date.
3. ***Departmental Review.*** Once the Community Development Director, or their designee, has made an initial determination that an application is complete, copies of the application and associated materials shall be sent to the City's Engineering Division, Fire Department, Police Department, Zoning Administrator, and Building and Health Official for technical review.
    a. City staff will be requested to return comments on the application to the Community Development Department within 5 business days of the distribution date.
    b. The Community Development Director, or their designee, shall communicate departmental comments to the applicant, as soon as they are all received.
4. ***Revision Deadline.*** Any plan revisions or additional information requested of the applicant by City staff following departmental review of the application shall be delivered to the Community Development Department no later than the revision deadline of 14 calendar days prior to the corresponding regularly scheduled Planning Board meeting date. The revision deadline shall not be waivable.
5. ***Site Visits.*** At the discretion of the Community Development Director or Planning Board Chair, a formal Planning Board site visit to the subject property may be scheduled prior to the Planning Board public hearing on the application.
6. ***Compliance with Zoning.***
    a. Applications requiring approval from the Zoning Board of Adjustment shall not be noticed for public hearing until such approvals have been obtained.
    b. Applications shall be in compliance with the Zoning Regulations prior to the issuance of public notice for the public hearing.
7. ***Notice of Public Hearing.*** The Community Development Director, or their designee, shall forward applications for major site plan review to the Planning Board for a public hearing, and shall provide published and mailed notice of this public hearing pursuant to NH RSA 675:7(I).
8. ***Board Determination of Application Completeness.*** The Planning Board shall vote to determine whether the application is complete prior to opening the public hearing.
    a. The Planning Board shall consider advice from the Community Development Director, or their designee, in reaching a determination of application completeness.
    b. If the Planning Board determines that an application is incomplete, the Board will either issue a written decision of incompleteness or, with the applicant's consent, table the application until the next regular meeting of the Board.

9. ***Public Hearing.*** Upon reaching a finding that an application is complete, the Planning Board may open the public hearing for the application.

10. ***Decision.*** The Planning Board shall finish its review of an application within 65 calendar days of the meeting at which the Board accepted the application as being complete. If the Board feels that more time is needed, or if the applicant requests additional time, the timeframe provided for review can be extended by mutual agreement of the Board and the applicant, so long as the applicant requests the extension in writing.

25.12.9 Filing

A. Building permits shall not be issued until approved site plans have been signed by the Chair or Vice Chair of the respective decision-making authority. Said signature shall signify that the plan has been duly approved by the decision-making authority and that all conditions precedent to plan signature have been met as specified in the approval.

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.

25.12.10 Modifications to Approved Site Plans

A. The Community Development Director may approve modifications to site plans previously approved by the Planning Board or the Minor Project Review Committee, if they determine that the proposed modifications are not substantive in nature, and are fully in compliance with the Site Development Standards in Article 20, the Zoning Regulations (Articles 2 through 18) and other regulations in this LDC. The Community Development Director may consult with the Planning Board Chair to determine if the nature of the proposed modifications are minor and do not warrant consideration by the Planning Board or the Minor Project Review Committee.

B. The Community Development Director shall file a report with the Planning Board of the site plan modifications that have been approved administratively at the next regular meeting of the Planning Board following the Community Development Director's approval of such modifications.

C. If the Community Development Director determines that the proposed revisions result in a major change to an approved site plan, then a new public hearing shall be required before the Planning Board in the case of major site plan applications, or the Minor Project Review Committee in the case of minor site plan applications, as required for a new application.

25.12.10 Approval Standards

All types of site plan review shall include an analysis of the potential impacts of the proposed use, development or redevelopment on the health, safety, and welfare of the community and the environment. The basis for this determination shall be the Site Development Standards in Article 20.

25.12.11 Expirations

A. Any failure to meet the deadlines in this Section shall result in automatic expiration of Planning Board approval. This Section shall not be waivable.

B. **Conditional Approvals.** If an application is conditionally approved, the applicant has 180 calendar days (starting the day following the decision of the Planning Board or Minor Project Review Committee on the application) to meet any conditions that shall be met prior to signature of the Chair or Vice Chair of the decision-making authority on the plan.

1. All conditions that must be met after the plan is signed shall be satisfied within

2-years (starting the day following the decision on the application).

2. The applicant may request a reasonable extension of the time limit for satisfying the conditions prior to the Planning Board or Minor Project Review Committee granting a conditional approval.

C. Active & Substantial Development. Active and substantial development of an approved project shall be completed within 2-years, starting the day following the Board's decision to approve or conditionally approve the application. Plans approved in phases shall be subject to a determination of active and substantial development for the current phase. For purposes of this Section, active and substantial development shall include all of the following.

1. Construction of and/or installation of basic infrastructure to support the development in accordance with the approved plan, including at least 1 building foundation wall/ footing, roadways, access ways, etc., to a minimum of gravel base and utilities placed in underground conduit ready for connection to proposed buildings/structures.
2. Construction and completion of drainage improvements to service the development in accordance with the approved plans.
3. All erosion control measures (as specified on the approved plans) must be in place and maintained on the site.
4. Movement of earth, excavation, or logging of a site without completion of items 1-3 above, shall not be considered active and substantial development.

25.12.12 Extensions

A. Prior to the expiration of an approval, an applicant may request an extension of the timeframe for meeting conditions or achieving active and substantial development from the Planning Board, in the case of major site plan approvals, or the Minor Project Review Committee, in the case of minor site plan approvals.

1. No modifications to the approved or conditionally approved plan shall be considered in conjunction with the request to extend the deadline.
2. Extension requests shall be submitted in writing to the Community Development Director, or their designee, at least 10 business days prior to the meeting of the respective decision-making authority at which the request will be considered.

B. The maximum time length for each approved extension is 6-months for meeting conditions of approval and 1-year for achieving active and substantial development. An extension of the conditional approval deadline by 6-months will automatically extend the deadline for active and substantial development by 1-year.

C. Under no circumstances shall an applicant be granted more than 3 extensions total for their application.

1. ***First Extension.*** The respective decision-making authority shall grant a first extension of the approval, if the applicant demonstrates the necessity of the extension and provides an update about the nature of the project and its status.
2. ***Second Extension.*** Prior to expiration of the first extension, the respective decision-making authority may grant the application a second extension, if said applicant demonstrates the necessity of the second extension and summarizes what changes, if any, have since occurred to applicable state law or City regulations.
   a. The respective decision-making authority shall consider whether any changes identified by the applicant would have influenced the Planning Board's or Minor Project Review Committee's initial decision with respect to the project.
   b. If the respective decision-making authority finds that substantive changes to applicable state law or City regulations have been adopted

that would have resulted in either modification of the project, the imposition of additional or different conditions in the approval, or disapproval of the project, then the extension request shall not be granted.

3. ***Third Extension.*** Prior to expiration of the second extension period, an applicant may request a third extension.

   a. Such extension shall only be granted by the respective decision-making authority where an applicant can demonstrate that there are extraordinary circumstances that warrant a third extension of the deadline. Extraordinary circumstances may include, but not be limited to, litigation that is entered into after the conditional approval is granted and which prevents the applicant from completing conditions required for signature or from completing active and substantial development.

   b. If the extension request is denied by the respective decision-making authority, prior to expiration of the approval, the applicant may submit an application for modification of the conditional approval to address concerns leading to the denial of the extension.

25.12.13 Security

A. The Planning Board and the Minor Project Review Committee shall have the authority to require applicants to post a security deposit for the following.

1. Public improvements, including but not limited to roads, sidewalks, parks, and utilities, and for performance of site improvements as specified by the respective decision-making authority at the time of approval.
2. All landscaping installed on a site to ensure its survival for 1 full growing season after installation (a minimum of 1-year)
3. Erosion and sedimentation control to assure that erosion control provisions are working, and required technical inspections take place.
4. "As Built" plans signed and stamped by a NH licensed surveyor or engineer that include the exact location, size, and materials of sewer, water, gas, drainage and any underground utilities (e.g. phone, electric, cable) as well as catch basins, hydrants, compensatory wetlands or flood storage areas, sidewalks, drainage basins, edge of pavement, edge of buildings, and other improvements as may be indicated by the Community Development Director, or their designee.

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

   b. All digital plans shall be named using the following convention: "[Insert Project Name]_As-Builts".

   c. All data should be provided in the NAD 1983 StatePlane New Hampshire FIPS 2800 (US Feet) coordinate system.

   d. All CAD data should contain all assignment files to be plotted and projected appropriately.

   e. Any missing or un-openable files will result in rejection of the submission.

5. Other elements of the project to ensure that they function concurrent with and subsequent to construction.

B. The security shall be in a form acceptable to the Community Development Director, or their designee, and shall be either 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.
2. The Planning Board or the Minor Project

Review Committee may require a written security agreement that specifies when various improvements will be completed. Such agreement may be required to link the completion of phases of improvement with the issuance of building permits or certificates of occupancy.

25.12.14 Waivers

A. Unless otherwise set forth in this LDC, the Planning Board may grant a waiver from strict compliance with provisions of the Site Development Standards in Article 20 or site plan review standards in Section 25.12, on a case-by-case basis, so long as the Board finds, by majority vote, that:

1. Strict conformity would pose an unnecessary hardship to the applicant and the waiver would not be contrary to the spirit and intent of the regulations; or,

2. Specific circumstances relative to the site plan, or conditions of the land in such site plan, indicate that the waiver will properly carry out the spirit and intent of the regulations.

3. In granting a waiver, the Planning Board may require any mitigation that is reasonable and necessary to ensure that the spirit and intent of the standard being waived will be preserved, and to ensure that no increase in adverse impacts associated with granting the waiver will occur.

B. Any waiver request shall be in writing and shall cite the specific regulation or standard a waiver is requested from and the reason(s) it cannot be met.

C. Waiver requests shall be submitted following the same process and timeframe as is required for formal applications to the Planning Board.

25.13 ADMINISTRATIVE PLANNING REVIEW

25.13.1 Description

Projects that do not meet the threshold for site plan review by either the Planning Board or the Minor Project Review Committee (as noted in Section 25.12.3 of this LDC), may require review by the Community Development Director, or their designee, to verify compliance with this LDC.

25.13.2 Initiation

The applicant for administrative planning review shall either own the fee simple interest in the property(s) that is the subject of the review or have written permission of the fee simple owner.

25.13.3 Applicability

Proposed development, redevelopment, or change of use associated with uses other than single-family and two-family dwellings, which does not meet the threshold for minor or major site plan review shall be reviewed by the Community Development Director, or their designee, to verify compliance with the Site Development Standards in Article 20 of this LDC prior to the issuance of a building permit.

25.13.4 Authority

The Community Development Director, or their designee, has the authority to determine, on a case-by-case basis and based on the nature of the proposal, whether proposed work requires administrative planning review.

For projects that require administrative planning review, the Community Development Director has the authority to make a determination as to whether the proposed development, redevelopment, or change of use conforms with the Site Development Standards in Article 20 of this LDC.

25.13.5 Submittal Requirements

A. A completed application for administrative planning review shall include the following information.

1. A written narrative describing the type, scope and scale of the proposal including the following information.

a. Existing and proposed uses

b. An explanation of how the proposal complies with the Site Development Standards in Article 20.

2. A scaled plot plan or drawing clearly displaying the locations and dimensions of all structures and open spaces on the lot subject to review.

3. Manufacturer specifications (i.e. cut-sheets) for any proposed building materials, exterior lighting fixtures, windows and doors, mechanical equipment or other site elements (e.g. benches, railings). The applicant shall specify the proposed type, color and finish, if missing from the specifications.

4. Photographs, renderings, and/or line sketches to visually demonstrate the scale, massing, and visual appearance of proposed improvements.

5. Other information as deemed necessary by the Community Development Director, or their designee, to complete the review of the application.

6. Application fee as set forth in the LDC Schedule of Fees in Appendix B of the City Code of Ordinances.

B. Submittal of items listed above may not be required depending on the nature and scope of the projects and may be omitted from an application for administrative planning review with the approval of the Community Development Director, or their designee.

25.13.6 Procedure

A. Confirmation of Project Classification. Upon receipt of a completed application for administrative planning review, the Community Development Director, or their designee, shall verify whether the request qualifies for administrative planning review, or whether site plan review is required by the either the Planning Board or Minor Project Review Committee, or whether any review is necessary.

B. Notice of Decision. Within 14-business days of receipt of a completed application for administrative review, the Community Development Director, or their designee, shall complete review of the application, in consultation with other City departments as appropriate, and will issue a written determination of whether the proposal is in compliance with the Site Development Standards in Article 20 and other applicable regulations in this LDC.

1. If the Community Development Director, or their designee, determines that the proposal does not conform with the Site Development Standards or other regulations in this LDC, they shall work with the applicant (if willing) to modify the proposal to become conforming.

a. The applicant may seek a waiver from the Site Development Standards from the Planning Board if they do not choose to modify the proposal to become conforming.

25.13.7 Approval Standards

The Community Development Director, or their designee, shall evaluate proposals for development or redevelopment or change of use that do not meet the threshold for major or minor site plan review based on an analysis of whether the proposal is in compliance with the Site Development Standards in Article 20 and the other regulations in this LDC.

25.14 CONDITIONAL USE PERMITS

25.14.1 Description

A conditional use permit allows certain uses that have increased potential for incompatibility in a zoning district to be carefully reviewed to determine, against fixed standards, whether their establishment on any given site should be allowed.

25.14.2 Initiation

The applicant for a conditional use permit shall either own the fee simple interest in the property(s) that is the subject of the review or have written permission of the fee simple owner.

25.14.3 Applicability

Uses that require a conditional use permit shall be clearly identified in the Zoning Regulations, as may be amended.

25.14.4 Authority

Unless otherwise specified in this LDC, the Planning Board shall have the authority to review and decide on applications for a conditional use permit.

25.14.5 Submittal Requirements

A. An applicant for a conditional use permit shall submit a completed application on the appropriate form to the Community Development Department, and shall provide sufficient information to enable City staff and the Planning Board to evaluate the proposal for compliance with this LDC.

B. A completed application for a conditional use permit shall include all of the submittal requirements for major site plan applications as outlined in this Article, unless otherwise specified.

C. The applicant shall be responsible for reviewing the applicable conditional use permit standards of this LDC to identify if any additional application materials or information shall be required for submittal.

25.14.6 On-Site Posting of Public Hearing

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

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

25.14.7 Procedure

A. Conditional use permit applications shall be subject to the same procedure for review and decision by the Planning Board as major site plan applications, unless otherwise noted in this LDC.

B. Where conditional use permits are required in conjunction with a proposed site plan application, a completed conditional use permit application for each conditional use permit requested shall be made at the same time as the site plan application.

C. Where a conditional use permit is required, no site plan application may be considered complete without a complete conditional use permit application. Conditional use permit applications will be considered concurrently with the site plan application.

25.14.8 Approval Standards

In the review of a conditional use permit application, the Planning Board shall evaluate the application for compliance with all applicable design standards and conditional use permit review criteria as provided for in this LDC as well as the Site Development Standards in Article 20.

25.14.9 Expiration

Conditional use permits granted by the Planning Board shall be valid if exercised within 2-years from the date of final approval by the Planning Board, or as further extended by the Planning Board. Within this 2-year time period, the use must be started or construction begun on the structure.

25.14.10 Extensions

Conditional use permit applications shall be subject to the same standards for extensions as major site plan applications.

25.14.11 Waivers

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

B. Unless otherwise set forth in this LDC, the applicant may request a waiver from the Planning Board from strict compliance with specific provisions of the Site Development Standards in Article 20, site plan review standards in Section 25.12, or conditional use permit standards in Section 25.14, on a case-by-case basis, following the procedure for waiver requests specified in Section 25.12.14.

25.15 HISTORIC DISTRICT CERTIFICATE OF APPROPRIATENESS

25.15.1 Description

Prior to changes or alterations to property within the City's Historic District, a certificate of appropriateness may be required to determine whether the proposed work is appropriate for the Historic District and is consistent with the Historic District Regulations.

25.15.2 Initiation

The applicant for a certificate of appropriateness shall either own the fee simple interest in the property(s) that is the subject of the review or have written permission of the fee simple owner.

25.15.3 Applicability

Applications for a certificate of appropriate shall be required for work, which is classified as either major or minor projects, to property located within the City's Downtown Historic District.

A. **Minor Project.** Minor project review is required for any work, including alteration or modification, that meets or exceeds the threshold for minor projects in the Historic District Regulations in **Article 21.**

B. **Major Project.** Major project review is required for any work, including alteration or modification, that meets or exceeds the threshold for major projects the Historic District Regulations in **Article 21.**

25.15.4 Authority

A. **Minor Project.** The Community Development Director, or their designee, shall have the authority to review and decide on minor project applications for certificates of appropriateness.

B. **Major Project.** The Historic District Commission shall have the authority to review and decide on major project applications for certificates of appropriateness.

25.15.5 Submittal Requirements

An applicant for a certificate of appropriateness shall submit a completed application on the appropriate form to the Community Development Department, and shall provide sufficient information to enable City staff and the Historic District Commission to evaluate the proposal for compliance with this LDC. A completed application for a certificate of appropriateness shall include the following.

A. A written narrative describing the type, scope and scale of the proposal including the following information.

1. Existing and proposed uses

2. An explanation of how the proposal complies with the applicable standards in the Historic District Regulations in Article 21.

B. A complete plan set (3-copies on 22-in by 34-in paper or larger size; 1-copy on 11-in by 17-in paper; and, an electronic pdf file), which shall include the following materials.

1. An existing conditions plan (at a maximum scale of 1-in = 50-ft) showing all parcels affected by the proposal, and depicting the following information.

a. Owner names and tax map parcel numbers for all direct abutters.

b. Boundaries and acreage of the existing lot(s) subject to review.

c. Location of any public streets, rights-of-way, and easements.

d. Location of existing structures, site features (e.g. fences, walls, ground-mounted equipment, utilities, etc.), driveways, parking areas, and wooded or vegetated areas on the subject property.

2. A proposed conditions plan (at a maximum scale of 1-in = 50-ft) showing all parcels affected by the proposal, and depicting the following information.

a. Owner names and tax map parcel numbers for all direct abutters.

b. Boundaries and acreage of the lot(s) subject to review.

c. Location of any existing structures or site features, driveways, parking area, wooded or vegetated areas, public streets, rights-of-way, and easements that are displayed on the existing conditions plan, which will not be altered or relocated.

d. The location of proposed structures and site features, driveways, parking areas, public streets, rights-of-way, easements, and landscaping.

C. Elevations at a maximum scale of ¼-in =1-ft (3 color copies on 22" x 34" or larger paper, 1-color copy on 11"x17" paper, and an electronic pdf file) showing the visual appearance and architectural details of all proposed structures, as well as any portions of the existing structure proposed for demolition or removal. Such drawings shall include proposed façade height and length dimensions, construction materials, finishes, and colors clearly labeled. Landscaping should not be included on elevations.

D. Additional color representations, simulations, or renderings of a proposed development may be required by the Community Development Director, or their designee, or the Historic District Commission during the review process.

E. Samples of mortar and/or brick for projects proposing new or replacement mortar and/or brick.

F. Manufacturer specifications (i.e. cut-sheets) for any proposed building materials, exterior lighting fixtures, windows and doors, mechanical equipment or other site elements (e.g. benches, railings). The applicant shall specify the proposed type, color and finish, if applicable, and if missing from the manufacturer specifications.

G. Manufacturer specifications (i.e. cut-sheets) for cleaning products, if applicable.

H. Photographs, renderings, and/or line sketches to visually demonstrate the scale, massing, and visual appearance of neighboring structures.

I. Major project applications shall include a 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.

J. Major project applications shall include 2 sets of mailing labels for each abutter and others requiring notice, including the owner of the subject property and their authorized agent.

K. Application fee as set forth in the LDC Schedule of Fees in Appendix B of the City Code of Ordinances, including the costs for published and mailed notice, which shall be Certified Mail.

L. Other information as deemed necessary by the Community Development Director, or their designee, or the Historic District Commission to complete the review of the application.

25.15.6 Submittal Requirement Exemptions

A. An applicant may make a request to the Community Development Director, or their designee, to exempt their application from specific submittal requirements.

B. For minor project applications, the Community Development Director, or their designee, shall have the authority to approve such exemption requests, based on the nature and scope of the proposal.

1. If a requested exemption is not granted by the Community Development Director, or their designee, the applicant may appeal the decision to the Historic District

Commission prior to the Commission's determination of application completeness.

C. For major project applications, any exemption granted by the Community Development Director, or their designee, shall be evaluated and approved by the Historic District Commission during its review of application completeness.

1. If the Commission determines that the exempted material is necessary to complete its review, they may deny the exemption request and determine the application to be incomplete.

25.15.7 Major Project Application Submittal Deadline

A completed major project application shall be submitted to the Community Development Director, or their designee, no later than 23 business days prior to the Historic District Commission meeting date at which the applicant desires the application to be reviewed.

25.15.8 Procedure

A. Minor Project Procedure

1. ***Confirmation of Application Classification.*** Upon receipt of a minor project application for a certificate of appropriateness, the Community Development Director, or their designee, shall verify that the request qualifies for classification as a minor project in accordance with this LDC.

2. Applications that do not qualify for minor project review in accordance with the Historic District Regulations in Article 21, or do not have sufficient information to determine compliance with these regulations, shall be returned to the applicant.

3. ***Decision on Application.*** Within 45 calendar days of receipt of all information necessary to evaluate a request for minor project review, the Community Development Department, or their designee, shall complete its review of the application, in consultation with other City departments as appropriate.

a. If in the judgment of the Community Development Director, or their designee, the minor project application is consistent with all applicable standards and regulations, the Community Development Director, or their designee, shall approve or approve with conditions an application.

b. If in the judgment of the Community Development Director, or their designee, the minor project application is not consistent with all applicable standards and regulations, or is of a precedent-setting nature, the Community Development Director, or their designee, shall, at the preference of the applicant, either refer the application to the Historic District Commission for review and action as a major project or disapprove the application.

B. Major Project Procedure

1. ***Presubmission Meeting.*** A presubmission meeting with the Community Development Director, or their designee, is required prior to submitting a major project application for a certificate of appropriateness.

2. ***Staff Determination of Application Completeness.*** Within 2-business days following the application submittal deadline, the Community Development Director, or their designee, shall complete an initial review of the application to evaluate whether the submittal requirements have been met.

a. If the missing application materials or information is necessary for proper documentation, but are not central to the initial departmental review, the applicant will be permitted to provide the required materials or information by the revision deadline of 10 calendar days prior to the corresponding

regularly scheduled Historic District Commission meeting date.

3. ***Revision Deadline.*** Any plan revisions or additional information requested of the applicant by City staff following departmental review of the application shall be delivered to the Community Development Department no later than the revision deadline of 10 calendar days prior to the corresponding regularly scheduled Historic District Commission meeting date. The revision deadline shall not be waivable.
4. ***Site Visits.*** At the discretion of the Community Development Director or Historic District Commission Chair, a formal site visit to the subject property may be scheduled prior to the Historic District Commission public hearing on the application.
5. ***Compliance with Zoning.***
   a. Applications requiring approval from the Zoning Board of Adjustment shall not be noticed for public hearing until such approvals have been obtained.
   b. Applications shall be in compliance with the Zoning Regulations prior to the issuance of public notice for the public hearing.
6. ***Notice of Public Hearing.*** The Community Development Director, or their designee, shall forward major project applications for a certificate of appropriateness to the Historic District Commission for a public hearing, and shall provide published and mailed notice of this public hearing pursuant to NH RSA 676:7.
   a. **On-Site Posting of Public Hearing.** For demolitions, applicants shall post a sign identifying the structure as proposed for demolition in a visible location on the premises at least 10 calendar days prior to the public hearing. The sign is available from the Community Development Department and shall be returned prior to an issuance of a Demolition Permit.
7. ***Determination of Application Completeness.*** The Historic District Commission shall vote to determine whether the application is complete prior to opening the public hearing.
   a. The Historic District Commission shall consider advice from the Community Development Director, or their designee, in reaching a determination of application completeness.
   b. If the Historic District Commission determines that an application is incomplete, the Commission will either issue a written decision of incompleteness or, with the applicant's consent, table the application until the next regular meeting of the Commission.
8. ***Public Hearing.*** Upon reaching a finding that an application is complete, the Historic District Commission may open the public hearing for the application.
9. ***Decision.*** The Historic District Commission shall finish its review of an application within 45 calendar days of the meeting at which the Commission accepted the application as being complete.
   a. If the Commission feels that more time is needed, or if the applicant requests additional time, the timeframe provided for review can be extended by mutual agreement of the Commission and the applicant, so long as the applicant submits a request for the extension in writing.
   b. Applicants whose application has been disapproved may make modifications to the disapproved plans and may submit a new application for consideration by the Historic District Commission, or their designee, which shall review the new submittal without prejudice.

25.15.9 Filing

A. Upon approval of an application, a certificate of appropriateness shall be by signed by the Historic District Commission Chair, or their designee, and issued to the applicant. A copy of the signed certificate of appropriateness shall be filed with the Community Development Department.

B. Building permits shall not be issued, nor shall any construction or demolition commence, until an approved certificate of appropriateness has been signed by the Historic District Commission Chair, or their designee. Said signature shall signify that the certificate of appropriateness has been duly approved by the Commission and that all conditions precedent to the Chair's signature have been met as specified in the approval.

C. Prior to signature of an approved certificate of appropriateness by the Historic District Commission Chair, or their designee, the applicant shall:

1. Demonstrate to the satisfaction of the Community Development Director, or their designee, that all conditions of approval have been met; and,
2. Provide complete copies of the approved plan set in a number and form as specified by the Community Development Department.

25.15.10 Approval Standards

All applications for a certificate of appropriateness shall be evaluated for compliance with the Historic District Regulations in Article 21.

25.15.11 Expiration

A. A certificate of appropriateness issued pursuant to this LDC shall be valid for either the duration of an active building permit issued for construction associated with the certificate of appropriateness or, if no building permit is issued, the approval is valid for 1-year from the date of the Historic District Commission approval.

B. If an application is conditionally approved, the applicant has 180-calendar days, beginning the day following conditional approval by the Historic District Commission or Community Development Director, whichever is the appropriate review authority in accordance with this Section, to meet any conditions required to be met prior to signature of the Historic District Commission Chair, or their designee, on the certificate of appropriateness.

C. This Section shall not be waivable.

25.15.12 Extensions

A. Extensions to the duration of a certificate of appropriateness may be granted by the Community Development Director, or their designee.

B. No extension shall be granted for a period greater than 1-year from the current expiration date of the certificate of appropriateness.

C. No more than 2 consecutive extensions shall be granted.

D. The Community Development Director may refer the request for extension of the duration of a certificate of appropriateness to the Historic District Commission, if in their judgment the extension is not consistent with all applicable standards and regulations.

25.15.13 Waivers

A. Unless otherwise set forth in this LDC, the Historic District Commission may grant a waiver from strict compliance with provisions of the Historic District Regulations of this LDC on a case-by-case basis, so long as the Board finds, by majority vote, that:

1. Strict application of these regulations would result in a particular and exceptional difficulty or undue hardship upon the owner of the affected property; and
2. An alternative design or materials meets the design objectives stated in the Historic District Regulations of this LDC equally well or better than would strict compliance with

these regulations; and

3. The waiver may be granted without substantial detriment to the intent of the Historic District Regulations and the public good.

B. In granting a waiver, the Historic District Commission shall require any mitigation that is reasonable and necessary to ensure that the spirit and intent of the standard being waived will be preserved, and to ensure that no increase in adverse impacts associated with granting the waiver will occur.

C. Any waiver request shall be in writing and shall cite the specific regulation or standard a waiver is requested from and the reason(s) it cannot be met.

D. Waiver requests shall be submitted following the same process and timeframe as is required for formal applications.

25.16 STREET ACCESS PERMIT

25.16.1 Description

A street access permit allows for review of proposed cuts to curbing or pavement within a public right-of-way to provide access to a property.

25.16.2 Initiation

The applicant for a street access permit shall either own the fee simple interest in the property(s) that is the subject of the review or have written permission of the fee simple owner.

25.16.3 Applicability

A street access permit is required prior to the construction or alteration (e.g. changes to grade, length or width) of any driveway, entrance, exit or approach within the right-of-way of any city street, including temporary driveways, except when the driveway or its alteration is approved as part of a subdivision or site plan approved by the Planning Board or Minor Project Review Committee.

25.16.4 Authority

A. **Administrative Review.** The City Engineer, or their designee, shall have the authority to review and decide on street access permit applications for single-family or two-family residential properties, single-family shared access, single-family or two-family residential second street access, agricultural street access, or temporary street access.

B. **Planning Board.** The Planning Board shall have the authority to review, and approve or disapprove all street access applications for multi-family, industrial, and commercial street access.

25.16.5 Submittal Requirements

An applicant for a street access permit shall submit a completed application on the appropriate form to the Community Development Department. A completed street access permit application shall include the following information.

A. A written narrative describing the location, purpose, and reason for the proposed cut(s) to curbing or pavement within the public right-of-way.

B. A plot plan drawn to scale depicting the location and dimensions of the proposed cuts to curbs or pavement within the public right-of-way in relation to the lot it provides access to, as well as the adjacent roads and sidewalks, existing or proposed drainage features (e.g. catch basins), visual obstructions (e.g. telephone poles), and other similar site features.

C. Application fee as set forth in the LDC Schedule of Fees in Appendix B of the City Code of Ordinances.

D. Such other material and information as may be required by the City Engineer or Community Development Director, or their respective designees, to determine conformance with this LDC.

25.16.6 Procedure

A. **Administrative Review**

1. ***Staff Determination of Application Completeness.*** Within 10 business days, the City Engineer, or their designee, shall complete an initial review of the application to evaluate whether the application is complete.
    - **a.** Applications that do not have sufficient information to determine compliance with Section 25.16 and the Street Access Standards in Article 22 of this LDC, shall be returned to the applicant.
2. ***Compliance with Zoning.*** Applications requiring the granting of a variance, special exception or other approval from the Zoning Board of Adjustment shall not be approved until such approvals have been obtained.
3. ***Notice of Decision.*** Within 20 business days of receipt of a completed application for administrative review, the City Engineer, or their designee, shall complete review of the application, in consultation with other City departments as appropriate, and will approve, approve with conditions, or

disapprove the application.

a. All decisions shall be delivered in writing to the applicant and shall include any conditions for approval or reasons for denial.

B. Planning Board Review

1. ***Staff Determination of Application Completeness.*** Upon receipt of a street access permit application, the Community Development Director, or their designee, shall complete an initial review of the application to evaluate whether the submittal requirements have been met.

   a. If the missing application materials or information are necessary for proper documentation, but are not central to the initial departmental review, the applicant will be permitted to provide the required materials or information by the revision deadline of 14 calendar days prior to the corresponding Planning Board meeting date.

2. Once the Community Development Director, or their designee, has made an initial determination that an application is complete, copies of the application and associated materials shall be sent to the City Engineer and the Planning Board for initial review at least 5 business days prior to the corresponding Planning Board meeting date at which the application will be reviewed.

3. ***Site Visits.*** At the discretion of the Community Development Director or the Chair of the Planning Board, a formal site visit to the subject property may be scheduled prior to the Planning Board meeting on the application.

4. ***Board Determination of Application Completeness.*** The Planning Board shall vote to determine whether the application is complete prior to deliberating on the application.

   a. The Planning Board shall consider advice from the Community Development Director, or their designee, in reaching a determination as to whether an applicant has provided sufficient information to deem the application complete.

   b. If the Planning Board determines that an application is incomplete, the Committee will either issue a written decision of incompleteness or, with the applicant's consent, table the application until the next regular meeting of the Board.

5. ***Board Review of Application.*** Upon reaching a finding that an application is complete, the Planning Board may review the application.

   a. The Planning Board shall evaluate the application based upon the evidence presented by the applicant and consultation with the City Engineer, pursuant to the Street Access Standards in Article 22 of this LDC.

6. ***Decision.*** The Planning Board shall finish its review of an application within 65 calendar days of the meeting at which the Board accepted the application as being complete. If the Planning Board feels that more time is needed, or if the applicant requests additional time, the timeframe provided for review can be extended by mutual agreement of the Committee and the applicant, so long as the applicant submits a request for the extension in writing.

25.16.7 Approval Standards

All applications for a street access permit shall be evaluated for compliance with the Street Access Standards in Article 22.

25.16.8 Expiration

A street access permit shall specify the date upon which it expires. Such expiration date shall not exceed 2-years from the date of permit issuance; provided, however, that street access constructed prior to this expiration date, and in conformace with this LDC, shall no longer be subject to the expiration date.

25.16.9 Exceptions to Street Access Standards

A. Requests for exceptions to the Street Access Standards in Article 22, shall be made in writing to the appropriate decision-making authority. The process for review and approval of an exception request shall be as follows.

1. An applicant seeking an exception request to the Street Access Standards in Article 22, shall follow the same submittal requirements for a street access permit, and shall submit:

a. 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.

b. 2 sets of mailing labels for each abutter and others requiring notice, including the owner of the subject property and their authorized agent.

c. Application fee as set forth in the LDC Schedule of Fees in Appendix B of the City Code of Ordinances, including the costs for published and mailed notice, which shall be Certified Mail.

B. In determining whether to approve or disapprove an exception request, the appropriate decision-making authority shall evaluate the exception request using the criteria in Section 22.5.6 of this LDC.

C. Within 10 business days of the receipt of a written request for an exception as provided above, the appropriate decision-making authority shall mail notice to abutting property owners of the requested exception. Such notice shall include the address of the request and the standard(s) from which an exception is requested. The notice shall instruct potentially affected property owners to submit comments in writing to the issuing authority.

D. The appropriate decision-making authority shall wait a minimum of 10 business days following the issuance of abutter notification before making a final determination on the requested exception.

E. If, after reviewing all submitted comments, the appropriate decision-making authority finds that the applicant has met all exception criteria the requested exception shall be granted. Otherwise, the requested exception shall be denied.

25.17 FLOODPLAIN DEVELOPMENT PERMIT

25.17.1 Description

Floodplain development permit review is a process to ensure that any activities occurring within high hazard flood areas and the 100-year floodplain will not adversely impact the full function and capacity of this essential resource system.

25.17.2 Initiation

The applicant for a floodplain permit shall either own the fee simple interest in the property(s) that is the subject of the review or have written permission of the fee simple owner.

25.17.3 Applicability

A floodplain permit is required for any proposed construction or substantial improvement within the floodway or Special Flood Hazard Area in the City in accordance with the Floodplain Regulations in Article 23.

25.17.4 Authority

The Floodplain Administrator, or their designee, shall have the authority to review and decide on applications for a floodplain development permit.

25.17.5 Submittal Requirements

An applicant for a floodplain development permit shall submit a completed application on the appropriate form to the Community Development Department and shall provide sufficient information to enable City staff to evaluate the proposal for compliance with this LDC. A completed floodplain development permit application shall including the following.

A. A location map of the property subject to review that is sufficient to accurately locate the proposed work in relation to existing roads and waterbodies.

B. A written narrative describing the type, scope and scale of the proposal, including the following information.

1. A description of the proposed development and the use or occupancy for which the proposed development is intended.

2. Calculations and diagrams prepared by a NH licensed engineer that demonstrate compliance with compensatory storage requirements of the Floodplain Regulations in Article 23 of this LDC.

3. The height of seasonal high ground water.

4. If the proposal involves work on an existing structure, a description of the total costs of the proposed work including all materials and labor.

C. A proposed condition plan (3 copies on 22-in by 34-in or larger size paper and an electronic pdf file) signed and stamped by a NH licensed surveyor that identify the proposed construction, the property boundaries, the boundaries of special flood hazard areas, the base flood elevation, and existing and proposed contours at 1-ft intervals.

D. Submission of either a high intensity soil survey completed by a NH certified soil scientist, or wetland delineation completed by a NH certified wetland scientist demonstrating that there are no wetlands within any proposed fill area.

E. Certification by a NH licensed engineer that any proposed fill is free of hazardous or toxic substances.

F. If the proposal requires floodproofing, a certification by a NH licensed engineer or architect, that the design and methods of construction are in accordance with accepted standards for meeting the provisions of the Floodplain Regulations in Article 23 of this LDC and the National Flood Insurance Program.

G. If the application proposes encroachment into a regulatory floodway, a Flood Study shall be completed, signed, and stamped by a NH licensed engineer.

H. In Zone A, proposed developments either greater than 50-lots or greater than 5-acres, shall establish the base flood elevation(s) for the area subject to review, and shall include any data

(e.g. hydraulic and hydrologic analyses) used to determine the elevation(s).

I. Application fee as set forth in the LDC Schedule of Fees in Appendix B of the City Code of Ordinances.

J. Other material and information as may be required by the Floodplain Administrator to determine conformance with this LDC.

25.17.6 Submittal Requirement Exemptions

An applicant may make a request to the Floodplain Administrator, or their designee, to exempt their application from specific submittal requirements. The Floodplain Administrator, or their designee, shall have the authority to approve such exemption requests, based on the nature and scope of the proposal.

25.17.7 Procedure

A. Determination of Application Completeness

1. The Floodplain Administrator shall review all floodplain development permit applications for completeness, and coordinate with the applicant for corrections or further documentation, as needed.
2. The Floodplain Administrator may require technical review of the application by a third-party at the applicant's expense.

B. Departmental Review

The Community Development Director, or their designee, and the City Engineer shall be notified in writing of each floodplain development permit application and shall be given an opportunity to share comment on the application with the Floodplain Administrator within 5 business days following receipt of the application.

C. Notice of Decision

1. Within 30 calendar days of receipt of a completed application, the Floodplain Administrator, or their designee, shall complete review of the application, in consultation with other City departments as appropriate, and will approve, approve with conditions, or disapprove the application.
2. All decisions shall be delivered in writing to the applicant and shall include any conditions for approval or reasons for denial.
3. The Floodplain Adminstrator, or their designee, shall also provide the Community Development Department and the Public Works Department with written notification of the final decision regarding each floodplain development application.
4. For conditional approvals, the Floodplain Administrator, or their designee, may establish dates by which conditions of approval shall be met.

25.17.8 Filing

A. Building permits for any construction or substantial improvement within a special flood hazard area shall not be issued unless a floodplain development permit has been issued.

B. If the floodplain development permit requires compensatory storage, the applicant shall provide written certification from a NH licensed engineer at the completion of the project that the required compensatory storage has been provided so as to ensure no net loss of flood storage.

C. Following completion of new construction of a structure or an existing structure that was substantially improved or replaced, or that incurred substantial damage, or the placement or substantial improvement of a manufactured home, the applicant shall submit the following to the Floodplain Administrator for review and approval.

1. A completed copy of an Elevation Certificate signed and stamped by a qualified professional that includes the as-built elevation of the lowest floor of the structure and whether or not the structure has a basement.
2. If a non-residential structure includes dry floodproofing, a completed copy of

the Floodproofing Certificate for Non-Residential Structures signed and stamped by a qualified professional that includes the as-built elevation to which the structure was dry floodproofed and certification of floodproofing.

25.17.9 Approval Standards

All applications for a floodplain development permit shall be evaluated for compliance with the Floodplain Regulations in Article 23.

25.17.10 Security

The Floodplain Administrator may require security be submitted as part of the issuance of any floodplain development permit to ensure the submittal of an "As-Built" plan of the pre- and post-construction contours of the site, and the location, dimensions and contours of any compensatory flood storage areas, as well as to secure any other improvements or performance standards (e.g. sediment and erosion control).

25.17.11 Expirations

A. A floodplain development permit shall become invalid 1-year from the day it is granted, unless all required permits have been obtained, conditions of approval have been met, and at least 10% of the proposed fill has been placed on the site or by some other objective measure, which in the judgment of the Floodplain Administrator, demonstrates that substantial construction has begun.

B. The applicant shall submit evidence that all necessary state, federal, or local permits have been obtained to the Floodplain Administrator, or their designee, prior to the expiration date of the floodplain development permit.

C. Expiration of a building permit or site plan approval shall result in the automatic expiration of the floodplain development permit.

25.18 SIGN PERMIT

25.18.1 Description

A sign permit allows for signs to be erected, installed, reconstructed, altered or relocated in conformance with this LDC and all other applicable regulations.

25.18.2 Initiation

The applicant for a sign permit shall either own the fee simple interest in the property(s) that is the subject of the review or have written permission of the fee simple owner.

25.18.3 Authority

The Zoning Administrator, or their designee, shall have the authority to review and decide on applications for a sign permit.

25.18.4 Submittal Requirements

An applicant for a sign permit shall submit a completed application on the appropriate form to the Community Development Department. A completed sign permit application shall include the following.

A. The name and contact information of the sign contractor, if applicable.

B. The location and street address of the building, structure or lot to which, or upon which, the sign or sign structure is to be constructed, erected, replaced, altered, or attached.

C. A written narrative describing the type, scale, and placement location of the proposed sign or sign structure, including the following information.

1. The lineal footage of the building frontage to which, or upon which, the sign is proposed to be attached or altered; or the total linear feet of site frontage upon which any freestanding sign is proposed to be constructed, erected, replaced, or altered.
2. A description of the materials and colors proposed to be used for the proposed sign and sign structure.
3. A description or depiction of the size and font of the proposed sign copy.

D. A scaled drawing of the sign, sign structure, and building as they would appear in relation to each other, and other signage on the property, including a depiction or description of the number and total area of all existing signs on the property, and a photograph of existing building elevations with signage, preferably as an electronic file.

E. For signs equal to or less than 4-sf, a photograph or reasonable facsimile of the sign proposed to be installed.

F. For signs greater than 4-sf, a plan drawn to scale depicting the sign or sign structure as well as technical specifications pertaining to the method of construction and method of attachment or erection of the sign or sign structure.

G. For any sign or sign structure greater than 100-sf, certification by a NH licensed engineer of proper design.

H. Calculations demonstrating that the sign structure is designed to carry all loads in compliance with the state building code and any other applicable regulations.

I. A description or depiction of the method of illumination (if applicable), including but not limited to a description of the electrical wiring for the illuminated sign.

J. A depiction of all above-ground utilities that will be within 8-ft of any portion of the sign or sign structure.

K. Written documentation demonstrating that the owner or authorized representative has provided notice of any excavation related to the construction, erection, replacement, alteration, or attachment of a sign or sign structure to all applicable public utilities in accordance with state law.

L. Electrical or other technical specifications or diagrams as may be reasonably required by the Zoning Administrator or their designee.

M. Application fee as set forth in the LDC Schedule of Fees in Appendix B of the City Code of Ordinances.

N. Such other material and information as may be required by the Zoning Administrator, or their designee to verify compliance with this LDC.

25.18.5 Submittal Requirement Exemptions

An applicant may make a request to the Zoning Administrator, or their designee, to exempt their application from specific submittal requirements, in accordance with Section 25.2.2.D of this LDC. The Zoning Administrator, or their designee, shall have the authority to approve such exemption requests, based on the nature and scope of the proposal.

25.18.6 Procedure

A. Determination of Application Completeness

The Zoning Administrator, or their designee, shall review all sign permit applications for completeness, and coordinate with the applicant for corrections or further documentation, as needed.

B. Notice of Decision

Within 21 business days of receipt of a completed application, the Zoning Administrator, or their designee, shall complete review of the application, in consultation with other City departments as appropriate, and will either approve, approve with conditions, or disapprove the application.

1. All decisions shall be delivered in writing to the applicant and shall include any conditions for approval or reasons for denial.
2. For conditional approvals, the Zoning Administrator, or their designee, may establish dates by which conditions of approval shall be met.
3. If a sign permit application is approved, a sign permit shall be issued and forwarded to the applicant upon payment of the permit fee.

25.18.7 Expiration

The work authorized under a sign permit shall commence within 6-months after the date of issuance, or the permit shall become null and void.

25.19 EARTH EXCAVATION PERMIT

25.19.1 Description

An earth excavation permit allows a process to facilitate safe and reasonable opportunities for the excavation of earth materials from land within the City in conformance with the Earth Excavation Regulations in Article 24 of this LDC and the requirements of NH RSA 155-E.

25.19.2 Initiation

The applicant for an earth excavation permit shall either own the fee simple interest in the property(s) that is the subject of the review or have written permission of the fee simple owner.

25.19.3 Authority

The Planning Board shall have the authority to review and decide on applications for an earth excavation permit.

25.19.4 Submittal Requirements

An applicant for an earth excavation permit shall submit a completed application on the appropriate form to the Community Development Department. A completed application for an earth excavation permit shall include all of the following information.

A. The name and contact information of the person or entity that will be performing the excavation.

B. A written narrative describing the type, scale, and nature of the proposed excavation site, including the following information:

1. The location, boundaries and zoning district(s) of the proposed excavation parcel(s) and site, including the municipalities and counties in which the project lies.

2. The type(s) of earth material to be excavated and the methods to be employed to excavate, process, and transport the earth materials.

3. The expected duration of the entire excavation project, and whether the excavation project will include more than one non-contiguous excavation area, each of which would constitute an excavation phase.

a. A separate excavation permit application shall be required for each non-contiguous excavation area.

4. The number of acres of the excavation area and the excavation perimeter under consideration for the earth excavation permit (hereinafter "current permit phase").

5. The volume of earth material to be removed per year from the excavation area during the current permit phase and the proposed time schedule for the current permit phase, including a timeframe for completing incremental reclamation.

6. A description of the maximum breadth, depth, and slope of the excavation area for the current permit phase.

7. The location of the access driveway for the current permit phase and a description of any existing visual barriers between the excavation perimeter and the public highway to be utilized to access the site.

8. The elevation of the estimated highest annual average groundwater table within or adjacent to the proposed excavation area and an indication of whether the excavation will occur at depths below this level.

a. If the applicant proposes to excavate bedrock, they shall provide the elevation of the estimated highest annual average groundwater table for both the overburden and the bedrock.

9. Proposed methods of disposal of boulders, stumps, vegetation and other debris.

10. Proposed methods for controlling storm water, drainage, erosion, and sedimentation during the excavation project.

11. The means by which the applicant shall avoid and/or mitigate adverse impacts caused by dust, noise, and traffic at the site.

12. Precautions to be taken by the applicant to protect the safety and welfare of persons on

the site.

13. The proposed method for handling, transporting, and disposing of fuel and/or chemicals on the site.

14. The means by which earth materials are proposed to be transported from the excavation site, and the proposed load limits and maximum number of vehicle trips per day.

15. A general description of the extent to which blasting will be used to excavate earth materials and the name and classification of any explosive substances that may be used at the excavation site over the course of the excavation project.

16. Any other descriptive information that the Planning Board may reasonably deem necessary to determine compliance with NH RSA 155-E, the Earth Excavation Regulations in Article 24, and this LDC.

C. Photographs of the excavation site showing at least the following vantage points, each of which shall be indicated on the site plan map.

1. The proposed excavation area(s).

2. Areas within the proposed excavation perimeter where processing and stockpiling of earth material will occur.

3. The area where the proposed access driveway will be located, including the point where the access driveway meets the public right-of-way.

4. At least 2 vantage points along public rights-of-way abutting the excavation parcel(s), to show the existing visual barriers, vegetation and screening of the excavation site.

D. A complete plan set signed and stamped by a NH licensed engineer or architect (7-copies on 22-in by 34-in paper or larger size; 1-copy on 11-in by 17-in paper; and, an electronic pdf file), which shall include the following materials.

1. A locus map depicting the location of the proposed excavation site within the boundaries of the City and all state numbered highways in the City.

2. A phasing plan at a scale of 1-in = 500-ft or other scale as the Community Development Director may reasonably deem necessary, showing an outline of the location of each excavation area and corresponding excavation perimeter for each phase of the excavation project.

a. Notes shall be placed on the plan labeling the excavation area and corresponding excavation perimeter for each phase of the excavation project, indicating the approximate dates and duration of each phase, and the number of acres comprising the excavation area and the excavation perimeter for each phase, and the estimated volume of earth material to be excavated in each phase.

3. A context map of the excavation site, at a scale of 1-in = 500-ft or other scale as the Community Development Director may reasonably deem necessary, showing the proposed excavation area and excavation perimeter that will be used during the current permit phase, and depicting all of the following information within a 1-mile radius of the excavation perimeter, unless otherwise specified.

a. Contours at 25-ft intervals, surface water resources, city streets (labeled), state highways, property lines (with parcels labeled to indicate primary land use), and all structures and buildings.

b. Zoning district boundaries with each district clearly labeled.

c. The location of any public water supplies, primary and secondary wellhead protection areas for municipal wells, groundwater aquifers, and potential future municipal wells and surface water resource areas identified in the City of Keene Water Resources Plan, and any updated water resource or aquifer information as shown on the

City of Keene GIS system.

d. The boundaries of Zone 1 and Zone 2 of the City's View Preservation Overlay as defined in Figure 13-1 in Article 13 of this LDC.

e. The boundary lines of the excavation parcel(s) with the excavation perimeter highlighted.

f. Approximate location of all private wells within 1-mile of the excavation area.

g. Lot lines, abutter names and tax map parcel numbers of all properties abutting the excavation site.

h. Any other information that the Planning Board may reasonably deem necessary to determine compliance with NH RSA 155-E, the Earth Excavation Regulations in Article 24, and this LDC.

4. A detailed existing conditions map at a scale of 1-in = 50-ft or other scale as the Community Development Director may reasonably deem necessary, showing the proposed excavation area and excavation perimeter for the current permit phase, and depicting all of the following information within the excavation perimeter and within a 500-ft radius beyond the excavation perimeter.

a. Contours of at most 2-ft intervals showing existing topography and drainage patterns.

b. Surface waters, rock outcroppings, and important habitat.

i. All wetland areas located within a 300-ft radius surrounding the excavation perimeter shall be delineated by a wetlands scientist certified by the State of New Hampshire.

c. Public streets and rights-of-way, lot lines, abutter names, and tax map parcel number(s) of all abutting properties within the 300-ft radius surrounding the excavation perimeter.

d. Location of existing wooded and vegetated areas.

i. Areas that have been logged within 10-years prior to the application date shall be identified as such on the plan, with a notation indicating the month and year of the cut.

e. Location of buildings, structures, power lines and other utilities, wells, septic systems, private roads or driveways, stonewalls, cellar holes, cemeteries, easements, and rights-of-way.

i. Septic systems, stonewalls, cellar holes, cemeteries, easements and rights of way located outside of the excavation parcels do not need to be shown on the map.

f. An outline of the proposed excavation area, excavation perimeter, and access driveway.

5. A detailed excavation site map drawn at a scale of 1-in = 50-ft or other scale as the Community Development Director may reasonably deem necessary, focusing on the area within the proposed excavation perimeter to be used during the current permit phase and showing the following information.

a. Contours of at most 2-ft intervals showing existing topography and drainage patterns.

b. Surface waters.

c. The location of and proposed number of acres within the excavation perimeter and the excavation area, and the volume of earth material to be removed per year from the excavation area during the permit period.

d. The location, breadth, depth, and slope of all sidewalls within the proposed excavation area.

e. Locations of proposed buildings, structures, accessory facilities/activities, safety fencing, processing areas, and material stockpiling areas within the excavation perimeter, including designated fuel storage, refueling, and equipment maintenance areas.

f. Proposed locations of and provisions for vehicular traffic, parking areas, access and service driveways, including design and materials to be used for constructing said areas and driveways, truck flow on site, and any proposed traffic controls for site entrances and exits.

g. The location of proposed topsoil stockpiling areas, with a note describing methods for stabilizing these soils and preventing erosion and sedimentation of runoff.

h. Location and types of proposed water storage areas for water to be used to support excavation operations, and drainage and storm water management structures and devices.

i. Location, height, type and materials of existing and proposed visual and sound barriers on the excavation site.

j. Location and nature of proposed dust control structures, devices and processes.

k. Any additional information that the Planning Board may reasonably deem necessary to determine compliance with NH RSA 155-E, the Earth Excavation Regulations in Article 24 and this LDC.

6. A detailed erosion control, sedimentation and drainage management plan that will be implemented to control runoff volume, velocity and water quality during the current permit phase. This plan shall be drawn at a scale of 1-in = 50-ft or other scale as the Community Development Director may reasonably deem necessary, showing the following information within the proposed excavation perimeter to be used during the current permit phase.

a. Contours of at most 2-ft intervals showing existing topography and drainage patterns.

b. Surface waters.

c. The location of the excavation area, the excavation perimeter, and the access driveway.

d. The location and type of all earth stockpile areas.

e. The proposed grading and drainage pattern within the excavation perimeter.

f. The location(s) and design details for all proposed erosion control, sediment control, and water and drainage management structures, devices, and processes including but not limited to:

i. Water detention ponds;

ii. Sediment settlement areas;

iii. Silt fences and other erosion control devices;

iv. Flow dissipation measures;

v. Soil stabilization measures;

vi. Water storage ponds to be used to support operations; and,

vii. Any other measures necessary to minimize erosion and sedimentation, and promote soil stabilization.

g. A note describing the procedures and timing for inspecting, maintaining, and repairing erosion control, sedimentation control, and water and drainage management structures, devices and processes.

h. A note indicating the requirement for documenting in a log all inspection and maintenance activities, all adverse

impacts identified during inspections, and actions taken to remediate the adverse impacts.

7. A detailed impact control and monitoring plan for avoiding, identifying, and responding to adverse impacts associated with the excavation operations. This plan shall propose structures, devices, and processes for avoiding potential adverse impacts. The plan shall also provide protocols to be used for documenting baseline conditions, conducting monitoring for adverse impacts, responding to and/or correcting adverse impacts when they are identified, and for documenting monitoring activities, adverse impacts that occur, and how the adverse impacts were corrected. Potential impacts to be addressed in this plan shall include noise, dust, reduction of groundwater quantity and quality, spills of toxic or hazardous materials, blasting and pollution of surface and ground water.

a. A noise impact control and monitoring plan, which shall include, at a minimum, the following.

i. The location and design of structures, devices, and processes to be installed on the site to avoid, control, and minimize adverse noise levels from leaving the excavation site.

ii. A protocol for conducting monitoring of sound levels and complying with the earth excavation regulations in Article 24 of this LDC. Said protocol shall include at least: proposed locations for measuring background ambient sound levels and for monitoring sound levels once the excavation operation has commenced; proposed dates for measuring ambient sound levels; proposed annual time periods when sound monitoring will be conducted; and, specifications for sound measurement equipment to be used.

iii. A protocol for responding to noise complaints, complying with the earth excavation regulations in Article 24 of this LDC.

b. A dust control and monitoring plan, which shall include at least the following.

i. The location and design of structures, devices and processes to be installed, maintained and/or implemented to control air borne dust, and/or transportation of dirt and mud by vehicles exiting the site.

ii. A protocol for inspecting structures, devices, and processes to determine if maintenance is necessary and/or to determine if and when control and abatement processes should be implemented.

c. A groundwater level monitoring plan, which shall include at least the following.

i. The location and depth of all ground water monitoring wells and the seasonal high groundwater depth at each well.

ii. A protocol for monitoring the effect of the excavation operations on ground water levels to prevent dewatering of surface waters, wetlands, public and private wells or water supplies, and groundwater aquifers, including bedrock aquifers. Such a plan is only required for those projects proposing to excavate below the overburden seasonal high groundwater level.

iii. A response plan for providing an immediate replacement water supply for any public or private water supplies that are disrupted as a result of the excavation

operations.

d. A hazardous and toxic spill response plan, which shall include at least the following.

i. A list of all hazardous and toxic substances to be used or stored on the site.

ii. A protocol for containing and abating spills when they occur and for remediating and restoring areas impacted by spills.

e. A plan for monitoring and remediating adverse impacts to surface or ground water quality caused by the excavation operation.

8. A reclamation plan providing an overview of the long-term reclamation objectives for the excavation project and a detailed reclamation plan for the current excavation phase. Said plans shall contain the following information.

a. A description, if known or anticipated, of proposed future land use on the excavation site after completion of the excavation project. In this description, the applicant shall demonstrate that the proposed future land use is consistent with the Zoning Regulations (Articles 2 through 18 of this LDC) and the City's Comprehensive Master Plan. If no future land use is known or anticipated at the time of application, the reclamation plan shall reflect a return to natural vegetated condition similar to the pre-excavation condition.

b. A detailed narrative description of the process and schedule for reclamation, including specifications of proposed soil conditioning, seeding and mulching methods, and the quantities, sizes, and types of plant materials to be used in reclaiming the site.

c. A detailed description of the means by which the applicant intends to remediate the adverse impacts to soils, drainage systems, surface water, ground water, vegetation, overburden, topography, and fill materials.

d. A map of the excavation perimeter drawn at a scale of 1-in = 50-ft, or other scale as the Community Development Director may reasonably deem necessary, depicting the following information.

i. Boundaries of the area to be reclaimed.

ii. Final topography of the reclaimed area showing at most 2-ft contour intervals.

iii. Final surface drainage pattern including the location and physical characteristics of all existing, modified and/or constructed drainage structures.

iv. Locations of buildings, structures, and/or fences, proposed to remain on the site after reclamation.

v. Locations, types and sizes of all proposed landscaping to be planted as part of the reclamation plan.

9. A written estimate of all reclamation costs associated with the current permit phase.

E. Supporting analysis, as set forth below, unless otherwise indicated.

1. **Soils Analysis.** This analysis shall focus on land within the excavation perimeter, and shall include at least the following.

a. An analysis of soils maps signed and stamped by a NH licensed soil scientist as shown in the Cheshire County Soil Survey, identifying the location of hydrologic soils grouped in class A or B and identifying the location of any soils or topographic conditions that are susceptible to erosion.

b. The location and logs for all soil test

pits and/or borings made on the site in preparing the earth excavation permit application.

2. **Hydrologic/Geologic Analysis.** This analysis shall be required for all excavation projects that propose depths below the seasonal high ground water table in either the overburden or the bedrock. This analysis shall include at least the following.
   - **a.** The seasonal high ground water table elevations in the proposed excavation area as determined by digging test pits and/or installing monitoring wells.
   - **b.** The location of public and private wells within one-half (½) mile of the proposed excavation area.
   - **c.** The location of all surface water bodies and wetlands within 300-ft of the excavation perimeter.
   - **d.** A baseline water depth or elevation for all wells, and surface water bodies identified above.
   - **e.** The results of a 72-hour constant discharge pump test.
3. **Traffic Analysis.** This analysis shall by conducted by a NH licensed transportation engineer and shall identify the impacts on road safety and capacity as a result of the excavation operation. This analysis shall include at least the following information.
   - **a.** A description of the proposed truck travel route along any City streets to be used between a State Numbered Highway and the excavation access driveway.
   - **b.** The estimated annual, weekly, daily and peak hour vehicle trips to and from the excavation site for all trucks used for transporting earth materials and for all vehicles including, but not limited to, personal vehicles of employees, agents, representatives, and customers.
   - **c.** The proposed maximum number of vehicle trips per day for all vehicles accessing the site, and the proposed maximum number of trips per day for all trucks used for transporting earth materials and equipment.
   - **d.** In the event the estimated number of vehicle trips per day for all vehicles exceeds 100 vehicle trips, the applicant shall provide a complete traffic study, which shall include at least the following.
     - **i.** Daily and peak hour traffic counts for all streets included along the proposed travel route.
     - **ii.** An estimate of the volume distribution for vehicles entering and leaving the excavation site.
     - **iii.** A level of service analysis for all intersections that may be impacted by the excavation operation.
     - **iv.** An accident analysis for all road segments and intersections that may be impacted by the excavation operation.
4. **View Preservation Analysis.** All applicants for an earth excavation permit who propose to locate the excavation site within Zone 1 or Zone 2 of the View Preservation Overlay as defined in Figure 13-1 in Article 13 of this LDC, shall submit a visual analysis demonstrating the extent to which the excavation operation will be visible from any public right-of-way, abutting property, or prominent overlook not located on the excavation site. This analysis may include a combination of photographs, elevations, and cross sections to demonstrate the extent of the visual impact.

5. **Analysis of Important Habitat.** All applicants for an earth excavation permit shall provide an environmental review of the excavation site obtained from the NH Natural Heritage Bureau, to determine if any lands within the excavation site are listed in the NH Natural Heritage Database as containing rare, endangered or threatened species, species of special concern, or exemplary natural communities.

   a. If lands within the analysis area are included in the NH Natural Heritage Database, a natural resource inventory for both vegetation and wildlife shall be completed by a forest ecologist, wildlife biologist, or other qualified professional, to verify the presence and/or significance of the important habitat and to determine whether the excavation will cause an adverse impact, degradation, or fragmentation of said important habitat.

6. **Miscellaneous Information.** Applicants for an earth excavation permit shall provide to the Planning Board any and all additional information that the Board may reasonably deem necessary in order to complete a site-specific review of the excavation site and to determine whether the proposed excavation complies with NH RSA 155-E, and the Earth Excavation Regulations in Article 24 of this LDC.

25.19.5 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 25.19.

A. Requests for exemption shall be made to the Community Development Director in writing prior to the submission of a completed application and shall include an explanation of why the specified information is not relevant to the Planning Board's determination whether the applicant complies with NH RSA 155-E, the Earth Excavation Regulations in Article 24 of this LDC.

7. The Community Development Director, or their designee, may grant an exemption of the submittal requirements if they find that the information is not relevant to the Planning Board's determination of whether the applicant complies with NH RSA 155-E and the Earth Excavation Regulations in Article 24 of this LDC. Factors to consider in determining whether to grant an exemption include consideration of the size, scale, scope, and nature of the proposed excavation project.

8. Any exemption granted by the Community Development Director, or their designee, must be confirmed by the Planning Board during its completeness review of the application. The Board may consult City staff and/or a consultant retained by the Board in accordance with Section 25.19.7, prior to confirmation. If the Planning Board deems the information relevant to its decision on the merits of the application, then the applicant shall provide said information prior to the Planning Board making a finding that the application is complete.

25.19.6 Application Submittal Deadline

A completed earth excavation permit application shall be submitted to the Community Development Director, or their designee, no later than 26 business days prior to the Planning Board meeting date at which the applicant desires the application to be reviewed.

25.19.7 Procedure

In addition to the common application and review procedures of this Article, the following review and approval procedures shall apply to applications for Earth Excavation Permits.

A. Presubmission Meeting. Applicants for earth excavation permits shall attend a presubmission meeting at least 2-weeks prior to the Planning Board submittal deadline.

A. Hiring of Consultant. Upon receipt of a completed Earth Excavation Permit application, the Planning Board shall retain a consultant, at the expense of the applicant, for the purpose of reviewing the application for completeness and compliance with NH RSA 155-E and the Earth Excavation Regulations in Article 24 of this LDC. This consultant shall review all aspects of the submittal.

B. Joint Meeting. A joint meeting may be held with the applicant, the consultant, and City staff to review and discuss the proposed excavation project and application materials. The applicant shall submit any revisions to the proposed excavation project that result from this meeting to the consultant for review.

C. Consultant Recommendation. Upon completion of its review, the consultant shall provide recommendations to the Planning Board including, but not limited to, the following.

1. The extent to which the submitted information enables the Planning Board to find that the application is complete.
2. A list of any additional information that the Planning Board should request from the applicant before finding the application complete.
3. A list of any previously exempted information that the consultant deems necessary to determine compliance with NH RSA 155-E, and the Earth Excavation Regulations in Article 24 of this LDC.
4. Whether the proposed project is a prohibited project as defined in the Earth Excavation Regulations in Article 24 of this LDC.
5. The extent to which the proposed project complies with the operational standards and reclamation standards set forth in the Earth Excavation Regulations.
6. The extent to which the proposed project complies with the permit standards set forth in Section 25.19 of this LDC.
7. The extent to which any requested waivers or exceptions, and proposed alternative standards, meet the Planning Board's criteria for granting waivers and exceptions.
8. A list of possible conditions of approval or modifications to the excavation project that would bring the project into compliance with NH RSA 155-E, and the Earth Excavation Regulations in Article 24 of this LDC.

D. *Compliance with Zoning.* Applications requiring approval from the Zoning Board of Adjustment shall not be noticed for public hearing until such approvals have been obtained.

E. *Board Determination of Application Completeness.* Upon receipt of the consultant's recommendations and upon receipt of any additional information or modifications made by the applicant, the Community Development Director, or their designee, shall forward an application for an earth excavation permit to the Planning Board for a determination of completeness, and shall provide published and mailed notice of this agenda item pursuant to NH RSA 675:7(I).

F. Conservation Commission Review. Upon finding a determination of completeness, the application and any associated materials shall be forwarded to the City of Keene Conservation Commission for review and comment. The Conservation Commission may provide written comment to the Planning Board prior to the closing of the public hearing on the application.

G. *Public Hearing.* Within 30 calendar days of a determination of completeness, the Planning Board shall hold a public hearing in accordance with NH RSA 155-E-7.

H. *Decision.* Within 20 calendar days following the closing of the public hearing, the Planning Board shall approve, approve with conditions, or disapprove of the application. Notice of the decision shall be provided to the applicant in writing.

25.19.8 Filing

A. Earth excavation permits shall not be issued until approved plans have been signed by the Chair or Vice Chair of the Planning Board and all applicable fees have been paid by the applicant.

B. Prior to the signature of the Chair or Vice Chair of the Planning Board on the approved 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 Planning Board; and,

2. Provide complete copies of the approved plan set in a number and form as specified by the Community Development Department.

25.19.9 Modifications to an Issued Permit

A. **Major Amendment to an Issued Permit.** When the scope of a permitted excavation project is proposed to be altered so as to affect the size or location of the excavation, the rate of removal or the plan for reclamation, the applicant shall submit an application for an amendment of the excavation permit. Such application shall be subject to approval by the Planning Board in the same manner as provided for with an excavation permit.

B. **Minor Amendment to an Issued Permit.** When an applicant proposes to modify a permitted excavation project and the modification does not affect the size or location of the excavation, the rate of removal, or the plan for reclamation, the applicant shall submit a request for a minor amendment to the Community Development Director, who shall review the request to determine whether the amendment may be approved administratively or whether it should be referred to the Planning Board for its consideration.

1. If the proposed amendment is consistent with any and all conditions of the previously approved permit and the modification will not increase any adverse impacts, then the minor amendment may be approved by the Community Development Director if they find that the modification complies with NH RSA 155-E, and the Earth Excavation Regulations in Article 24 of this LDC.

2. If the Community Development Director finds that the modification is inconsistent with conditions of the previously approved permit and/or finds that the excavation may increase adverse impacts, then the minor amendment shall be placed on the Planning Board agenda for its consideration and determiniation.

25.19.10 Approval Standards

All applications for an earth excavation permit shall be evaluated for compliance with NH RSA 155-E and the Earth Excavation Regulations in Article 24 of this LDC.

25.19.11 Expirations

A. Any failure to meet the deadlines in this Section shall result in automatic expiration of Planning Board approval. This Section shall not be waivable.

B. **Conditional Approvals.** If an application is conditionally approved, the applicant has 180 calendar days (starting the day following the decision of the Planning Board on the application) to meet any conditions that shall be met prior to signature of the Chair or Vice Chair of the Planning Board on the plan, unless an extension of time is requested in writing by the applicant prior to the end of the 180-day period, and said request is granted by the Planning Board.

C. In the event that substantial construction of the excavation operation has not commenced within 1-year of the issuance of the excavation permit, the excavation permit shall expire, unless an extension of time is requested in writing by the applicant prior to the end of the 1-year period, and said request is granted by the Planning Board.

25.19.12 Permit Renewal

If the applicant wishes to continue their excavation project after expiration of the approved permit period, and the applicant does not propose modifications to the size or location of the excavation, the rate of removal, or the plan for reclamation, then the applicant shall submit an application for permit renewal in accordance with the following procedures.

A. Renewal applications shall be submitted to the Community Development Department, on forms provided by the Department, at least 6-months prior to the expiration of the approved permit period.

B. An application for permit renewal may include proposed amendments, which shall be reviewed in accordance with Section 25.19.9.

1. When the approved permit period is set to expire and the applicant intends to continue the excavation use beyond the expiration date with a proposed modification to the size or location of the excavation, rate of removal or plan for reclamation, the permit holder shall submit an application to amend an issued permit as specified in Section 25.19.9.

a. In addition to submittal requirements for the amended permit, the permit holder shall submit a statement of compliance with the application and shall be subject to a site inspection as outlined in Section 25.19.12.D.

C. A renewal application shall include at least the following information.

1. 3-copies of the previously approved plans with a description and diagram of the extent of the area that has been excavated, the volume of earth material removed, and the reclamation that has been completed, if any.

2. 7-copies of an updated plan set highlighting the following information.

a. The area expected to be excavated during the permit renewal period, the total volume of earth material to be removed, and the rate of removal.

b. Any areas to be reclaimed during the permit renewal period.

c. Any proposed changes to the site design or the manner in which operating standards, permit standards, and/or permit conditions will be met during the subsequent permit period.

3. 4-copies of a Statement of Compliance summarizing the extent to which the excavation operation complies with NH RSA 155-E, the Earth Excavation Regulations in Article 24 of this LDC, and any conditions of approval associated with current permit period.

a. This narrative shall include a discussion of any problems or violations that occurred on the excavation site during the current permit period, an indication of how the applicant remedied the problems or violations, and what actions the applicant proposes to take to avoid or mitigate these problems or violations during the renewal permit period.

4. All information relative to any proposed minor amendments included in the renewal application, to evaluate compliance with NH RSA 155-E, and the Earth Excavation Regulations in Article 24 of this LDC.

5. Any other information reasonably deemed necessary by the Community Development Director to determine continued compliance with NH RSA 155-E, and the Earth Excavation Regulations in Article 24 of this LDC.

D. Prior to the approval of a renewal application, the Building and Health Official, or their designee, shall conduct an inspection of the excavation site to determine whether any violations of NH RSA 155-E, the Earth Excavation Regulations in Article 24 of this LDC, and/or the permit conditions exist.

E. When an excavation operation does not have

any existing unresolved permit violations, as determined during the inspection, the renewal application may be approved in accordance with these regulations, by the Community Development Director without a public hearing.

1. If the inspection identifies unresolved permit violations, the renewal application shall be reviewed by the Planning Board at a duly noticed public hearing.

25.19.13 Waivers and Exceptions

A. The Planning Board recognizes that the granting of waivers and exceptions may be appropriate and necessary for granting approval of an earth excavation permit application. The Planning Board shall consider the advice of its consultant and City staff in determining whether a requested waiver meets the intent of NH RSA 155-E, and the Earth Excavation Regulations in Article 24 of this LDC.

1. The Planning Board shall have the sole authority to grant a waiver of any specific requirement or standard in Article 24 and Section 25.19 of this LDC. The Planning Board shall also have the sole authority to grant an exception in writing to the standards contained in NH RSA 155-E:4-a (Minimum and Express Operational Standards), NH RSA 155-E:5 (Minimum and Express Reclamation Standards), and NH 155-E:5-a (Incremental Reclamation).

B. Requests for waivers from the regulations and exceptions to statutory standards shall be made in writing and shall be subject to a public hearing. Such waiver or exception requests shall:

1. State specifically which requirements or standards are requested to be waived/ excepted;
2. Explain why there is a need for the waiver(s) and/or exceptions(s); and,
3. Propose alternative requirements or standards, and shall demonstrate how the alternative requirements or standards cause the proposed excavation operation to comply with the criteria for waivers/ exceptions in this Section and how said alternative requirements and standards meet the intents and purposes of the City of Keene Earth Excavation Master Plan, NH RSA 155-E, and the Earth Excavation Regulations in Article 24 of this LDC.

C. In no case shall a waiver or exception be granted such that it would cause the permit to be in violation of NH RSA 155-E, and the Earth Excavation Regulations in Article 24 of this LDC.

D. The Planning Board shall grant said requests for waivers or exceptions upon reaching a finding that the applicant has demonstrated the following, in addition to any additional criteria set forth below.

1. The granting of a waiver/exception will not increase the potential for adverse impacts.
2. The requested waiver/exception is consistent with the purpose and intent of the City of Keene Earth Excavation Master Plan, and the Earth Excavation Regulations in Article 24 of this LDC.
3. The granting of the requested waiver/ exception will not be unduly injurious to public or environmental welfare.
4. The scale; volume; area; design features; siting of earth excavation operations; the nature of the proposed operation; the unique site characteristics including, but not limited, to topography, density of vegetation and/or surrounding land uses; and, the alternative conditions or standards, taken as a whole, will adequately avoid or mitigate the potential for adverse impacts.

E. For waivers and exceptions of setbacks to property boundaries and public rights-of-way, the following criteria shall apply in addition to any other applicable criteria listed in Section 25.19.13.

1. Waivers and exceptions of setbacks to property boundaries and public rights of way shall not be granted for operations that include blasting or crushing activities.
2. The Planning Board shall consider the

extent to which property owners abutting the affected setback have provided written consent to the proposed alternative setback.

F. For waivers and exceptions to surface water resource setbacks, the applicant shall demonstrate the following in addition to any other applicable criteria listed in Section 25.19.13.

1. The proposed activity cannot be located in a manner that avoids an encroachment in the setback.

2. If the proposed activity cannot be located in a manner to avoid an encroachment in the setback, then all practicable measures have been taken to minimize the encroachment in the setback.

3. The area of encroachment does not adversely impact the functions and values associated with the setback or the surface water resource. Such demonstration shall include an evaluation of at least the following.

a. The size, character and quality of the affected surface water resource.

b. The nature of the functions and values served by the surface water resource.

c. The nature of the topography, slopes, soils and vegetation in the area that encompasses the surface water resource and the setback.

d. The location and connectivity of the surface water resource in relation to other surface water resources in the surrounding watershed.

e. The use of the setback as wildlife habitat and/or as a wildlife travel corridor.

f. The role of the setback in mitigating soil erosion, sediment and nutrient transport, groundwater recharge, flood storage and flow dispersion.

g. The rate, timing and volume of stormwater runoff and its potential to influence water quality associated with the affected surface water resource or any associated downstream surface water resources.

h. The sensitivity of the surface water resource and the setback to disruption from changes in the grading or vegetation structure in the setback.

4. In cases where the Planning Board grants a waiver of setbacks to surface water resources, the applicant shall be required to document the preexisting character and quality of the water resource prior to initiating site development activities. Such documentation shall serve as baseline information to be used to assess the effectiveness of the approved alternative setback standard.

G. Decisions to grant waivers and/or exceptions shall be made in writing stating specifically what standards are to be waived/excepted and what alternative conditions or standards will be required of the applicant. Said decisions may be attached to or incorporated into the Planning Board decision on the earth excavation permit application.

H. Prior to ruling on a request for a waiver or exception, the Planning Board shall hold a public hearing in accordance with NH RSA 155-E:7 and the Earth Excavation Regulations in Article 24 of this LDC.

I. The Planning Board's decision on any request for such waiver or exception may be appealed in accordance with NH RSA 155-E:9.

25.19.14 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 the City Engineer and the Community Development Director to be sufficient to guarantee compliance with the permit.

25.19.15 Inspections

A. Inspections shall be made for all excavation operations at a frequency not less than annually, including an inspection to be performed in conjunction with evaluating an application for a permit renewal.

1. Such inspections shall determine if the excavation operation complies with NH RSA 155-E, the Earth Excavation Regulations in Article 24 of this LDC, the approved plan, and any permit conditions.

B. The Building and Health Official, or their designee, may, at their discretion and at the expense of the applicant, contract with a third party agent to conduct inspections of permitted excavation operations.

1. The inspection shall include a review of all required monitoring logs.

C. The Building and Health Official, or its duly authorized agent, shall prepare a report detailing the results of the inspection and any problems or violations identified. Copies of this report shall be provided to the applicant and the Community Development Director, or their designee.

ARTICLE 26. APPEALS

26.1 APPEAL OF ZONING BOARD OF ADJUSTMENT DECISION 26-2

26.2 APPEAL OF ZONING ADMINSTRATIVE DECISION 26-2

26.3 APPEAL OF PLANNING BOARD DECISION 26-2

26.4 APPEAL OF MINOR PROJECT REVIEW COMMITTEE DECISION 26-3

26.5 APPEAL OF COMMUNITY DEVELOPMENT DIRECTOR DECISION 26-3

26.6 APPEAL OF HISTORIC DISTRICT COMMISSION DECISION 26-3

26.7 APPEAL OF CITY COUNCIL DECISION 26-3

26.8 APPEAL OF DECISIONS ON STREET ACCESS PERMITS 26-4

26.9 APPEAL OF DECISIONS ON EARTH EXCAVATION PERMITS 26-4

26.1 APPEAL OF ZONING BOARD OF ADJUSTMENT DECISION

A. Appeals concerning any matter within the authority of the Zoning Board of Adjustment shall be in the manner provided for by NH RSA 676:5-7.

B. In accordance with NH RSA 677:1-14, any person aggrieved by the decision of the Zoning Board of Adjustment shall file a motion for a rehearing with the Community Development Department within 30 calendar days after the date of the Zoning Board of Adjustment decision.

1. The motion for rehearing shall fully set forth every ground upon which it is claimed that the decision rendered is unlawful or unreasonable

C. The Zoning Board of Adjustment shall deliberate the motion for rehearing within 30 calendar days of the date of the filing of the motion.

D. If the Zoning Board of Adjustment grants a motion for rehearing, the new public hearing shall be held within 30 calendar days of the decision to grant the rehearing, provided all applicable fees are paid and an updated abutters list, including all owners of property within 200-ft of the subject parcel, is submitted by the party requesting the rehearing. Notice of the rehearing shall follow the procedures set forth in NH RSA 676:7.

E. If a motion for rehearing is denied by the Zoning Board of Adjustment, the applicant may appeal to the Superior Court within 30 calendar days after the date upon which the Board voted to deny the motion for rehearing.

F. Any further appeal of a final decision or order of the Zoning Board of Adjustment shall be in accordance with NH RSA 677:4.

26.2 APPEAL OF ZONING ADMINSTRATIVE DECISION

A. In accordance with NH RSA 676:5, appeals to written decisions of the Zoning Administrator shall be made to the Zoning Board of Adjustment, provided the notice of appeal is filed with the Community Development Department within 30 calendar days after the date of the Zoning Administrator's decision.

1. The notice of appeal shall specify all grounds on which the appeal is based, and why the request of appeal should be granted.

B. Any person aggrieved by the decision of the Zoning Board of Adjustment shall petition for a rehearing, in accordance with NH RSA 677:1-14, before appealing the decision to the Superior Court.

26.3 APPEAL OF PLANNING BOARD DECISION

A. Appeals concerning any decision of the Planning Board concerning a subdivision, site plan, or conditional use permit shall be made in the form of a petition to the Superior Court in the manner provided for by NH RSA 677:15.

B. Such petition shall be presented to the Superior Court within 30 calendar days after the date upon which the Board decided on the application; provided, however, that if the appeal from the decision of the Planning Board is based on any matters appealable to the Zoning Board of Adjustment, such matters shall be appealed to the Zoning Board of Adjustment before any appeal is taken to the superior court.

26.4 APPEAL OF MINOR PROJECT REVIEW COMMITTEE DECISION

A. Appeals to decisions of the Minor Project Review Committee shall be made to the Planning Board, provided the notice of appeal is filed with the Community Development Department within 20 calendar days from the date of the Minor Project Review Committee's decision, in accordance with NH RSA 674:43(III), all applicable fees are paid, and an updated abutters list, including all owners of property within 200-ft of the subject parcel, is submitted by the appealing party.

B. The notice of appeal shall specify all grounds on which the appeal is based.

C. Any aggrieved party appealing a decision of the Minor Project Review Committee is entitled to a de novo public hearing before the Planning Board.

26.5 APPEAL OF COMMUNITY DEVELOPMENT DIRECTOR DECISION

A. Appeals to decisions of the Community Development Director on plans that have been administratively reviewed shall be made to the Planning Board, provided the notice of appeal is filed with the Community Development Department within 20 calendar days from the date of the Community Development Director's decision, all applicable fees are paid, and an updated abutters list, including all owners of property within 200-ft of the subject parcel, is submitted by the appealing party.

B. The notice of appeal shall specify all grounds on which the appeal is based.

C. Any aggrieved party appealing a decision of the Community Development Director is entitled to a de novo public hearing before the Planning Board.

26.6 APPEAL OF HISTORIC DISTRICT COMMISSION DECISION

A. Appeals to decisions of the Historic District Commission shall be made to the Zoning Board of Adjustment in accordance with NH RSA 676:5-7, provided the notice of appeal is filed with the Community Development Department within 30 calendar days after the date of the Historic District Commission decision being appealed, all applicable fees are paid, and an updated abutters list is submitted by the appealing party.

B. The notice of appeal shall specify all grounds on which the appeal is based.

C. Any person aggrieved by the decision of the Zoning Board of Adjustment shall petition for a rehearing, in accordance with NH RSA 677:1-14, before appealing the decision to the Superior Court.

26.7 APPEAL OF CITY COUNCIL DECISION

A. Any person aggrieved by the decision of the City Council in regard to amendments to the City's Zoning Regulations or this LDC shall petition for a rehearing, in accordance with NH RSA 677:1-14.

B. A motion for rehearing shall be filed with the City Clerk within 30 calendar days after the date of the City Council decision and shall fully set forth every ground upon which it is claimed that the decision rendered is unlawful or unreasonable.

C. The City Council shall deliberate the motion for rehearing within 30 calendar days of the date of the filing of the motion.

D. If the City Council grants a motion for rehearing, the new public hearing shall be held within 30 calendar days of the decision to grant the rehearing, provided all applicable fees are paid and an updated abutters list is submitted by the party requesting the rehearing.

E. If a motion for rehearing is denied by the

City Council, the applicant may appeal to the Superior Court within 30 calendar days after the date upon which the City Council voted to deny the motion for rehearing.

F. Any further appeal of a final decision or order of the City Council shall be in accordance with NH RSA 677:4.

26.8 APPEAL OF DECISIONS ON STREET ACCESS PERMITS

A. An applicant or abutter may appeal any decision of the City Engineer relative to decisions on street access permit applications to the Planning Board, provided the notice of appeal is filed with the Community Development Department within 30-calendar days from the date of the City Engineer's decision, and all applicable fees are paid.

B. The notice of appeal shall specify all grounds on which the appeal is based.

C. Any aggrieved party appealing such a decision of the City Engineer is entitled to a de novo review before the Planning Board.

D. The Planning Board shall have final jurisdiction over all such appeals.

26.9 APPEAL OF DECISIONS ON EARTH EXCAVATION PERMITS

A. Following the approval or disapproval of an earth excavation permit, or the approval or disapproval of an amended or renewed earth excavation permit, or the suspension or revocation of an earth excavation permit, or the approval or disapproval of a waiver or exception to earth excavation permit requirements, any interested party affected by such decision may appeal to the Planning Board for a rehearing of such decision, or any matter determined thereby, in accordance with the provisions of NH RSA 155-E:9.

B. The motion for a rehearing shall fully specify every ground upon which it is alleged that the decision or order complained of is unlawful or unreasonable and shall be filed within 10-days of the date of the decision appealed from.

C. The Planning Board shall either grant or deny the request for rehearing within 10-days, and if the request is granted, a rehearing shall be scheduled within 30-days. Any person affected by the Planning Board's decision on a motion for rehearing may appeal in conformity with the procedures specified in NH RSA 677:4-15.

ARTICLE 27. ENFORCEMENT

27.1 AUTHORITY 27-2

27.2 PERMITS 27-2

27.3 CERTIFICATES OF OCCUPANCY 27-2

27.4 STOP-WORK ORDERS 27-2

27.5 FINES & PENALTIES 27-3

27.1 AUTHORITY

A. The Building and Health Official has the authority to enforce this LDC with respect to property outside of the public right-of-way in accordance with NH RSA 676:15-17(b).

B. The Public Works Director has the authority to enforce this LDC with respect to property within the public right-of-way and with respect to the authority granted to the Public Works Director in Article 22 of this LDC.

C. The Building and Health Official or the Public Works Director, where appropriate may institute any inspection, action, or proceeding to:

1. Prevent the unlawful erection, relocation, extension, enlargement, or alteration of any structure or sign;
2. Prevent the unlawful use or occupancy of structures or land;
3. Prevent any illegal act, business, or use in or about the premises; and,
4. Restrain, correct or abate violations of this LDC.

27.2 PERMITS

A. The Building and Health Official, or their designee, may not issue any permit for the construction or alteration of any structure, or the use or occupancy of any premises, unless the plans, specifications, and proposed use of the structure or premises conform to the provisions of this LDC.

B. Any permit issued for the construction or alteration of any structure, or for the use or occupancy of any premises, contrary to the provisions of this LDC shall be void.

C. Any material misstatement of fact by an applicant for a permit or any material misrepresentation in their plans or specifications shall render the permit void.

27.3 CERTIFICATES OF OCCUPANCY

No structure may be used or changed in use, nor premises occupied or used, until a Certificate of Occupancy has been issued by the Community Development Department.

27.4 STOP-WORK ORDERS

A. Whenever the Building and Health Official has reasonable grounds to believe that any of the following is occurring with respect to work on any structure or lot in the City, they shall notify the owner of the property or the owner's agent to suspend all work, and any of these persons shall stop work and suspend all building activities until the stop-work order has been rescinded.

1. The work is being performed in violation of the provisions of the applicable building laws, ordinances and regulations of this LDC or the City Codes of Ordinances.
2. The work is not in conformity with the provisions of the approved permit application, plans, specifications and revisions.
3. The work is in an unsafe and dangerous condition.
4. The work is without a required permit.

B. The stop-work order and notice shall be in writing, state the conditions under which the work may be resumed, shall order the abatement of the violation within a reasonable time, and may be served either by delivering it personally or by posting it conspicuously where the work is being performed, and a copy of it shall be sent by USPS Certified Mail to the address set forth in the permit application.

C. A stop-work notice need not be sent and shall not be a prerequisite if the Building and Health Official deems the violation to constitute an emergency and a hazard to the health and welfare of any person, in which case they may order the violation abated immediately and may file a complaint forthwith.

D. The Building and Health Official shall have the right, after taking the preceding steps, to file a petition in the Superior Court requesting that the violator be ordered to cease the violation if, in their judgment, that is the preferable course of action.

27.5 FINES & PENALTIES

A. Any violation of the provisions of this LDC, or of any conditions established by a decision-making authority in conjunction with an approval issued in accordance with this LDC, shall be punishable by a fine as provided in Section 1-15 of the City Code of Ordinances.

B. Each day that a violation continues to exist, following issuance of a stop-work order by the Building and Health Official to the violator, shall constitute a separate violation.

C. More than one violation may be included on the stop-work order, but shall be subject to a separate fine.

D. The accumulation for payment for previous violations, shall cease upon correction of the violation.

ARTICLE 28. DEFINED TERMS

Abandoned/Nonapplicable Sign - Any sign which advertises or publicizes an activity or business no longer conducted on the premises upon which such sign is maintained or which has been abandoned under circumstances indicative of an intention to abandon the use and any vested right.

Abutter - Any person whose property is located in New Hampshire and adjoins or is directly across the street or stream from the land under consideration by the local land use board. For purposes of receiving testimony only, and not for purposes of notification, the term "abutter" shall include any person who is able to demonstrate that their land will be directly affected by the proposal under consideration. For purposes of receipt of notification by a municipality of a local land use board hearing, in the case of an abutting property being under a condominium or other collective form of ownership, the term abutter means the officers of the collective or association, as defined in NH RSA 356-B:3,XXIII. For purposes of receipt of notification by a municipality of a local land use board hearing, in the case of an abutting property being under a manufactured housing park form of ownership as defined in NH RSA 205-A:1, II, the term "abutter" includes the manufactured housing park owner and the tenants who own manufactured housing which adjoins or is directly across the street or stream from the land under consideration by the local land use board.

Accessory Structure - A structure that is subordinate and customarily incidental to a principal structure that is located on the same lot.

Accessory Use - Any use subordinate in both purpose and size to, and is incidental to and customarily associated with, any principal use that is located on the same lot.

Activation - The articulation of a façade to contribute to a pedestrian-friendly public realm.

Addition (to an existing structure) - Any construction that increases the size of a structure in terms of site coverage, height, or gross floor area.

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

Alley - A narrow passageway located between or behind buildings providing access to service areas, waste storage, parking, ancillary structures, and usually containing utility easements.

Alteration (as applied to a structure) - Any construction or renovation to an existing structure other than repair or addition. Applied to a building this means a change or rearrangement in the structural parts, and may include flood proofing or other modifications.

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

Animated Sign - A sign displaying motion, the patterned illusion of motion, action or flashing, or other light and color changes which is activated by environmental, mechanical, electrical, or other non-natural means. This term includes wind-activated elements such as flags, pennants, or banner signs. This term does not include changeable copy signs.

Architectural Feature - Accessory and decorative elements of the exterior of a building or structure, if altered or removed would affect the character of the external appearance of the building or structure but are not necessary to make the structure habitable. Examples include but are not limited to: cornices, eaves, brackets and other roofline embellishments; lintels, sills, keystones, arches and other door and window embellishments; minor wall projections, etc.

Architectural Projection - Any structure that is not intended for occupancy, which extends beyond the face of an exterior wall of a building.

Architectural Trim - Exterior elements on a building or structure, including but not limited to cornices, brackets, window lintels and sills, oriels or bay windows, balconies, grilles, grates, lamp brackets, scrapers and handrails.

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

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

Arterial Roadway or Arterial Street - A road whose primary purpose is rapid travel and high volume with limited accessibility to neighboring roads. In the City of Keene, arterial roadways include NH Routes 9, 10, 12 and 101.

Artisanal Production - The on-site production of hand-fabricated or hand-manufactured artisanal, custom or craft goods (e.g. small-scale metalworking, glassblowing, and furniture making, etc.). Showrooms and the ancillary sales of goods produced on-site are permitted. Artisanal production does not include micro-breweries, micro-distilleries, and micro-wineries.

Attic - The space between the ceiling beams of the top story and the roof rafters.

Average Tree Crown Height - An average height found by inventorying the crown height at above-ground level of all trees over 20-ft in height for a defined area.

Awning - An architectural projection that is partially or wholly supported by the building to which it is attached, and is comprised of a light-weight frame structure over which a covering is attached. This covering may consist of vinyl, canvas or similar material.

Awning Sign (also known as Canopy Sign) - A sign painted or attached to a roof-like covering affixed to a building and extending over a walkway or sidewalk. This covering may consist of vinyl, canvas, or similar material. This sign type may also be attached to a freestanding multi-sided structure supported by columns.

Background Area of Sign - The area of a sign excluding the sign face or any copy.

Balloon Sign - Any sign displayed on, or suspended from, a balloon that is greater than 24-in in diameter.

Bank of a Stream - The transitional slope beginning at the edge of a surface water body, the upper limit of which is defined by a break in slope as defined in Wt. 101.06, N.H. Code of Administrative Rules, as may be amended or updated.

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

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

Banner - A sign composed of cloth, canvas, fabric, or other lightweight material, not permanently enclosed in a rigid frame or attached to a substrate, and which is capable of displaying motion caused by movement of the atmosphere. See also Flag.

Base Flood Elevation - The elevation of surface water resulting from a flood that has a 1% chance of equaling or exceeding that level in any given year. The Base Flood Elevation (BFE) is shown on the Flood Insurance Rate Map (FIRM).

Basement - The portion of a building which is partly or completely below grade. For the purposes of the Floodplain Regulations in Article 23, a basement shall mean any area of the building, including any sunken room or sunken portion of a room, having its floor area below ground level (subgrade) on all sides.

Bed and Breakfast - An owner- or operator-occupied single-family dwelling that provides lodging for a daily fee in guest rooms with no in-room cooking facilities (excluding microwaves and mini-refrigerators), and prepares meals for guests.

Blank Wall, Ground Floor - The horizontal linear dimension of contiguous building wall that does not contain fenestration, doors, or decorative elements (e.g. banding, medallions), artwork (e.g. murals and mosaics), change in wall plane of at least 3-in, or other architectural or material embellishment. Any wall less than 5-ft in height is not considered to be a blank wall.

Blank Wall, Upper Floor - The horizontal or vertical linear dimension of contiguous building wall that does not contain fenestration, doors, or decorative elements (e.g. banding, medallions), artwork (e.g. murals and mosaics), change in wall plane of at least 3-in, or other architectural or material embellishment. Any wall with a minimum dimension of less than 5-ft (height or width) is not considered to be a blank wall.

Building - Any structure used or intended for sheltering any use or occupancy.

Building Coverage - Maximum area of a lot that is permitted to be covered by buildings or structures, which is measured by dividing the total area of building footprints (as measured from the outside ground wall and floor wall lines) of all principal and accessory structures by the total lot area.

Building Façade Line - The vertical plane along a lot where the building's façade is located. Upper story building façade lines relate to that part of the façade that requires a stepback.

Building Frontage - The measurement in linear feet of the portion of a building that is parallel with an existing right-of-way or street. For the purposes of calculating a building's sign allowance as specified in Article 10 - "Sign Regulations," there are four types of building frontage, which are defined separately in this LDC: primary frontage, secondary frontage, parking lot building frontage, and tenancy frontage.

Building Height, Feet - The vertical distance measured from the grade plane of the lot grade to the highest point of the roof or structure.

Building Height, Stories - The vertical distance measured from the finished ground floor level to the surface of the second floor, or, in the case of a one-story building, from the finished ground floor level to the surface of the roof. Each upper story of a structure is measured from the surface of the floor to the surface of the floor above it, or, if there is no floor above, from the surface of the floor to the surface of the roof above it.

Building Line - A line parallel to the street, establishing the closest point to the street at which a structure can be constructed and be in compliance with the setback and lot width requirements of the Zoning Regulations.

Building Length - Building length is measured as the length of the façade abutting a street. Pedestrian passages, breezeways, and similar building connections are included in the calculation of total building length.

Building Setback - The required minimum or maximum distance a building or structure must be located from a lot line, which is unoccupied and unobstructed by any portion of a building or structure, unless expressly permitted by this LDC.

Build-To Line (BTL) - A build-to line (BTL) is a set line on a lot, measured perpendicularly from the applicable lot line, where a structure must be located. The building façade line of a structure must be

located on the build-to line. Façade articulation (e.g. window or wall recesses and projections) are not counted as the building façade line, which begins at the applicable façade wall.

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

Build-To Zone (BTZ) - A build-to zone (BTZ) is the area on a lot, measured perpendicularly from the lot line, within which a structure must locate. A BTZ sets a minimum and maximum dimension within which the building façade line must be located (e.g. 0-5-ft). Façade articulation (e.g. window or wall recesses and projections) are not counted as the building façade line, which begins at the applicable façade wall.

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

Bulletin Boards - A sign used for the posting of bulletins, notices, announcements, or other messages.

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

Cemetery - Land or structures dedicated for the internment of human or animal remains.

Changeable Copy Signs - A sign whereon provision is made for letters, characters, or other copy to be placed in or upon the surface area to provide a message that is capable of being changed. Such signs may be either manually activated, whereby the letters, characters, or other sign copy are changed manually on the display surface or electronically activated, whereby the letters, characters, or sign copy are changed electronically, including time/temperature.

Channel Letter Sign - A sign with internal illumination of a translucent sign face.

Character Defining Feature - The form, material and detail of those architectural features that are important in defining the character of a building or structure and whose retention will preserve that character. Character-defining features may include, but are not limited to: facades, roofs, porches, windows, doors, trim, massing, shape, orientation and landscape features, such as fences, walls, posts and walkways.

City - The term City shall mean the City of Keene, New Hampshire; both the geographical boundaries and the duly constituted governing organization which is a municipal corporation.

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

Collector Roadway - A road whose primary purpose is to connect local roadways to arterial roadways, industrial and commercial centers or the Downtown of Keene.

Collocation - For the purposes of Article 13 "Telecommunications Overlay District," collocation shall mean mounting or installing an antenna facility on a pre-existing structure, and/or modifying a structure for the purpose of mounting or installing an antenna facility on that structure, as defined by the FCC in 47 C.F.R. § 1.6102(g) (as may be amended or superseded). Collocation does not include a "substantial modification."

Color Rendering Index (CRI) - A quantitative measure of the ability of a light source to reproduce the colors of various objects faithfully in comparison with an ideal or natural light source, as determined by the International Commission on Illumination. The best possible rendition of colors is specified by a CRI of 100, while the poorest rendition is specified by a CRI of 0.

Community Center - A facility used as a place of meeting, recreation, or social activity, which may offer a variety of educational and community service activities.

Community Garden - The noncommercial use of land for the primary purpose of cultivating fruits, flowers, vegetables, or ornamental plants by one or more natural persons, households, or organizations. Community gardens shall not include the raising of any livestock or poultry or the use of heavy machinery.

Compatible - Possessing characteristics that allow for a harmonious relationship. Compatibility does not require copying or matching of attributes, and may involve the juxtaposition of dissimilar things that nevertheless create an agreeable effect.

Compensatory Flood Storage - The replacement for any loss of existing flood storage caused by development within the floodplain.

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

Conservation Residential Development Subdivision - A type of subdivision that is intended to encourage the beneficial consolidation of land development and the preservation of open space by applying less restrictive lot dimensional requirements than the underlying zoning district in exchange for placing an undeveloped portion of land into permanent open space.

Construction Sign - A sign advertising the architect, engineer or contractors, donors or financial institution for a building or project, when such sign is placed upon the site under construction.

Contiguous - An area of land or building elevation, whose perimeter can be circumscribed without interruption in common ownership except for roads or other easements within the City.

Contributing Resource - Any building, structure, or site within the City's Historic District that contributes to the overall historic and architectural significance of the Historic District and was present during the period of historic significance but which possesses some diminishment of significance due to alterations, disturbances, or other changes to the building, structure, or site. Said diminishment of significance to the Historic District is not so substantial as to prevent the building, structure, or site from possessing historic and architectural integrity reflecting the character of that time or being capable of yielding important information about the historically significant period. Qualities of the building, structure, or site which contribute to the overall historic and architectural significance of the Historic District include but are not limited to setback, massing, height, materials, architectural features, and/or fenestration.

Corner Lot - A lot situated at the intersection of an abutting two or more streets, which have an angle of intersection of not more than 135-degrees measured at the intersection of the street lines.

Corporation Stop - A water shut-off valve that is located at the water main and is used to isolate the water service from the main.

County - The term County shall mean the County of Cheshire, New Hampshire

Covenant - A condition or conditions established by deed that bind subsequent purchasers in their use of land or property.

Cultural Facility - A facility open to the public that provides access to cultural exhibits and activities including, but not limited to, museums, cultural or historical centers, and libraries.

Curb Stop - A water shut off valve located on a water main and is used to shut off water to the service.

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

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

dBA - A unit of measure of sound intensity as measured on the A-scale, such scale being that which is audible to the human ear.

Demolition - The razing, destruction, removal, or relocation, entirely (or in significant part) of a building, structure or other resource.

Development - Unless otherwise specified in this LDC, development shall mean the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; any excavation or land disturbance; change in use; or alteration or extension of the use of land.

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

Dimension Stone - Rock that is cut, shaped, or selected for use in blocks, slabs, sheets, or other construction units of specified shapes or sizes, and used for external or interior parts of buildings, foundations, curbing, paving, flagging, bridges, revetments, or for other architectural or engineering purposes. Dimension stone includes quarry blocks from which selections of dimension stone are to be produced, but does not include "earth" as defined below.

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

Double-Sided Sign - A sign with two faces, commonly back to back, where the sign faces are separated by an angle of 30-degrees or less. In calculating the square footage of double-faced signs, only one face shall be counted.

Downtown Roadway - A road located within the City's pedestrian-oriented downtown. These streets are characterized by higher volumes of all transportation modes. Downtown Roadways serve a dual purpose of providing access to businesses, activities and amenities as well as establishing public space for social interaction and community events.

Drive-Through Sign - A sign constructed along drive-through lanes for drive-through facilities. A drive-through sign does not include parking lot, parking structure, and site circulation point signs

Driveway - The travel surface for vehicles that connects an off-street parking space(s), or a parking area of a parking lot to the street access.

Drug Treatment Clinic - A non-residential facility authorized by the state to provide treatment and licensed drugs to natural persons, including, but not limited to, methadone or suboxone, to manage and treat drug dependencies.

Dwelling - A structure, or portion thereof, designed or used exclusively for human habitation, including single-family dwellings, two-family dwellings, and multi-family dwellings. Dwellings may be either attached or detached.

Dwelling, Above Ground Floor - A dwelling unit that is located on the second story or higher of a building that is above ground.

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

Dwelling, Multi-family - A structure containing 3 or more dwelling units located on a single lot, with dwelling units either stacked or attached horizontally, which is designed, occupied, or intended for occupancy by 3 or more separate families.

Dwelling, Single-Family - A free-standing building containing only 1 dwelling unit on a single lot, which is designed, occupied, or intended for occupancy by 1 family.

Dwelling, Two-Family / Duplex - One building on a single lot containing 2 independent dwelling units, which is designed, occupied or intended for occupancy by 2 separate families.

Dwelling Unit - A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

Earth - Sand, gravel, rock, soil, or construction aggregate produced by quarrying, crushing, or any other mining activity or such other naturally occurring unconsolidated materials that normally mask the bedrock.

Earth-Disturbing Activity / Earth-Disturbing Events - Actions taken to alter the existing vegetation and/or underlying soil of a site, such as timber harvesting, clearing, grading, site preparation (e.g., excavating, cutting, and filling), soil compaction, and movement and stockpiling of top soils.

Economic Hardship - Quantifiable or verifiable expenditures or fiscal loss that is unreasonable for the property owner to bear under the circumstances. Demonstration of economic hardship shall not be based on or include any of the following circumstances: willful or negligent acts by the owner; purchase of the property for substantially more than market value; failure to perform normal maintenance and repairs; failure to diligently solicit and retain tenants; or failure to provide normal tenant improvements.

Elevation (Building) - (1) A wall of a building; (2) An architectural drawing showing vertical elements, generally exterior, of a building.

Equipment Shelter - For the purposes of Article 13 "Telecommunications Overlay District", equipment shelter shall mean an enclosed structure, cabinet, shed, vault, or box near the base of the mount within which is housed equipment for telecommunication facilities such as batteries and electrical equipment. Equipment shelters are sometimes referred to as "base transceiver structures."

Erect - To construct, reconstruct, excavate, fill, drain or conduct physical operations of any kind in preparation for or in pursuance of construction or reconstruction, or to move a building or structure upon a lot.

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

Excavation Activity/Excavation Operations/ Processing Activities - For the purposes of Article 24 - "Earth Excavation Regulations," excavation activity/excavation operations/processing activities shall mean the act of moving or removing earth, including but not limited to, all activities associated with the commercial taking of earth, production and processing of construction aggregate, transportation of earth and site restoration. Associated excavation and processing activities also include, but are not limited to: digging, drilling, blasting, bulldozing, crushing, washing, screening, sorting, scaling, weighing, stockpiling, loading, and transporting earth.

Excavation Area - For the purposes of Article 24 - "Earth Excavation Regulations," excavation area shall mean the surface area within an excavation site where excavation has occurred or is eligible to occur under the provisions of this LDC, and NH RSA 155-E. This area may be also referred to as the "pit surface area."

Excavation Perimeter - For the purposes of Article 24 - "Earth Excavation Regulations," excavation perimeter shall mean the land within an excavation site, which includes the excavation area, areas where excavation operations and processing activities are performed, stockpiling areas, and any areas where earth materials are or will be loaded or unloaded for purposes of transport.

Excavation Project - For the purposes of Article 24 - "Earth Excavation Regulations," excavation project shall mean a timeframe that includes all excavation activities to be conducted on an excavation site, including all excavation phases.

Excavation Site - For the purposes of Article 24 - "Earth Excavation Regulations," excavation site shall mean any area of contiguous land in common ownership upon which excavation takes place.

Façade - The front of a building or structure or any of its sides that faces a public right-of-way.

Fall Zone - The area within which there is a potential hazard from falling debris, such as ice, which encompasses a circle with a diameter equal to twice the height of a telecommunication facility as measured on the ground from the base of the facility.

Family - Family shall mean one of the following: 1) two or more natural persons related by blood, marriage, civil union, adoption, or foster care, living together as a single housekeeping unit with or without customary household helpers in a dwelling unit; or 2) a group of four or fewer natural persons, who are not related by blood, marriage, civil union, adoption, or foster care, living together as a single housekeeping unit in a dwelling unit. This term shall not preclude one natural person from being the sole occupant of any dwelling unit.

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

Fenestration - The arrangement of windows, exterior doors and other exterior openings on a building.

Fire Line - Any pipe, including appurtenant valves or fittings, conveying water from a water main to private fire apparatus, and conveying water at no time for other purposes except as provided under Section 98-511(e) of the City of Keene Code of Ordinances pertaining to permission for unmetered water supply or Section 98-169 of the City Code of Ordinances pertaining to taps in fire lines.

Flag - A sign made of fabric or other similar non-rigid material supported or anchored along only one edge or supported or anchored at only two corners. If any dimension of the flag is more than three times as long as any other dimension, it shall be classified and regulated as a banner regardless of how it is anchored or supported. See also banner.

Flood and Flooding - A general and temporary condition of partial or complete inundation of normally dry land areas caused by the overflow of inland waters or unusual and rapid accumulation of runoff from any source.

Flood Insurance Rate Map (FIRM) - An official map of the City, incorporated by reference as part of this LDC, upon which the Federal Emergency Management Agency has delineated both the special flood hazard areas and the risk premium zones applicable to the City.

Flood Insurance Study - An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination and determination of mudslide or flood-related erosion hazards.

Floodplain - Any land area susceptible to being inundated by water from any source (see definition of Flooding). This LDC shall only apply to those portions of the floodplain designated as special flood hazard areas in the 1983 Flood Insurance Study as amended from time to time and on the official Federal Emergency Management Agency flood insurance rate maps.

Floodproofing - Any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to land, structures or utilities.

Floodway - The channel of a river or other watercourse, and the adjacent land areas, that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

Fluorescent Sign - A sign whose color reflects not only its own color, but also converts the shorter wavelengths into radiant energy causing them to appear three to four times as bright as ordinary color. These colors do not reflect light toward its source in the intense manner that reflectorized materials do, but rather in an amount similar to white painted surfaces.

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

Fraternity/Sorority - A place of residence, with or without meals, for natural persons that are all members of or pledged to a local or national fraternity or sorority.

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

Frontage - The continuous portion of a lot fronting on a public way laid out by the City under the provisions of NH RSA 231 or its predecessor statutes, and still maintained by the City as a public way.

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

Glazing - A component of a window or wall made of glass.

Golf Course - A tract of land designed for playing a game of golf, comprised of a series of holes with tees, greens, fairways, and hazards.

Government Building - A building or structure that is owned, leased, or otherwise under the control of a governmental entity.

Government Sign - Any temporary or permanent sign erected or maintained by any federal, state, county, city, or school district, or by the university system or community college system of New Hampshire, or any of their agents, for any public purpose which is statutorily or traditionally governmental in nature. Examples of government signs include speed limit signs, city limit signs, street name signs, traffic signs, and railroad crossing signs.

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

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

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

Gross Floor Area - The sum of the total areas of the several floors of the structure, measured in horizontal dimensions, excluding areas used for accessory garage purposes and uses accessory to the operation of the building. All horizontal dimensions shall be taken from the exterior faces of walls, including walls, or other enclosures of enclosed porches, patios and breezeways. Habitable attics and basements shall be included in gross floor area.

Ground Floor Height - Ground floor height is the measurement of height for the first story of a structure, calculated as the height from the grade plane to the floor of the second story.

Group Home, Large - A facility providing living accommodations and care for up to 16 unrelated natural persons who are in need of personal care services and/or are in need of supervision. Group home may include non-medical drug and alcohol rehabilitation. A group home with 4 or fewer residents would be classified as a single-family dwelling.

Group Home, Small - A facility in a residential dwelling, providing living accommodations and care for no more than 8 unrelated natural persons who are in need of personal care services and/or are in need of supervision. Small group home may include non-medical drug and alcohol rehabilitation. A group home with 4 or fewer residents would be classified as a single-family dwelling.

Group Resource Center - An establishment designed with the primary purpose of providing access to services related to counseling, personal care, or social well-being in a group setting. It does not include in-patient, overnight services, or treatments typically conducted in a medical office.

Guyed Tower - For the purposes of Article 13 - "Telecommunications Overlay District," guyed tower shall mean a monopole or lattice tower that is secured to the ground or other surface by diagonal cables for lateral support.

Handheld Sign - A sign held by a person or persons that is not attached to, hung from, or resting upon any structure, tree or other public property and is not affixed to the ground or snow on public property.

Health Center / Gym - An establishment that provides indoor and/or outdoor activities for members related to health, physical fitness or exercise (e.g. weight training, aerobics, swimming, court sports, climbing, etc.).

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

Historic Structure or Historic Building - Any structure that is one or more of the following: (1) Listed or certified as eligible for listing in the NH State Register of Historic Places by the NH Division of Historical Resources or which has been listed or certified as eligible for listing in the National Register of Historic Places by the Keeper of the Register; (2) Designated as historic under an applicable state or local law; (3) Certified as a contributing resource within a National Register or state designated historic district or a district preliminary determined by the Secretary of the Interior to qualify as a

registered historic district; (4) Located in a locally designated historic district and is within the period of significance.

Homeless Shelter - A facility that provides temporary shelter without a required fee to natural persons who are homeless. The facility shall be managed by a public or non-profit agency with in-house supervision provided during operation.

Hospital - A medical facility where acute medical and surgical care is given to natural persons on an inpatient basis. Such facility may also have outpatient facilities and ancillary uses integral to its functions (e.g. laboratories, cafeterias, gift shops, classrooms, temporary housing for families of admitted patients, offices, etc.).

Hotel/Motel - A commercial facility that provides rooms for sleeping and customary lodging services for a fee. Related accessory services include, but are not limited to, meeting facilities, restaurants, bars, and recreational facilities for the use of guests.

Hydraulic Reach - For the purposes of Article 23 - "Floodplain Regulations," hydraulic reach shall mean a distance upstream or downstream from a proposed floodplain fill site which is in the same hydraulic section as the proposed fill. For purposes of compensatory storage, the boundaries of a hydraulic reach shall be determined on a case-by-case basis by City staff.

Illuminated Sign - A sign that is internally illuminated or externally illuminated.

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

Impervious Surface - Surfaces and/or development features that are non-porous and which substantially prevent rain or stormwater from absorbing or percolating into the ground beneath them. Impervious surfaces include, but are not limited to: roof areas, structures, patios, sidewalks, driveways, parking areas, swimming pools and other development features surfaced with non-porous materials.

Incompatible Resource - A building, structure or site within the Historic District that has no historic or architectural integrity and whose setback, massing, scale, height, materials and/or fenestration detract from the character of the district.

Industrial - Heavy - Manufacturing from processed or unprocessed raw materials, including, but not limited to, processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of such products. Heavy industrial uses typically produce noise, vibrations, illumination, or particulate that is perceptible to adjacent land users. These industrial uses typically have ancillary outdoor storage areas.

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

Informational / Directional Sign - A sign displaying information for the direction, safety, or convenience of pedestrians, motorists, or patrons of business establishments, developments, and/or shopping plazas, which does not identify or advertise any particular business establishment, development, or goods or services. This type of sign may identify the location of restrooms, telephone booths, parking area entrances or exits, parking requirements, freight entrances, and other similar information.

Interior Merchandise Display - Goods sold in a business set out for viewing by the public within said business.

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

Lattice Tower - For the purposes of Article 13 - "Telecommunications Overlay District," lattice tower shall mean a type of mount with multiple legs and structural cross-bracing between the legs that is self-supporting and freestanding.

LDC - LDC shall stand for the Land Development Code for the City of Keene, New Hampshire

Local Roadway - A road whose primary purpose is to provide access from collector roads to individual parcels. This is the most common type of road and is typically designed for low volume.

Lodginghouse - Any dwelling for between 5 and 16 unrelated natural persons, which provides separate rooms for sleeping for a fee, without personal care services and without separate cooking facilities for individual occupants. A lodginghouse may include separate living quarters for an on-site property manager. For purposes of this LDC, the term lodginghouse shall not include a hotel or motel.

LOMA and LOMR - A final letter of map amendment (LOMA) or final letter of map revision (LOMR) from FEMA, which verifies that a project has been completed in compliance with the conditions of an applicable CLOMA or CLOMR, and the City's Flood Insurance Study (FIS) and Flood Insurance Rate Map (FIRM) have been revised accordingly.

Looped - A water main that is constructed in such a way that every part of said main can be supplied with water from at least two different directions.

Lot - The whole area of a single parcel of land with ascertainable boundaries in single or joint ownership, undivided by a street, approved and established by deed(s) or record, or a segment of land ownership defined by lot boundary lines on a land subdivision plan duly approved and recorded.

Lot Area - The total area within the boundary lines of a lot, excluding any public right-of-way open to public use. Where a minimum lot area is specified in this LDC, no principal building or use shall be erected or established on any lot of lesser size, except for nonconformances allowed pursuant to Article 18.

Lot Line - The boundary that legally and geometrically demarcates a lot.

Lot Line, Front - The boundary line separating a lot from a street right-of-way or, for a corner lot, the line separating the narrower street frontage of the lot from the street right-of-way.

Lot Line, Rear - The boundary line most distant and opposite from the front lot line or, where the lot is irregular, a line parallel to the front lot line and at least 10-ft long within the lot.

Lot Line, Side - The boundary lines connecting the front and rear lot lines.

Lot Width at Building Line - The horizontal distance between side lot lines measured at the building line.

Main - A component of a distribution or collection network supplying water to or receiving sewage from two or more services.

Mansard Façade - A roof-like facade comparable to an exterior building wall.

Mansard Roof - A sloping roof having a horizontal pitch of more than 60 degrees.

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

Marquee Sign - A sign attached to or made part of a permanent roof-like structure projecting beyond a building wall at an entrance to a building or extending along and projecting beyond the building's wall.

Masonry - Work constructed by a mason using stone, brick, concrete block, cast stone, tile, or similar materials.

Mast - For the purposes of Article 13 - "Telecommunications Overlay District," mast is a thin pole that resembles a streetlight or a telephone pole. A dual-polarized antenna is typically deployed on a mast.

Mean Sea Level - The National Geodetic Vertical Datum (NGVD) of 1929 or other datum to which base flood elevations shown on the City's Flood Insurance Rate map are referenced.

Memorial Sign / Plaque - Memorial signs or tablets denoting the names of buildings and the date of erection when cut into any masonry surface or when constructed of bronze or other incombustible materials mounted on the face of a building.

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

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

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

Mixed-Use - A combination of different permitted uses located on a lot or within a building.

Monopole - For the purposes of Article 13 - "Telecommunications Overlay District," monopole is a thicker type of mount than a mast that is self-supporting with a single shaft of wood, steel or concrete, or other material, that is designed for the placement of antennas and arrays along the shaft.

Motor Vehicle Dealership - An establishment that sells or leases new or used automobiles, vans, trucks, motorcycles, recreational vehicles or other similar motorized transportation vehicles, with outdoor storage and/or display of such vehicles on-site. Motor vehicle dealerships do not include sales of commercial vehicles or heavy equipment, which are considered heavy retail establishments.

Mount - The structure or surface upon which telecommunications antennas are mounted, including the following four types of mounts: (1) Roof-mounted - Mounted on the roof of a building. (2) Side-mounted - Mounted on the side of a building. (3) Ground-mounted - Mounted on the ground. (4) Structure-mounted - Mounted on a structure other than a building.

Muntin - A thin bar, usually wood, used to hold panes of glass in place.

Natural Person - A human being as distinguished from a person (as a corporation) created by operation of law.

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

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

Nonconforming Structure - Any structure existing at the time of the enactment of the LDC or any amendments thereto, which does not conform in whole or in part to this LDC or its amendments.

Nonconforming Use - The use of any building, structure or land existing at the time of the enactment of the LDC, or any amendments thereto, which does not conform in whole or in part to this LDC or its amendments.

Noncontributing Resource - A building, structure or site within the Historic District that is either less than fifty (50) years old and thus was not constructed within the Period of Significance; or is fifty (50) or more years old and has lost its architectural, historical or cultural integrity due to major alterations or other changes and thus has lost the ability to contribute to the character of the historic district. A Non-Contributing resource may become a Primary or Contributing resource when it becomes 50 years old. It may also become a Primary or Contributing resource if its integrity is restored.

Noxious Gases - Fumes which are in sufficient quantity to be harmful to health.

Obscene Sign - Any sign that meets the definition of "harmful to minors" and/or "sexual conduct" as set forth in NH RSA 571-B:1.

Off-Premises Sign - A sign that directs attention to a development, business establishment, commodity, service, or entertainment that is conducted, sold or offered at a location other than the premises upon which the sign is located.

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

Open Space - Unless otherwise defined in this LDC, that portion of land, either landscaped or left unimproved, which is not intensively developed, and may be used to meet passive recreation or spatial needs, and/or to protect water, air, or plant resources.

Optional Corner Tower Element - A corner tower element is an accentuated vertical element located on a building corner at a street intersection that can be located within a required stepback. In no case may the corner tower element exceed the building's overall height.

Ordinary High Water Mark - The line on the shore, running parallel to the main stem of the river, established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the immediate bank, shelving, changes in the character of the soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas as defined in NH RSA 483-B:4,XI-e, as may be amended or updated.

Outdoor Storage Yard - The storage of equipment, vehicles, machinery, or materials as the principal use of land.

Owner - Any person, group of persons, or other legal entity having title to, or sufficient proprietary interest in, the use, structure, or lot in question.

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

Parapet Wall - A low wall or protective barrier that extends vertically above the roof surface of a building or other structure.

Parcel - See "lot."

Parking Lot - Unless otherwise defined in this LDC, parking lot shall mean an open area, other than the street, intended and used for the parking of motor vehicles.

Parking Lot Building Frontage - Frontage along a building wall facing a parking lot that conforms to an approved site plan and the Zoning Regulations of this LDC, with said building wall having an entry to the building that conforms to all applicable building and fire codes.

Parking Space - An area designated and used for the parking of a single motor vehicle, but not used for traffic circulation.

Passive Recreation - Nonmotorized recreational activities that typically occur in a natural setting and that do not have significant adverse impacts to natural, cultural, scientific, or agricultural values of the setting. Examples shall include, but not be limited to, walking, hiking, picnicking, nature observation, and cross-country skiing.

Parking Lot - The principal use of a lot, which excludes any public or private street, for the temporary parking or storage of operable motor vehicles, whether for compensation or at no charge.

Parking - Structured Facility - The principal use of a lot for the temporary parking or storage of operable motor vehicles, whether for compensation or at no charge, in a multi-level parking structure.

Pedestrian Passage - A passageway through the ground floor façade of a building, accessed from a public right-of-way and including stories above

the ground floor. Pedestrian passages must be a minimum of 15-ft in width and include exterior lighting treatments, landscaping, seating areas, and similar elements to ensure cohesive design and pedestrian safety and comfort. For the purposes of calculating a build-to line, build-to zone, and/or build-to percentage, a pedestrian passage is considered part of the building façade that meets such requirements.

Pedestrian Scale - Development designed so a person can comfortably walk from one location to another, which encourages strolling, window-shopping, and other pedestrian activities; provides a mix of commercial and civic; and provides visually interesting and useful details.

Perennial Stream - A stream that flows year-round in a defined channel.

Period of Significance - The span of time during which the Historic District attained its significance. For the Downtown Keene Historic District, the period of significance starts in 1785, the year the oldest extant building was constructed, and ends 50-years from present time, as events and buildings within the district continue to achieve importance. The 50-year benchmark coincides with that recognized by the National Park Service in its preservation programs.

Person - An individual, corporation, limited liability company, partnership, association, trust, or other entity or organization. See also, "natural person."

Personal Care Services - means non-medical services provided to assist natural persons with activities of daily living such as bathing, dressing, medication management, meal preparation and transportation.

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

Pervious - Being permeable; having the quality of allowing the infiltration of surface water into the soil.

Place of Worship - A facility where persons regularly assemble for religious purposes and related events.

Political Sign - A temporary sign intended to advance a political statement, cause, party, or candidate for office.

Pond - Any year round standing body of water 1-acre or more in area, as measured from the mean annual high water mark.

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

Preexisting Towers and Antennas - For the purposes of Article 13 - "Telecommunications Overlay District," this terms means any tower or antenna lawfully constructed or permitted prior to the adoption of the ordinance from which the Telecommunications Overlay District derives; also means any tower or antenna lawfully constructed in accordance with this LDC that predates an application currently before the Planning Board.

Premises - A lot or parcel of land including any building or accessory structure thereon, also "property."

Primary Elevation - The front and/or street-facing walls of a building.

Primary Frontage - Frontage along the building wall that faces a street or right-of-way that is determined to be of primary importance to the business establishment occupying the premises.

Primary Resource - A building, structure or site within the Historic District that was present during the Period of Significance and that contributes to the District's sense of time and place and historical development in a particularly distinctive manner

Principal Building or Principal Structure - A structure that is central to the fundamental uses of the property and is not accessory to the use of another structure on the same premises.

Principal Use - The main or primary use conducted on a lot or located within a building or structure, as distinguished from an accessory use.

Private Club Lodge - A facility operated by an organization or association for a common purpose including, but not limited to, a meeting hall for a fraternal or social organization. Private club / lodge does not include any organization or group that is primarily organized to render a service customarily carried on as a business.

Private School - An establishment that offers training and instruction in knowledge or physical skills, which is operated for that purpose only, and on a full-time basis. An educational facility may include, but is not limited to, facilities that offer early childhood, primary, secondary, post-secondary, and vocational education or instruction.

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

Public Infrastructure - Any infrastructure that has been formally accepted by the City Council for the use and benefit of the public at large. Infrastructure includes all stationary physical improvements used to provide services to the community, including roads, bridges, sidewalks, pipes, valves, fittings, conduits, structures facilities, pumps, motors and other appurtenant items.

Public Main - A main installed or maintained in or under any publicly-accepted city streets or highways, and includes any pipe crossing privately-owned land through a right-of-way owned or controlled by the city or by easement.

Public Nuisance - A condition or behavior that unreasonably interferes with the health, safety, peace, comfort or convenience of the general community.

Public Right-Of-Way - Land or an interest in land which by deed, conveyance, agreement, easement, dedication, usage or process of law is reserved for or dedicated to or open to the use by the general public for road or highway purposes, or other public access.

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

Radio Frequency Radiation (RFR) - The emissions from telecommunication facilities.

Reclamation - For the purposes of Article 24 - "Earth Excavation Regulations" this term shall mean restoration of an excavation site to standards at least equal to those outlined in Article 24 and 25 of this LDC, and in accordance with NH RSA 155-E.

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

Recreation / Entertainment Facility - Outdoor - A facility for spectator and participatory uses conducted outdoors or within partially enclosed structures, including, but not limited to, outdoor stadiums, fairgrounds, and batting cages.

Recreational Vehicle - A vehicle which is: built on a single chassis; 400-sf or less when measured at the largest horizontal projection; designed to be self-propelled or permanently towable by a light-duty truck; and designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

Reference Line - (1) For natural fresh water bodies without artificial impoundments, the natural mean high water level as determined by the Department of Environmental Services; (2) For artificially impounded fresh water bodies with established flowage rights,

the limit of the flowage rights; (3) For water bodies without established flowage rights, the waterline at full pond as determined by the elevation of the spillway crest; (4) For rivers, the ordinary high water mark as defined in NH RSA 483-B:4,XVII, as may be amended or updated.

Reflectorized Sign - A sign containing material that reflects light back toward its source in an intensity greater than would be reflected by a white painted surface. These materials include reflective sheeting, glass beads, or plastic reflectors.

Rehabilitation - The process of returning a property to a state of utility, through repair or alteration.

Relocation - The act of removing a building, structure, sign or other resource from its existing foundation or location to another foundation or location, including on the same site.

Removal - The act of destroying or relocating a building, structure, sign or other resource.

Renovation - Alterations and improvements by repair which enhances or modernizes the building with the basic character of the building preserved.

Repointing - Repairing mortar by raking and refilling the outer face of mortar joins.

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

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

Residential Drug/Alcohol Treatment Facility - A licensed facility that provides 24-hour in house supervision for medical and/or non-medical/ therapeutic care of natural persons seeking rehabilitation from a drug and/or alcohol addiction. Such facilities may include medical detoxification.

Restaurant - An establishment where the primary purpose is the sale and provision of food to the public for on-premises consumption by seated patrons.

Restoration - The act or process of accurately recovering the form, features and character of a building, structure, or sign and its setting as it appeared at a particular period of time.

Restrictive Sign - Signs authorized by NH RSA 635:4 for the purpose of prohibiting criminal trespass or other physical activities on said land. Examples of restrictive signs include, but are not limited to, "No Hunting" signs; "No Trespassing" signs; "No Solicitation" signs; and "No Loitering" signs.

Retail Establishment, Heavy - Retail centers of a heavier- and larger-scale commercial character that typically require permanent outdoor storage areas or partially enclosed structures. Examples of this use include, but are not limited to, large-scale home improvement centers with outdoor storage and display, lumberyards, and sales of heavy equipment. Wholesale establishments that sell to the general public, including those establishments where membership is required, are considered heavy retail establishments.

Retail Establishment, Light - An establishment that provides physical goods, products, or merchandise directly to the consumer, where such goods are typically available for immediate purchase and removal from the premises by the purchaser. A retail goods establishment does not include specialty food service.

Reverse Channel Letter Sign - A sign with box letter sign copy that has lighting behind an opaque sign face.

Road Frontage - The continuous portion of a lot fronting on a public right-of-way. The minimum frontage shall mean the smallest width, measured along the lot line that abuts a public right-of-way to which access may be permitted.

Roof Sign - A sign mounted on the main roof portion of a building or on the highest edge of a parapet wall of the building, said sign being wholly or partially supported by such building. Signs mounted on mansard facades, eaves, and architectural projections such as canopies or marquees, shall not be considered to be roof signs.

RSA - The abbreviation "RSA" shall mean the latest edition or supplement of the New Hampshire Revised Statutes Annotated.

Sandwich Board Sign - A sign with two sign faces hinged together to form a triangle when the sign is erected and placed on the ground.

Seasonal Stream - A stream that flows for sufficient time to develop and maintain a defined channel, but which might not flow during dry portions of the year or during long-term periods of drought as defined in Wt. 101.47, N.H. Code of Administrative Rules, as may be amended or updated. May also be referred to as intermittent stream.

Secondary Façade - Any building façade that is not designated as a principal façade.

Secondary frontage - Frontage along the building wall that is determined to be of secondary importance to the business establishment occupying the premises.

Security Barrier - A wall, fence, or berm that restricts an area from unauthorized entry or trespass.

Self-Storage Facility – Exterior Access - A facility for the storage of personal property, where individual renters control and access individual storage spaces, and where each storage unit has individual access from the outdoors. Outdoor storage of materials is prohibited.

Self-Storage Facility – Interior Access - A facility for the storage of personal property, excluding hazardous or flammable materials, where individual renters control and access individual storage spaces located within a fully enclosed building. Outdoor storage of materials is prohibited.

Senior Center - A facility operated by a public, nonprofit or charitable institution, which provides meeting space and organizational administration in assisting the social needs of the community's senior citizens.

Service Connection - An assembly of pipes, conduits, valves, junctions and other appurtenant equipment whose purpose is to provide an individual customer access to a public utility.

Setback - The distance between any property line and the nearest point to which any building or structure can be erected. Measurement shall be to the outermost vertical plane nearest the property line.

Setback, Front - The required minimum or maximum distance that a building or structure must be located from the front lot line.

Setback, Rear - The required minimum or maximum distance that a building or structure must be located from the rear lot line.

Sexually Oriented Business - As defined in Section 8.3.2.AH of this LDC.

Side Setback - The required minimum or maximum distance that a building or structure must be located from the side lot line. A side setback may be measured perpendicular to the interior side setback or to the corner side lot line.

Sewer Service - That portion of any pipe from the sewer main through which sewage may be conveyed to the public system from any building, together with all valves, fittings and access boxes thereon.

Shade Tree - A tree, usually deciduous, planted primarily for overhead canopy.

Shared Parking - On-site or off-site parking lots that can be used to meet the minimum parking requirements of two or more defined land uses at separate times of day.

Shut-off Valve - See "Curb Stop"

Sign - Any identification, description, illustration, or device illuminated or not illuminated which is visible to the general public and directs attention to a product, service, place, activity, institution, business or solicitation, including any permanently installed or situated merchandise; or any emblem, painting, flag, banner, balloon, pennant, or placard designed to advertise, identify or convey information.

Sign Cabinet - A cabinet constructed to accept a slide-in sign face.

Sign Copy - Any character, letter, logo, symbol, or any other combination thereof, that creates a message of any sort.

Sign Face - The surface of a sign upon, against, or through which the sign copy or message is displayed or illustrated.

Slough - Wetland channels or a series of shallow lakes. Water in a slough is stagnant or may flow slowly on a seasonal basis.

Snipe Sign - Any sign, generally of a temporary nature, made of any material, that is tacked, nailed, posted, pasted, glued or otherwise attached to trees, poles, stakes, fences, or other objects not erected, owned, and maintained by the owner of the sign.

Solar Energy System - An energy system that consists of one or more devices and/or structural design features, and other associated infrastructure, which provides for the collection of solar energy for electricity generation, consumption, storage, or transmission, or for thermal applications.

Solar Energy System (Small-Scale) - A solar energy system and associated mounting hardware that is either affixed to or placed upon the ground, and occupies 2,000-sf of solar footprint or less.

Solar Energy System (Medium-Scale) - A solar energy system and associated mounting hardware that is either affixed to or placed upon the ground, and occupies greater than 2,000-sf and less than 1-acre of solar footprint.

Solar Energy System (Large-Scale) - A solar energy system and associated mounting hardware that is either affixed to or placed upon the ground, and occupies 1-acre or more of solar footprint.

Solar Footprint - The footprint of a ground-mounted solar energy system that is calculated by drawing a perimeter around the outermost panels of the system and any equipment necessary for the functioning of the solar energy system, such as transformers and inverters. The footprint does not include any visual buffer or perimeter fencing. Transmission lines (or portions thereof) required to connect the system to a utility or consumer outside the system's perimeter shall not be included in calculating the footprint.

Solar Land Coverage - The land area that encompasses all components of the solar energy system including but not limited to mounting equipment, panels and ancillary components of the system. This definition does not include access aisles/ roads or fencing and is not to be interpreted as a measurement of impervious surface as it may be defined in this LDC.

Special Flood Hazard Area - The land in the floodplain within the City subject to a 1% or greater chance of flooding in any given year. The area is designated as zone A and AE on the flood insurance rate map.

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

State - The terms "the state" and "this state" shall be construed to mean the State of New Hampshire.

Stepback - A stepback is the required additional distance that upper stories of a structure must be recessed from the façade of the stories below. A

required stepback must continue through all upper stories once established, though it may be increased from any required minimums on any stories.

Story - That portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above. Attics, habitable attics, and basements are not counted as stories.

Story Above Grade - Any story having its finished floor surface entirely above grade, except that a basement shall be considered as a story above grade when the finished surface of the floor above the basement is: (1) More than 6-ft above grade plane; (2) More than 6-ft above the finished ground level for more than 50% of the total building perimeter; or (3) More than 12-ft above the finished ground level at any point.

Street Access - That portion of a parcel designated for access to the public way and lying between the edge of the traveled way and the parcel boundary.

Structure - Anything constructed or erected which requires location on or in the ground, or attached to something having location on or in the ground, including signs, billboards, fences and swimming pools.

Substantial Damage - Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the assessed value of the structure before the damage occurred.

Substantial Improvement - For the purposes of Article 23 - "Floodplain Regulations," substantial improvement shall mean any combination of repairs, reconstruction, alteration, or improvements to a structure in the Special Flood Hazard Area taking place over a 5-year period, in which the cumulative cost equals or exceeds 50% of the market value of the structure before the improvement or repair started. Substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. This term includes structures which have incurred substantial damage, regardless of actual repair work performed. The term does not, however, include any project for improvement of a structure required to comply with existing health, sanitary or safety code specifications that are solely necessary to ensure safe living conditions, or any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a "historic structure."

Surface Waters - Shall include surface waters of the state pursuant to NH RSA 485-A:2,XIV including perennial and seasonal streams, lakes, ponds, and tidal waters within the jurisdiction of the state, all streams, lakes, or ponds bordering on the state, marshes, water courses, and other bodies of water, natural or artificial; and all wetlands as defined in NH RSA 482-A:2,X and NH Code of Administrative Rules Env-wt 100-900 including bogs, ephemeral stream, intermittent streams, marshes, surface water bodies, swamp, wetlands, and wet meadows; and all vernal pools, fens, sloughs, and wetlands complexes.

Telecommunication Facilities - Any structure, antenna, tower, or other device, which provides commercial mobile wireless services, unlicensed wireless services, cellular telephone services, specialized mobile radio communications (SMR), and personal communications service (PCS), and common carrier wireless exchange access services or other similar services. It does not include any structure erected solely for a residential, noncommercial individual use (e.g. television antennas, satellite dishes, amateur radio antennas).

Temporary Event Sign - A sign erected, constructed, relocated, or maintained on private property by a nonprofit business establishment for the purpose of announcing events of benefit to the organization and the community.

Temporary Sign - A sign intended to display either commercial or noncommercial messages of a transitory or temporary nature. Temporary signs include portable signs or any other signs that are not permanently imbedded in the ground or affixed to a building or other structure permanently embedded in the ground.

Temporary Street Access - A street access created for a discrete event or activity and will be in place for a period exceeding 7-days but less than 6-months.

Tenancy Frontage - A line parallel or facing the parking lot building frontage, primary frontage, or secondary frontage, and defined by an extension of the tenant separation walls.

Tenant or Occupant - Any person holding a written or oral lease or who occupies the whole or a part of such building or land, either alone or with others.

Tower - For the purposes of Article 13 "Telecommunications Overlay District" tower is any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, and alternative tower structures.

Tract - A lot, parcel, site, piece of land, or property, which is the subject of a development proposal and application.

Traffic Control Devices - All signs, signals, markings and systems placed on or adjacent to public roadways by authority of a public body or official having jurisdiction to regulate, warn or guide traffic.

Traffic Sign - A sign installed by the city or state government for the purpose of naming streets, providing traffic information, and other similar governmental purposes.

Transparency - Transparency is the required amount of window area as a percentage of the specified façade area. Doors are included in ground floor transparency when such doors are designed with glass or other transparent materials. To qualify as transparent for the calculation, the glazing must meet the following standards.

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

Use - The purpose for which land or a building is arranged, designed or intended, or for which either land or a building is or may be occupied or maintained.

Vehicle Fueling Station - A commercial establishment primarily engaged in the retail sales of vehicle fuels, traditional and alternative fuel types (e.g. electric-charging stations, ethanol, natural gas, propane, solar, etc.), lubricants, parts, and accessories. This use may include retail establishments (e.g. convenience stores). This use does not include stand-alone, alternative-fuel charging units for vehicles, which are permitted as an accessory use in all districts.

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

Vehicle Repair Facility - Major - A facility that offers major vehicle repairs and services including, but not limited to, engine rebuilding; reconditioning of worn or damaged motor vehicles or trailers; towing and collision service; bodywork, welding, and painting; and, repair to commercial vehicles or heavy equipment. A major vehicle repair facility may also include minor vehicle repair services.

Vehicle Repair Facility - Minor - A facility that offers minor repairs and services to passenger vehicles, light and medium trucks, and other consumer motor vehicles (e.g. motorcycles). Minor vehicle services or

repairs may include, but are not limited to: lubrication services; minor scratch and repair; glass repair or replacement; replacement of systems for cooling, electrical, fuel and exhaust; brake adjustments; tire replacements; and, wheel servicing, alignment, and balancing. Minor repair work does not include replacement of engines or transmissions, or major body work.

Vehicle Trip - Vehicle trip means a single or one-way vehicle movement to or from a property or study area. "Vehicle Trips" may be added together to calculate the total number of vehicles expected to enter and leave a specific land use or site over a designated period of time.

Vernal Pool - A seasonal or intermittent pool of water providing essential breeding habitat for certain amphibians and invertebrates and that does not support fish. Vernal pool status can be confirmed by but not limited to evidence of breeding by at least one vernal pool indicator species such as wood frogs, spotted salamanders, blue spotted/Jefferson salamanders, and/or the presence of fairy shrimp. Evidence of breeding includes calling wood frogs, salamander spermatophores, egg masses, and/or larvae of wood frogs or salamanders. (Identification and Documentation of Vernal Pools in New Hampshire , NH Fish & Game Department, 2004) as may be amended or updated.

Vertical Sign - A sign vertically positioned.

Visible Light Transmittance (VSL) - The percent of total visible light that is transmitted through a glazing system. The lower the number, the less visible light transmitted.

Wall-Mounted Sign or Wall Sign - A sign attached or affixed to an exterior wall of a building or structure that projects 18-in or less from the exterior wall. Such sign may also be attached or affixed to architectural projections, provided that the copy area of such sign remains on a parallel plane to the face of the building facade or to the face(s) of the architectural projection.

Warehouse and Distribution - An enclosed facility for the storage and distribution of manufactured products, supplies, or equipment.

Waste storage container - Any container or can including a bulk container that is used as a central collection point for the temporary storage of waste.

Water Service - Any pipe or hose from the water main or corporation stop to a point 18-in beyond the meter, the measurement taken along the pipe, or, if there is no meter, to include each and every orifice and valve and all connecting pipe through which water may be discharged. Fire lines and fire hydrants are expressly excluded from this definition.

Water Surface Elevation - The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, or other datum, of floods of various magnitudes and frequencies in the floodplains.

Wellhead Protection Area - Is as defined in NH RSA 485-C:2.

Wetland Complex - A series of small wetland areas that are hydrologically connected by a common water table.

Wholesale - A business where goods are sold to either retailers, or to industrial, commercial, institutional, or other professional business users, or to other wholesalers and related services.

Window Sash - The framework into which window panes are set. For windows that open, this is the moveable portion.

Window Sign - A parallel sign that is affixed to or applied upon a window, advertising a business establishment, product, or service.

Written or In Writing - The terms "written" and "in writing" shall be construed to include any representation of words, letters or figures, whether by printing or otherwise.

Year - The term year shall mean calendar year, except where otherwise provided.