



CITY OF KEENE, NH LAND DEVELOPMENT CODE *PRELIMINARY DRAFT*

CHANGE SUMMARY

Overview of major changes proposed to Keene's land use regulations in the preliminary draft Land Development Code.



JULY 2020

BACKGROUND

Purpose

This draft Land Development Code (LDC) is a major component of the Building Better Together project (keenebuildingbetter.com), which aims to provide a simpler and more intuitive roadmap for development to occur in the City of Keene. Guided by the principles below, the draft LDC is a reorganization and consolidation of the City's regulations related to the use and development of land.



SIMPLE.

Updated regulations will be easy to navigate and will include graphics to outline a clear process, from start to finish.



EFFICIENT.

The updated structure will be more streamlined, making the review and approval process clearer and easier to administer.



THOUGHTFUL.

This update will help guide us into the future, while protecting the crucial elements that make Keene a great place to live, work and play.

What's Included?

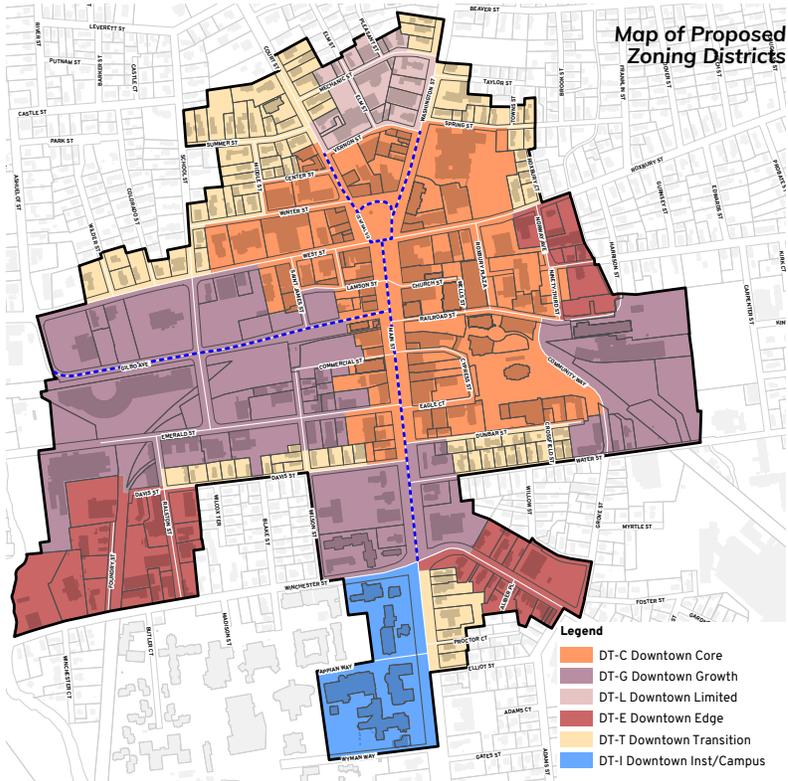
The regulations that are incorporated into this draft LDC include:

- Planning Board Site Plan & Subdivision Regulations
- Planning Board Development Standards
- Downtown Historic District Regulations
- Chapter 102 (Zoning), Chapter 54 (Natural Resources) & Chapter 70 (Public Improvement Standards) of the City Code of Ordinances

Downtown Zoning Update

In addition to a reorganization of regulations, this draft LDC proposes to update/modernize Keene's downtown zoning by replacing the Central Business and Central Business Limited Zoning Districts with 6 new downtown zoning districts (See Map to Right).

These districts were established to encourage new development that is either compatible with the existing form and pattern of the built environment, or is guiding development in a manner consistent with the objectives of the Comprehensive Master Plan and other established community goals.



REVIEW OF MAJOR CHANGES

This Summary Document provides a high-level overview of the changes proposed in each Article of this preliminary draft LDC. More information is available at: www.keenebuildingbetter.com.

For specific questions regarding your property or proposed changes, please reach out to Tara Kessler, Senior Planner, at tkessler@ci.keene.nh.us.

Article 1. Introductory Provisions

- This Article establishes the title, purpose, applicability, rules of interpretation and measurement for the entire LDC.
- Unlike the current zoning regulations, this section provides guidance for how to measure or interpret dimensional standards and terms (e.g. setbacks, area, lot coverage, height, etc.). The final draft of the LDC will include graphics to illustrate these measurements in a visual format.
- There are new terms included in the measurements section related to the proposed Downtown Zoning Districts (e.g. *Built-to Zone*, *Build-to Percentage*, *Transparency*, *Stepback*, *Optional Corner Tower Element*).

Article 2. Establishment of Zoning Regulations & Map

- This Article identifies the City's 24 zoning districts, that serve as the City's "underlying" or "base" zoning districts, as well as the City's official zoning map. Eighteen of these districts are existing, and six are newly proposed for areas of the downtown.
- This Article also lists the City's Overlay Zoning Districts, which are listed in Table 2-2.
- Table 2-1 of this Article groups these zoning districts into 5 categories (*Residential*, *Downtown*, *Commercial*, *Industrial*, *Special Purpose*) for simplicity. The current zoning regulations make reference to some of these categories; however, they are never defined. This table, is an effort to provide greater clarity as to which districts are "residential zoning districts," and so on.

- The current zoning regulations reference 2 zoning districts that do not exist on the official zoning map (*Conservation Residential Development and Industrial Park Limited*). These districts are not included in this draft LDC.
- There are 6 proposed downtown zoning districts (*Downtown Core*, *Downtown Growth*, *Downtown Limited*, *Downtown Edge*, *Downtown Transition*, *Downtown Institutional Campus*), which are described in Article 4. The Central Business and Central Business Limited Districts, are proposed to be replaced by some of these downtown districts, and are not included in this draft LDC.
- The 5 Overlay Districts that are included in Table 2-2 are existing; however, this draft LDC proposes to remove the existing Gilbo Ave Design Overlay District and the Downtown Railroad Property Redevelopment District, and to modify the SEED Overlay District. These two overlay districts are outdated and have not been recently applied. The proposed changes to the downtown zoning districts incorporate many of the previously established goals of these overlay districts.

Article 3. Residential Zoning Districts

- This Article provides the purpose, dimensional standards, and permitted uses for each of the residential zoning districts (*Rural*, *Residential Preservation*, *Low Density-1*, *Low Density*, *Medium Density*, *High Density*, *High Density-1*).
- Unlike the current Zoning Regulations, all of the zoning district specific information for each district is included in one place in this draft LDC. This statement applies to Articles 4 – 7 as well.

Article 4. Downtown Zoning Districts

- This Article describes the 6 proposed zoning districts that are specific to the downtown area. The proposed purpose, permitted uses, and dimensional standards of each district are included.

- These districts were developed following an analysis of the existing site conditions and development pattern of the downtown.

Article 5. Commercial Zoning Districts

- This Article provides the purpose, dimensional standards, and permitted uses for each of the commercial zoning districts (*Commerce, Commerce Limited, Business Growth & Reuse, Neighborhood Business, Office*).

Article 6. Industrial Zoning Districts

- This Article provides the purpose, dimensional standards, and permitted uses for each of the industrial zoning districts (*Corporate Park, Industrial, Industrial Limited*).

Article 7. Special Purpose Zoning Districts

- This Article provides the purpose, dimensional standards, and permitted uses for each of the special purpose zoning districts (*Regional Health Care, Conservation, Agriculture*).

Article 8. Permitted Uses

- This Article includes Table 8-1, which lists all of the permitted principal uses by zoning district. It is a quick reference guide for anyone seeking to identify where certain uses are allowed in the City. Currently, permitted uses are included in the district sections of the Zoning Regulations. There is inconsistency among the terms for uses in these sections, and this draft LDC attempts to correct this problem.
- This draft LDC proposes to allow for multiple principal uses on any lot in the City (*i.e. mixed uses*), with the exception of lots in residential zoning districts, as long as each use is permitted in the zoning district per Table 8-1.
- This draft LDC provides criteria for the Zoning Administrator to use in making a determination of whether a use, which is not listed in Table 8-1, would be permitted in a zoning district. Although the Zoning Administrator makes similar determinations today, there are no criteria in the current Zoning Regulations for making such decisions.

- Section 8.3 lists the definitions of all permitted uses in Table 8-1, and includes any use limitations associated with a permitted use. An example of a use limitation is the requirement that any multifamily dwelling in the Medium Density District be limited to 3 units.
- This draft LDC proposes the introduction of new uses (*e.g. art gallery, cultural facility, event venue, bar, solar energy system, etc.*), and the replacement of certain uses (*e.g. assembling, historic site, institutional use*) with broader terms (*e.g. "industrial, heavy" instead of "rendering plant", "asphalt plant", "tannery", etc.*) or, in some instances, with more specific terms (*e.g. replacing "institutional use" with "community center", "cultural facility", "place of worship", etc.*).
- This draft LDC proposes minor modifications to the permitted uses in districts.
- Significant changes to uses proposed in this draft LDC are the introduction of congregate living and social service uses (*listed in Table 8-1 and defined in Section 8.3.4*) and the introduction of small, medium, and large scale solar energy systems as permitted uses. Many of the proposed congregate living and social service uses and solar energy system uses would be permitted in certain districts by a Conditional Use Permit (CUP) issued by the Planning Board. Articles 16 and 17 address the CUP criteria for these proposed uses.
- Section 8.4 includes guidance for the allowance of accessory uses on lots in the City. Currently, the Zoning Regulations state that accessory uses are permitted in all zoning districts but may not exceed 25% of the total ground floor area of the main structure. This draft LDC removes this limit, and replaces it with criteria that address the nature of the accessory use or structure and its relationship with the primary use or building.

Article 9. Parking & Driveways

- This Article consolidates the requirements related to on-site parking spaces, lots, and areas, including driveways, into one section. Today, parking requirements span numerous regulations and sections of City Code.
- Table 9-1 in this draft LDC provides a ratio of the minimum number of parking spaces on a site (off-street) required for each permitted use included in the draft. The current Zoning Regulations include minimum parking requirements that are outdated and do not align consistently with the permitted uses.
- The minimum requirements proposed in Table 9-1 were developed with consideration for local land uses and parking demand; however, national standards such as the ITE Parking Generation Manual were also consulted.
- Currently, no on-site parking is required in the Central Business District. As this draft LDC proposes to replace the Central Business District with new downtown districts, staff worked with a traffic planning consultant to evaluate the potential land use impacts for either expanding or reducing the geographic areas where this exemption from having to provide on-site parking is allowed. Based on the consultant's recommendations, this draft proposes to allow for the exemption from requiring on-site parking in the Downtown Core, Downtown Growth, and Downtown Limited Districts. This proposal would be an expansion of the area served by public parking from the present Central Business District. However, residential uses would be required to provide 1 parking space on-site for every dwelling unit.
- As the lots and uses of land in the City can vary significantly, and goals of the Comprehensive Master Plan are to promote alternative modes of transport and infill development, this draft LDC proposes the option for a reduction in the minimum on-site parking requirements. Following the criteria established in Section 9.2.7, a reduction of up to 10% of these

minimum parking requirements may be requested from the Zoning Administrator, and a reduction of up to 50% may be requested from the Zoning Board of Adjustment.

- This draft LDC proposes to increase the distance allowed for remote/off-site parking from 300-ft to 1,000-ft.
- This Article proposes general design standards for parking lots in the City, as well as specific location and screening requirements for parking located on lots in the downtown zoning districts in Section 9.4.1.D. The proposed parking lot screening requirements in Section 9.4.3 is a revision of the existing standards, which are included in both the Zoning Regulations and in the Planning Board Regulations.

Article 10. Sign Regulations

- This Article reorganizes and reformats the sign regulations, which are in the Zoning Regulations, to be easier to understand and to be compliant with federal law. Graphics will be included in a future draft to display sign measurements and the various sign types.
- Prior to this draft LDC, minor changes were made recently to these regulations to address compliance with *Reed v. Gilbert*, a US Supreme Court case which required sign regulations be "content neutral."
- This draft addresses sign regulations for the proposed downtown zoning districts.

Article 11. Surface Water Protection Overlay District

- This existing overlay zoning district establishes a surface water protection buffer that places limitations on the types of activities that would be permitted within either 30-ft or 75-ft of a surface water (including wetlands, rivers, lakes, vernal pools, etc) depending on the zoning district. Certain activities would require approval in the form of a Conditional Use Permit from the Planning Board.

- This draft LDC allows the Planning Board to grant a reduction of the surface water buffer width from either 75-ft to 30-ft or 30-ft to 10-ft.
- This draft LDC includes recommendations made by the Conservation Commission in 2016 regarding the inclusion of tax ditches in the list of water bodies to which this Overlay District applies. Tax Ditches were constructed in the 1950s as a system of drainage channels designed to increase the amount of agricultural land and to protect it. They have continued to be maintained by the City to protect property from the potential impacts of flooding. Another recommendation of the Conservation Commission was to allow for “vegetative maintenance of the buffer,” which would permit activities such as mowing in the surface water protection buffer without permission from the Planning Board.
- This draft LDC proposes to remove the requirement that surface waters be deducted from the calculation of minimum lot size.

Article 12. Hillside Protection Overlay District

- Sections of the existing Hillside Protection Overlay District were reorganized in this draft LDC, and graphics will be included in this Article.
- This draft LDC proposes to remove the requirement that all prohibitive slopes and 50% of precautionary slopes be deducted from calculating minimum lot size.

Article 13. Earth Excavation Overlay District

- Sections of the existing Earth Excavation Overlay District were reorganized in this draft LDC, and minor updates were made to ensure consistency with NH RSA 155-E.
- Article 25 of this draft LDC establishes criteria that the Planning Board would apply in reviewing and deciding on applications for an earth excavation permit. Currently, these regulations are not included in City Code.

Article 14. Telecommunications Overlay

District

- This Article includes updated language and standards for the Telecommunications Overlay District. The edits made to this section were intended to make these standards consistent with NH RSA 12-K and current federal regulations.

Article 15. SEED Overlay District

- This Article is a placeholder for the potential inclusion of the existing Sustainable Energy Efficient Design (SEED) Overlay District, which will need to be modified to address the proposed downtown zoning districts.

Article 16. Congregate Living & Social Service Conditional Use Permit

- This Article proposes standards for the Planning Board in its review of conditional use permits for certain congregate living and social service uses, including domestic violence shelter, residential care facility, drug treatment clinic, lodginghouse, group home, fraternity/sorority, residential drug/alcohol treatment facility, homeless shelter, and group resource center.

Article 17. Solar Energy System Conditional Use Permit

- This Article proposes standards for the Planning Board in its review of conditional use permits for large- and medium-scale, ground-mounted solar energy systems.
- Small-scale solar energy systems, which occupy 2,000 sf of land area or less, would be allowed as a primary or accessory use in all zoning districts, and would not require a conditional use permit.
- Roof-mounted solar energy systems would be allowed as an accessory use in all zoning districts, without a conditional use permit, subject to certain conditions, which are listed in Section 8.4.2.F.

Article 18. Anti-Nuisance Standards

- Currently, this section is referred to as Site Impact Standards in the Zoning Regulations. This draft LDC renames these standards “Anti-Nuisance Standards.”
- This draft LDC proposes to change the noise limits from 70 dBA at the property line to the limits listed in Table 18-1 of this Article. This table proposes daytime and nighttime limits, as well as varying limits for residential zoning districts and all other zoning districts.

Article 19. Non-Conformities

- This Article addresses the rules for expanding or enlarging a legally nonconforming use or structure, or changing a nonconforming use to another use. This draft LDC proposes minor modifications to the existing language in the Zoning Regulations for nonconformities, and includes standards for addressing nonconforming lots.

Article 20. Subdivision Regulations

- Currently, all subdivisions need to comply with the Planning Board’s Development Standards and there are not specific standards for subdivision review. This draft LDC includes standards for subdivisions specifically.
- The regulations related to Conservation Residential Development subdivisions are consolidated in this Article, and were updated to include a more streamlined application/ review process, to provide more flexible dimensional requirements, and to increase the density allowed in these types of subdivisions. Currently, regulations for this type of subdivision are in the Zoning Ordinance and in the Planning Board Site Plan and Subdivision Regulations.
- Staff are working on further edits to this chapter to ensure this section is aligned with NH RSA 674:21,VI(a) "Village Plan Alternative."

Article 21. Site Development Standards

- This draft LDC removes development standards that are addressed by other regulations (e.g. *Floodplains*) or are typically enforced by state agencies (e.g. *air quality*).
- Some development standards are consolidated in this draft as they address similar site impacts (e.g. *surface water and wetlands, and traffic and comprehensive access management*).
- This draft LDC proposes to edit the noise standard to reflect the sound limits addressed in Article 18.
- More specific screening and architectural / visual appearance standards are included in this draft LDC.
- This draft LDC proposes changes to the light level limits in the lighting standards, including a propose to increase the Uniformity Ratio to 5:1 from 4:1.

Article 22. Historic District Regulations

- This draft LDC proposes to exempt buildings (*new development or redevelopment of existing buildings*) younger than 50-years from being subject to this Article. All new development, which is not single- or two-family dwellings, would be subject to the Site Development Standards and site plan review procedures in this draft LDC. Currently, all structures and buildings in the Downtown Historic District are subject to the regulations in this Article.

Article 23. Street & Access Standards

- This Article is currently in the City Code of Ordinances as Chapter 70 – Public Improvement Standards.

Article 24. Floodplain Regulations

- This Article is currently in the City Code of Ordinances as Chapter 54 – Natural Resources.
- This draft LDC proposes to remove outdated references to the Ash Swamp Brook flood area, which was removed from the FEMA map in 2006.

- This draft LDC proposes to remove the 3-ft lower elevation limitation on compensatory storage, which allows for greater options in where compensatory storage may be located.
- A 5-year time period is included in the definition of Substantial Improvement in this draft LDC, where the current regulations do not specify a period of time.

Article 25. Application Procedures

- This Article includes an overview of the roles and responsibilities of the review and decision making authorities included in this draft LDC; outlines common application submittal and review procedures; and provides a description of the specific application, review, and filing procedures for the various types of zoning, planning, historic district, and permit decision processes.
- This draft LDC proposes the creation of a Site Review Committee, as allowed by NH RSA 674:43,III, to review minor site plan review applications. With this proposal is a revision to the thresholds for the types of development that would require either Planning Board (Major Projects), Site Review Committee (Minor Projects) or Administrative Review.

Article 26. Appeals

- This Article addresses the appeal process for the various decisions of board, committees, and/or administrators with respect to the standards, regulations and processes in the LDC.

Article 27. Enforcement

- This Article includes language related to the authority of the Building and Health Official to enforce the standards in the LDC.

Article 28. Definitions

- This section is still under development; however, all of the permitted uses are currently defined in Article 8 and terms that correspond to a measurement or dimensional standards are included in Section 1.3.