



## **Joint Committee of the Planning Board and Planning, Licenses & Development Committee**

### **AGENDA**

Monday, April 8, 2024

6:30 PM

City Hall, 2<sup>nd</sup> Floor Council Chambers

1. **Roll Call**
2. **Approval of Meeting Minutes** – March 11, 2024
3. **Continued Public Workshop**
  - a. **Ordinance – O-2023-16A** – Relating to permitted uses in the Downtown Core, Downtown Growth, and Commerce Districts. Petitioner, City of Keene Community Development Department, proposes to amend Section 8.3.2 of Article 8 of the Land Development Code (LDC) to add a definition for “Charitable Gaming Facility” and amend Table 8-1, Table 4-1, and Table 5.1.5 to display “Charitable Gaming Facility” as a permitted use in the Downtown Growth District and Commerce District. In addition, the petitioner proposes to amend Section 8.4.2.C.2.a of Article 8 of the LDC to remove drive-through uses as a permitted use by Special Exception in the Downtown Core District.
4. **New Business**
5. **Next Meeting** – Monday, May 13, 2024
6. **Adjourn**

1 City of Keene  
2 New Hampshire

3  
4  
5 JOINT PLANNING BOARD/  
6 PLANNING, LICENSES AND DEVELOPMENT COMMITTEE  
7 MEETING MINUTES  
8

Monday, March 11, 2024

6:30 PM

Council Chambers,  
City Hall

Planning Board

Members Present:

Harold Farrington, Chair  
Roberta Mastrogiovanni, Vice Chair  
Mayor Jay V. Kahn  
Councilor Michael Remy  
Sarah Vezzani  
Armando Rangel  
Ryan Clancy  
Kenneth Kost  
Michael Hoefler, Alternate  
Randyn Markelon, Alternate

Planning, Licenses &

Development Committee

Members Present:

Kate M. Bosley, Chair  
Philip M. Jones, Vice Chair  
Raleigh C. Ormerod  
Robert C. Williams  
Edward J. Haas

Planning, Licenses &

Development Committee

Members Not Present:

Staff Present:

Jesse Rounds, AICP, Community  
Development Director  
Evan J. Clements, AICP, Planner

Planning Board

Members Not Present:

Gail Somers, Alternate  
Tammy Adams, Alternate

9  
10 **I) Roll Call**

11  
12 Chair called the meeting to order at 6:30 PM and a roll call was taken.

13  
14 **II) Approval of Meeting Minutes – January 8, 2024**

15  
16 A motion was made by Councilor Jones that the Joint Committee approve the January 8, 2024  
17 meeting minutes. The motion was approved by Councilor Ormerod and was unanimously  
18 approved.

19  
20 **III) Public Workshops**

- 21  
22 a) **Ordinance – O-2023-16A** – Relating to permitted uses in the Downtown Core,  
23 Downtown Growth, and Commerce Districts. Petitioner, City of Keene Community  
24 Development Department, proposes to amend Section 8.3.2 of Article 8 of the Land  
25 Development Code (LDC) to add a definition for “Charitable Gaming Facility” and  
26 amend Table 8-1, Table 4-1, and Table 5.1.5 to display “Charitable Gaming

27           **Facility” as a permitted use in the Downtown Growth District and Commerce**  
28           **District. In addition, the petitioner proposes to amend Section 8.4.2.C.2.a of Article**  
29           **8 of the LDC to remove drive-through uses as a permitted use by Special Exception**  
30           **in the Downtown Core District.**  
31

32           Community Development Director Jesse Rounds addressed the committee first. Mr. Rounds  
33           referred to language staff had proposed for Charitable Gaming Facilities when they came before  
34           the committee the last time. The Council felt more needed to be done on this item and hence the  
35           reason it is back before Joint Committee tonight. Staff, however, does not feel there is a reason to  
36           change the drive thru question but are open to discussion on that item as well. He went on to say  
37           at the time this item was proposed staff had suggested that this use only be confined to  
38           Downtown Growth and Commerce. The reason for that is Keene already had a casino in  
39           Downtown Growth and has had a casino in Commerce in the past.  
40

41           Councilor Bosley stated there was a public hearing held on this item and Council also had the  
42           opportunity to talk to the lottery commission. She noted there are many licenses involved with  
43           this use and many are co-dependent on each other. Some have moratorium placed on them by the  
44           state. The Councilor noted the licenses offer different opportunities for these uses to be profitable  
45           or not and the experience dictate that these facilities never get smaller. Council was very focused  
46           on new potential licensees but what they became aware of is that the City already has a licensee  
47           who is operating in the community. Councilor Bosley stated she did not feel there was too much  
48           attention given to where a 20,000 square foot gaming facility would operate in Keene. She noted  
49           that if another license is never issued by the state there is already a facility in Keene who have  
50           expressed an interest in growing. The Councilor stated the direction she would like the Planning  
51           Board and staff to consider is what the best zoning for a larger facility such as this as well as the  
52           use standards tied to a use such as this.  
53

54           Mr. Clancy asked why the Downtown Growth (eastern portion) was allowed in seek an  
55           exemption, even though it abuts neighborhoods to locate this type of use. Mr. Rounds stated the  
56           idea is because the existing casino is located in Downtown Growth, he felt it would be bad policy  
57           to make it a non-conforming use from day one. Downtown Growth is also for growing uses,  
58           larger uses and this is going to be a growing use.

59           Mayor Kahn clarified an existing use in Downtown Growth will be grandfathered. Mr. Rounds  
60           agreed and the City’s regulations allows it to grow as well. The Mayor felt the area the  
61           committee could come to some agreement is the commercial zone which has compatible features  
62           that can go along with this use.  
63

64           Councilor Ormerod stated he was amenable to that suggestion because the Downtown Growth  
65           could incorporate many different uses which are more consistent with the Downtown Growth  
66           area. He felt charitable gaming facility that expands to fill its space may not be for many within  
67           their vision. He left space should be reserved for things that might be within the master plan.

68           Mr. Kost stated the last time this item was discussed the definition of Downtown Growth was  
69           referred to – “...*new construction and infill that complement the walkable urban form of Keene’s*  
70           *downtown* - the intent of it is to be the next downtown. The commercial area has a lot of empty  
71           storefronts, many parking lots that could be built on, there is plenty of room for this type of use.  
72           Mr. Kost felt Downtown Growth has huge potential for much higher uses for the City.

73  
74  
75  
76  
77  
78  
79  
80  
81  
82  
83  
84  
85  
86  
87  
88  
89  
90  
91  
92  
93  
94  
95  
96  
97  
98  
99  
100  
101  
102  
103  
104  
105  
106  
107  
108  
109  
110  
111  
112  
113  
114  
115  
116  
117

Councilor Haas noted there is also the overlap of the Historic District into Downtown Growth which could further complicate things.

Councilor Williams stated he is in agreement with everything that has been said and his concern about locating this use in Downtown Growth is because of the conflict with residential uses; no one wants to live next to a casino nor is it good for neighborhood to be in walk distance to a casino which is a good way to create poverty and would have concerns about locating one of these uses in east Keene. He felt along Route 101 or the Target shopping complex might be a better location but would not like to see it in the Downtown Growth District.

Councilor Bosley stated she too is not comfortable with locating this use in the Downtown Growth district and hearing Mr. Clancy's testimony and having the maps indicate this area abuts residential neighborhoods. The Councilor referred to the area on Optical Avenue in the industrial zone and asked whether there was anything that would prohibit this use from locating in that area. Mr. Rounds stated industrial park is one of the city's limited areas but noted that is the point of this discussion; because of the uses that already exist here it could be difficult but added what is outlined as uses is just a guide. Mr. Clements noted to the uses that are allowed in the industrial district; office as a commercial use, research and development, daycare as institutional, industrial uses, light industrial and data center, open space for conservation, infrastructure such as small, medium and large scale solar and telecom. This area has a four acre minimum zoning, but relatively favorable build out and impervious surface at 25% building coverage and 70% impervious.

Mr. Clements went on to say the purpose of the industrial park reads as follows: *The Industrial Park District is intended to provide for relatively low intensity manufacturing and research and development firms that are employee intensive, clean and nature and promote and 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.*

Mr. Clancy stated while the city is looking at the master plan and zoning as whole it is important to look for this discussion; industrial versus commerce and whether there is a benefit to actually having industrial zones.

Mr. Kost stated there is a lot of land in commerce that is not used. However, with respect to industrial, if Keene starts to attract more manufacturing and high tech there is not much land with good access available.

Chair Farrington asked what comparable cities in New Hampshire are doing in positioning these types of uses. Mr. Rounds stated there is not much consistency – some are locating them downtown, some are moving them to the edge (highway based development). Keene has discussed use standards to be able to limit areas which a lot of communities are doing as commerce is peppered throughout the community. He added his concern with the parking lot discussion when you activate those parking lots in the evening and co-locate in an area like Target with a casino on weekends you have a perfect storm of everyone being there all at once.

118 This does not mean a very large parking lot could not handle that type of traffic but felt this is a  
119 conflict the committee should think about as they move forward.

120  
121 Councilor Jones stated when Mr. Rounds was referring to the commerce activity it reminded him  
122 of nodes, village type commercial activity and agreed we don't want this activity in those places.  
123 He added he felt those nodes should have its own zoning.

124  
125 Ms. Mastrogiovanni stated she agrees in locating these gaming facilities away from  
126 neighborhoods and more into commercial areas but not infringing on other commercial uses. She  
127 noted however, if there is a 20,000 square foot gaming facility in the city it will bring in a lot of  
128 business throughout the city and could be a benefit to the city.

129  
130 Chair Bosley in response stated most casino operators don't want their patrons to leave their site  
131 and would often have all the uses their patrons need on their own site. She indicated there are  
132 some very small nuances the council is just learning about when it comes to casinos and what  
133 some of the unintended consequences are when it comes to casinos. She indicated she would be  
134 open to staff bringing back a draft with appropriate use standards to keep these out of those  
135 pocket commerce nodes or to accompany it with a potential new ordinance that redefines those  
136 nodes into their own district. She stated she would also like to see what staff think would be  
137 appropriate for use standards for this type of use.

138  
139 The Chair invited public comment next. He reminded the public this is not a formal public  
140 hearing but a workshop.

141  
142 Mr. Peter Hansel of Bradford Road addressed the committee and stated he liked the discussion  
143 taking place on this topic tonight. Mr. Hansel stated he likes the idea of looking at all the  
144 downtown zones as something special and is not an area where a gaming facility should be  
145 located and encouraged moving forward in that direction.

146  
147 With no further comment the Chair closed the public hearing

148  
149 A motion was made Councilor Remy to continue this public hearing giving time for staff to  
150 come back with a draft that aligns with what has been discussed this evening and avoiding the  
151 commerce districts that are located in neighborhood nodes as well as use standards for gaming  
152 facilities.

153 The motion was seconded by Councilor Jones.

154  
155 Councilor Haas stated he would like to emphasize that use standards need to be applied to any  
156 new occupancy that is considered in the city.

157  
158 Mr. Clancy stated he wanted to hi-lite Councilor Bosley's comment about parking. He stated  
159 when we look at parking and the time frame as to how long they stay in a parking spot  
160 downtown isn't the best argument in determining proposals or what businesses are allowed. He  
161 felt downtown is the heart of this community and people should be allowed to enjoy the  
162 community and the city can't dictate how they use their time in the community. He did not feel  
163 this use belonged in any downtown zone.

164  
165  
166  
167  
168  
169  
170  
171  
172  
173  
174  
175  
176  
177  
178  
179  
180  
181  
182  
183  
184  
185  
186  
187  
188  
189  
190  
191  
192  
193  
194  
195  
196  
197  
198  
199  
200  
201  
202  
203  
204  
205  
206  
207  
208  
209

The motion made by Councilor Remy was unanimously approved.

- b) **Ordinance - O-2024-01** – Relating to amendments to the City of Keene Land Development Code – Zoning Regulations – Cottage Court Overlay District Conditional Use Permit. Petitioner, City of Keene Community Development Department, proposes to amend sections of Chapter 100, the Land Development Code (LDC), of the City Code of Ordinances to add a new Article 17 “Cottage Court Overlay District Conditional Use Permit”; Amend Article 3 to allow “Dwelling, Two-Family,” “Neighborhood Grocery Store,” “Office,” “Restaurant,” “Retail Establishment, Light,” “Day Care Center,” and “Community Garden” as allowed uses with a Cottage Court Overlay (CCO) conditional use permit in all residential districts in Article 3, and that Tables 3.1.5, 3.2.5, 3.3.5, 3.4.5, 3.5.5, 3.6.5, 3.7.5, and 8-1 be updated to reflect this change; Amend Article 3 to allow “Dwelling, Two-Family” and “Dwelling, Above Ground Floor” as allowed uses with a CCO conditional use permit in the Rural, Residential Preservation, Low Density 1, and Low Density districts, and that Tables 3.1.5, 3.2.5, 3.3.5, 3.4.5, and 8-1 be updated to reflect this change; Amend Article 3 to allow “Dwelling, Multi-Family” as an allowed use with a CCO conditional use permit in the Low Density 1 and Low Density districts, and that Tables 3.3.5, 3.4.5, and 8-1 be updated to reflect this change; Amend Articles 17 through 28 of the Land Development Code, and all subsections and references thereto, to reflect the addition of a new Article 17.

Mr. Clements addressed the committee and introduced Bill Eubanks who was joining the session virtually.

Consultant Bill Eubanks addressed the Committee and stated the purpose of this ordinance is to address specific housing needs in the community with emphasis on senior housing and workforce housing. This is being done through an overlay ordinance which would utilize a conditional use permitting process. Mr. Eubanks stated the city completed a housing assessment which indicated that even though the population was shrinking the number of households was increasing; 40% of the population lives alone, there is also large number of displaced workforce; people having to travel to Keene for work. There is also a lot of households that are cost burdened which means 30% of their income is going to housing related costs. This number increased to 39% for seniors and the number for rentals is higher at 43%. The study indicates Keene is going to need new 1,400 new housing units over the next ten years.

Mr. Eubanks stated the purpose of the ordinance is to promote infill and redevelopment, encourage efficient use of land and to expand the range of housing choices that are available with the changing demographics and provide for flexibility in such a way that it also helps strengthen existing neighborhoods. To encourage development in areas that are already pedestrian scaled, safe and affordable.

Where will this be applicable? This would generally be any land located within the overlay and would be subject to this article and would be permitted in R, RP, LD, LD-1, MD, HD and HD-1 through a conditional use permit.

210

211 There will also be certain non-residential uses that would be permitted. Certain commercial uses  
212 will be permitted as long as they are on a corner, as long as they have a maximum of 1,000  
213 square feet and they have a residential use above them. Daycare on the ground floor with a  
214 maximum of 2,000 square feet and must have a residential use above it. There are also ancillary  
215 uses to the residential uses that are allowed, things like laundry buildings, storage buildings,  
216 common use buildings, such as kitchens, meeting areas, exercise areas, picnic pavilions, attached  
217 or detached garages are also allowed, and they may have a unit above them.

218

219 Mr. Eubanks went on to say projects may be developed on a single parcel of land, either with  
220 property management entity if it is rental, or a homeowner's association or condominium  
221 association if the product is for sale. It may also be developed as a subdivision with units on  
222 individual lots, in which case there would also need to be some type of property management  
223 entity or homeowners association or condominium association.

224 When storm water is looked at it will be looked at for the entire development, not individual lots,  
225 because of the manner in which they will be clustered. If there are condominium or HOA  
226 involved in this, they have to meet all applicable state statutes.

227

228 Dimensional Standards - There is no minimum tract size. The minimum frontage is 30 feet.  
229 Perimeter setbacks of buildings can match what exists on either side of them instead of meeting  
230 the setback requirements of the underlying zone. There is no minimum lot area. Minimum  
231 frontage on internal roads is 26 feet. No minimum or maximum density requirements as well. In  
232 lower density residential districts, the requirement would be a maximum height of 2 1/2 stories  
233 or 35 feet. The underlying zoning allows two stories and a 35 foot height. In HD and HD one it  
234 would be a maximum of three stories or 50 feet. If the building is not located in a flood zone the  
235 bottom floor counts as a story. If you are in a flood zone, first floor is measured from base flood  
236 elevation plus one foot.

237

238 With respect to perimeter of setback – Mr. Eubanks stated the underlying zoning would more  
239 than likely have a 15 foot required setback. However, if there are existing buildings on that street  
240 that had setbacks of less than 15 feet, the proposed development would be allowed to match that  
241 existing setback instead of having to go back to the 15 feet.

242

243 There is no minimum unit size required, although there is a maximum average square footage of  
244 12,150 square feet of a floor area excluding garages. Maximum footprint is 900 square feet per  
245 unit, excluding porches and garages unless it is age restricted, then the number is increased to  
246 1,000 square feet.

247

248 Parking is a minimum of one space per unit or .75 if it is designated as workforce housing or age  
249 restricted housing then it will be a maximum of 1 space per bedroom. Those parking spaces may  
250 be surface spaces, in garages or carports. They can also be located off site - 500 feet from the  
251 furthest unit unless the housing is designated for age restricted.

252

253 Building separation is simply determined by applicable fire and building codes.

254 Driveways that provide access to three or more units have to be a minimum width of 20 feet and  
255 a maximum of 24 feet. Where feasible driveways should incorporate design features that give  
256 them the appearance of a street.

257  
258 Internal roads have to meet existing city standards, although there is a statement included which  
259 states *variation from those standards, if deemed appropriate may be achieved through a waiver*  
260 *process as described in Article 23.*

261  
262 Screening – From adjacent uses with of semi or opaque fence and also that the Planning Board  
263 can approve a landscape buffer that provides similar or greater screening.

264  
265 Mr. Eubanks next referred to architectural guidelines. The Planning Board will be responsible for  
266 reviewing these projects for their architectural merit. Mr. Eubanks stated they have developed a  
267 list of things that would be easier to approve and things that would be more difficult to approve.  
268 For example, if you are putting the narrow frontage of the building to the street, that is going to  
269 be easier to approve than putting the wide frontage to the street. If your parking is screened from  
270 the frontage, that is going to be easier to approve than parking visible from the frontage.

271 Mr. Eubanks referred to images of buildings to illustrate this example.

272  
273 Building based differentiated versus building being monolithic – a lot of discretion will be  
274 required here. The building needs to be looked at in totality (height, mass, and scale).

275  
276 Taller ceiling heights versus shorter ceiling heights – Mr. Eubanks stated they would prefer taller  
277 ceiling heights. He stated his firm does a lot multifamily units and one of the reasons for taller  
278 ceiling is it is much more gracious which also allows for 3 x 6 windows as a standard instead of  
279 3 x5 windows which provides for more natural light ventilation.

280  
281 Natural and Integral Materials versus Composite and Cladding – He noted to a rendering where  
282 the buildings on the left consisted of brick and wood which are natural and integral materials  
283 versus the buildings on the right which are composites and cladding (synthetic stone etc.) which  
284 is not something that would be encouraged.

285  
286 Structural Expression versus Surface Expression – The rendering for this example showed the  
287 images on the left to have some structural expression with open eaves versus the one on the right  
288 consisted of stone.

289  
290 Thicker wall depth versus Thinner wall depth – Mr. Eubanks noted to the images on the  
291 left the windows have some shadow and the images on the right don't have that depth. He noted  
292 they prefer the depth and seeing that shadow.

293  
294 Simple Clear Massing versus Complex Massing - Whether it is a traditional structure or a more  
295 modern structure; masses that are easily readable, clear, concise, are going to be easier to  
296 approve.

297



298 Vertical Fenestration versus Horizontal Fenestration – This plays into ceiling height, orientation  
299 of the building to the street. Mr. Eubanks stated they prefer vertical fenestration on a building as  
300 opposed to horizontal.

301  
302 Repetitive Fenestration versus Mixed Fenestration – This again has to do with the overall  
303 massing of the building. Repetitive Fenestration tends to read a little bit clearer.

304  
305 Contextual Materials versus Unrelated Materials – What would fit in the community.

306  
307 Landscape Unifies versus landscape Unorganized – Home on small lots or homes on a common  
308 regime and share common open space, landscape can go a long way to make it feel unified.

309 The concluded Mr. Eubanks presentation.

310  
311 Mr. Clements addressed the committee and stated staff made a decision in regards to the  
312 submittal requirements specific to site plan review. Staff set a threshold of a cottage court  
313 development that includes five or more dwelling units, will have to go through full site plan  
314 review. Every one of these projects is going to have to come to the Planning Board, but if it is a  
315 smaller development, staff is not necessarily looking for instance a traffic study, storm water  
316 analysis, comprehensive lighting plan; staff doesn't want to discourage smaller projects by front  
317 loading all this unnecessary engineering, site plan review. Mr. Clements asked if this threshold  
318 was appropriate or should it be more units that are essentially exempt from full site plan review  
319 or should it be fewer? The city would also then have to make sure this matches up with its  
320 existing regulations for current more traditional multifamily projects.

321  
322 Chair Farrington asked Mr. Eubanks what type of feedback was received from Keene residents  
323 and any changes that were made to the original plan based on that. Mr. Eubanks stated they had a  
324 good turnout at both public meetings. Everyone was in favor of this idea and were enthusiastic.  
325 He stated he could not think of any specific changes that were made.

326  
327 Councilor Williams stated he liked everything about this plan – the only item he could think of  
328 was the requirement of housing on top of a daycare center. He did not feel this was necessarily  
329 compatible; there could be issues with security concerns. There could also be situations where  
330 someone might want to turn their house into a daycare center. He stated however, that he likes  
331 housing above storefronts. Mr. Eubanks responded by saying the purpose of this overlay is to  
332 provide housing and if daycare is allowed it is an addition but it is not at the expense of housing.  
333 He added daycare is operated during the day when most residential users will be at work and  
334 didn't see a conflict between the two uses. This is an overlay to provide housing. The Councilor  
335 added daycare crisis is just as bad as the housing crisis.

336  
337 Mr. Clancy asked whether there are any condo development restriction in the City of Keene. Mr.  
338 Clements stated the city regulations view it as an ownership model not as a development style.

339  
340 Councilor Remy stated he was getting stuck trying to differentiate between this overlay and a  
341 manufactured housing park. Maybe a manufactured housing park is a cottage court, but a cottage  
342 court isn't necessarily a manufactured housing park. He asked why the city doesn't expand the  
343 zones where manufactured housing parks are allowed and what the differentiation is. Mr.

344 Clements stated manufactured housing is actually defined in state statute as being a housing  
345 structure that is permanently affixed to a chassis where the dwelling can be hitched up and  
346 moved. Currently within the City of Keene you could use a different term “modular home”. It is  
347 fundamentally the same thing. However, there is no chassis, and it is permanently affixed to a  
348 foundation that is currently allowed by right in the City of Keene. If someone wanted to place a  
349 modular dwelling on their lot they would just need to get a building permit. This is the difference  
350 between manufactured housing and cottage court.

351  
352 Councilor Ormerod stated one thing he has noticed about many neighborhoods in Keene,  
353 especially in low density zone is that some lot sizes are pretty small and you really can't build out  
354 but can build up but we are limiting it to 2 1/2 stories where three story Victorians are very much  
355 in common with the character of the area. He asked hence, under what circumstances could you  
356 construct a three-story Victorian. Mr. Eubanks stated he had a lot of conversation with staff on  
357 this. He explained the reason they settled on 2.5 stories instead of three stories is because of  
358 pushback from existing neighborhoods and felt 2.5 stories could be more palatable. Councilor  
359 Ormerod stated he was specifically looking for the Victorian style which could make it attractive  
360 to buyers.

361  
362 Mayor Kahn noted to section 17.5.2, where it indicates in the high density a maximum height of  
363 50 feet would be limited to three stories with parking underneath, potentially being one of those  
364 stories. He felt a parking structure doesn't need to be more than 7 feet; ten feet for each story,  
365 plus pitched roof – you could easily get four stories and questioned the restriction on height. Mr.  
366 Eubanks asked staff to confirm what the high restriction was for HD and HD1. Mr. Clements  
367 stated high density has it at two stories above grade and max building height of 35 feet. HD1 has  
368 it at three stories above grade and max building height of 50 feet.

369  
370 Ms. Vezzani referred to what Councilor Remy stated and noted with the manufactured homes  
371 typically in Parks, you don't own the land and clarified with these multifamily homes whether  
372 you will own the land or whether it will they be some sort of Association. Mr. Clements stated  
373 the City is not limiting ownership models; the entire project could be owned by an entity that  
374 rents out the units like an apartment building, but they will all be detached. They could also be  
375 townhomes and it is a condo association where you have common land around and you just own  
376 the building. He added one of the overarching goals of this proposal is to reduce limitations so  
377 that any housing product can be appealing. So that someone can use this overlay guidelines to  
378 mold the product that fits into an existing neighborhood.

379  
380 With reference to height, Ms. Vezzani stated it was interesting you could have a grade situation  
381 where you are parking below and then there could be some living in the rear of the property. She  
382 felt reducing those limitations does allow for wider flexibility.

383  
384 Councilor Bosley stated there is no language in this ordinance that addresses lots that contain  
385 prior structures. If there is a lot with the prior structure on it could it be converted to a cottage  
386 court to allow for infill development. She asked how this ordinance address prior structures and  
387 new structures; under the site plan review, when you refer to major site plan review and minor  
388 site plan review – does it consider the total of structures that someone is adding or a total of  
389 structures that will now exist inside the cottage court. She also asked if for instance a 1,500

390 square foot unit already exist on a triple size lot would the existing 1,500 square foot unit be  
391 factored into that calculation.

392  
393 The Councilor then referred to ownership structures; how can the City restrict these units to be  
394 potentially not used as Airbnb's. Council had concern as to how the Airbnb market might have  
395 an impact on this type of potential development. She noted what the city is trying to not promote  
396 is a cottage court district that is highly densified for the purpose of getting housing turning into a  
397 mini hotel situation.

398  
399 She added she also had reaction on the list of items that are easier to approve and not so easy to  
400 approve; when driving around Keene how some of those things might not really apply here.

401  
402 Mr. Eubanks responded to the Councilor and stated with reference to the list it is not a "you  
403 shall" "you shall not" sort of list; there is a range of interpretation. It provides guidelines but with  
404 a lot of flexibility. The Councilor stated she loves the idea of a list but for instance Natural and  
405 Integral Materials are preferred; she stated personally she does not see an issue with these  
406 buildings using composite or clad siding as this is not something that would stand out in our  
407 community. However, this level of detail might be something that could be for the historic  
408 district if this type of development was to be located in the historic district; same would be true  
409 for the other items that were also listed.

410  
411 Mr. Eubanks agreed and next addressed short-term rentals and stated he completely agrees with  
412 what the Councilor raised as a concern and this is something staff and council would also agree  
413 to not creating. He went on to say in his opinion however, not addressing short term rentals only  
414 for the cottage court overlay instead of the entire city would be a mistake. He felt the City of  
415 Keene needs a short-term rental ordinance which would address this concern. However,  
416 addressing it only for the cottage court overlay would be a mistake.

417  
418 With respect to average unit sizes and prior structures; this is something that would be flushed  
419 out through that site plan review. If someone has a house on a lot and wanted to turn it into one  
420 unit or divide it into multiple units – this would be part of that site plan review process. If that is  
421 a 1,500 square foot structure that is going to remain one unit, then the other units would have to  
422 be small enough that you achieve the average. He added this gets back to providing smaller  
423 living options than what exists in Keene right now. The main purpose of this ordinance is to  
424 provide smaller housing units. Mr. Clements stated it would be very easy to add one word to that  
425 1,250 square foot average and say *all new dwelling units in a cottage court overlay shall have*  
426 *that average of 1,250 square feet.*

427  
428 In regards to the site plan threshold, Mr. Clements felt the existing structures should be counted  
429 towards the threshold for site plan review because if you have an existing three family home and  
430 then you want to add two more units with the cottage court overlay, there is an intensity that is  
431 involved on the lot which should be evaluated in a more comprehensive manner as opposed to a  
432 single three family structure on the lot.

433  
434 Mr. Rounds added with reference to the short-term rentals – Council has indicated a desire to  
435 figure out how to address short term rentals and staff will be back before Council with ideas.

436 However, staff agrees with Mr. Eubanks that any restrictive use with cottage court will  
437 negatively affect that overlay and hence would like to apply it to the city as a whole. Mr. Clancy  
438 asked what Mayor Kahn had indicated to staff just now. Mr. Rounds stated the Mayor had  
439 wanted to know if New Hampshire had any restriction as it pertains to short-term rentals.

440  
441 Councilor Bosley stated she agrees with what Mr. Clements had stated and added having the new  
442 structures when looking at the average size to count those at 1,250 square feet would make sense  
443 and also agreed with the suggestion regarding site plan review.

444  
445 Mayor Kahn felt the Wright Estate is an example of something that is being described; a huge  
446 structure with buildout without needing to disturb the mansion on the site.

447  
448 Mr. Kost felt if vehicles could park parallel on some of the streets it could save on building space  
449 but according to this overlay regulations, this is not something that would be permitted. He felt  
450 this is something that should be considered. Mr. Clements stated this is good point if this is going  
451 to be a public right of way and is something owned by the city. He stated there is no waiver  
452 authority in the cottage court overlay for the Planning Board as they wanted to keep it as light as  
453 possible and then let the existing site plan regulations dictate which is what the Board is more  
454 used to. The city does allow off-site parking, which might be a way to address that, but in  
455 regards to keeping it as internal drive aisles, the main thought about that is reducing the amount  
456 of impervious surface. If there are more narrow drive aisles, and people start parking on the  
457 shoulder, it becomes an emergency access issue.

458  
459 Mr. Kost stated these type of housing is great for entry level housing and felt some incentives  
460 could be built into it and asked that this is something that is also considered

461 Councilor Remy stated he likes the idea of a list but wasn't sure as a Board how to balance this  
462 list. The Councilor asked whether 508 Washington Street would be considered an example of  
463 cottage court. Councilor Bosley referred to the development on Green Street – which is a four  
464 unit building and stated this is an example of cottage court.

465 Councilor Ormerod stated it is true that short term rentals are an issue for the city, but with  
466 cottage court developments which are particularly attractive, and you don't have to tear down or  
467 renovate and felt something needs to be included for short term rentals for cottage court because  
468 of how attractive they are. He also added when we talk about the short-term rentals that we  
469 don't rule out the places for traveling nurses, traveling physicians, etc. who do a lot for our  
470 community. He felt the appropriate distinction needs to be made for these traveling  
471 professionals.

472  
473 Councilor Haas referred to ground floor parking which is ideal for development in flood zones  
474 which could open up new areas and felt this should be written into the ordinance. Mr. Eubanks  
475 stated this is specifically addressed – parking in flood zones versus parking under a building, not  
476 in a flood zone. The Councilor asked whether there are any preferred first floor occupancies the  
477 city should be aware of that would attract developers. Mr. Eubanks stated there is nothing  
478 specifically stated but it has been left fairly open. They felt what could be strengthening for  
479 neighborhoods, are things like a sandwich shop, a coffee shop, which would be compatible with  
480 the neighborhood. The Councilor asked with the setbacks requirements, whether zoning  
481 requirements are being waived to match up with the existing buildings – he added at times it is

482 nice to have different setbacks which adds a bit of attraction to neighborhoods and also can act as  
483 a traffic calming measure. Mr. Eubanks stated he does not disagree with the Councilor but what  
484 they are doing here is only allowing the possibility of meeting those existing setbacks – it is not  
485 being required, it is a setback line not a built to line. Councilor Haas stated an applicant might  
486 want to take full advantage of the least setback possible, but it might be preferable to have the  
487 setback, but he leaves that up to staff.

488  
489 Mr. Clancy thanked Councilor Haas was raising the issue of setbacks – he indicated we are  
490 looking at a time where traffic calming measures are definitely something we should consider  
491 and felt that conversation should be open to anyone that is willing to develop one of these. In  
492 terms of the short-term rental concern, this concern wasn't raised when ADU's were discussed.  
493 He added if the city is going to make this a point of conversation, short term rentals should be a  
494 separate item and not something that should delay adoption of cottage court. Cottage courts are  
495 important for the city in terms of development of affordable housing or any type of housing.  
496 With reference to easier to approve and not easy to approve items, Mr. Clancy stated he  
497 appreciates Mr. Eubanks bringing this to the committee's attention. He stated he would like to  
498 see this as a separate item as well and applied to the entire city but not just for the cottage court  
499 overlay district.

500  
501 Councilor Jones asked Mr. Eubank when the City did its land development code, it deleted the  
502 use of a private roads and was mostly because Public Works requested it due to the issue of  
503 delineating between the public and private roads. However, from a housing perspective, wouldn't  
504 it help with the cottage court if it allowed for private roads. Mr. Eubanks stated there are a lot of  
505 jurisdictions that prefer private roads because they don't want the additional maintenance. He  
506 indicated Keene Public Works did not want private streets. In most jurisdictions, private streets  
507 still have to be built to public standards - the conversation that was undertaken with Public  
508 Works was talking about differences in some of those standards to accommodate more narrow  
509 rights of ways etc. which might be appropriate for this. Public Works was not keen on that idea  
510 either, which is why there is language in the ordinance about applying for a waiver.

511  
512 Mr. Clements addressed the road standard waiver process. He indicated the Public Works  
513 Department views the concept of a waiver from their road standards very differently from what  
514 the Planning Board would consider a waiver from their site development standards. What Public  
515 Works indicates is that they would be potentially open to negotiating a narrower right of way  
516 with a less amount of pavement required but still retaining it as a public street. They were not  
517 comfortable with adding any of that language specifically in this ordinance. He added staff's  
518 concern is that this injects an element of uncertainty into the development process that staff was  
519 hoping to avoid. Mr. Eubanks added the majority of the parcels that are going to be used for this  
520 will be fairly small. The likelihood of one of these projects needing a new internal public right of  
521 way is slim. He stated it will be more in the realm of things that would be considered such as  
522 driveways that are not public rights of way. He did not feel this is going to be a problem that is  
523 going to come up. Mr. Clements agreed and added the city has a development scheme for that,  
524 which is the Conservation Residential Development Subdivision. If there is a parcel of land of  
525 sufficient size to put in a new public road it would probably be a better option for everybody  
526 involved.

527

528 Mayor Kahn stated we continue to say any parcel using this overlay must have city water and  
529 sewer. He stated he wanted to raise this issue again and used the City of Dover where a cottage  
530 court overlay exists and a septic field which is shared. He felt the lack of city water and sewer  
531 should not prohibit this type of development. Mr. Rounds stated he had done some research on  
532 this item – the Dover development is on public water and a couple of units that are on a shared  
533 septic, but the majority of it is on a forced main where you have to pump water up to the public  
534 system, which is what people saw as a shared septic system. He stated his understanding from  
535 talking to Dover was that the full development is on public water and sewer.

536  
537 The Mayor clarified it is pumping from the site into the sewer system – Mr. Eubanks stated it is a  
538 pump station so it is a sanitary sewer system not a septic system.

539  
540 The Clements stated the reason for wanting to tie in this proposal with City utilities is because of  
541 feedback from residents that we should be increasing housing opportunities where those services  
542 exist. He stated he would be concerned with larger parcels in the rural zone and then basically  
543 letting somebody come in and pack them in really tight. That is not really what this proposal was  
544 intended for, and one of the ways to limit the location for this kind of development was to tie it  
545 with water and sewer.

546  
547 Councilor Bosley noted adopting the Land Development Code took years with a lot of public  
548 comment. Post adopting the Code the City changed the acreage requirement for the rural zoning  
549 district. As part of that, the City also adopted an ordinance that allowed for these Conservation  
550 Residential Developments (CRD) and if someone chose a CRD there are mechanisms to  
551 significantly increase density and to build those out in a way that protects things like watersheds,  
552 wetlands or topographical areas that are not buildable and allows you to densify certain areas that  
553 are more appropriate for development on those larger sites. The Councilor noted rural and  
554 agriculture are pretty much the only ones that don't have access to City water and sewer. Also,  
555 LD-1 has to have sewer and city water or a private well.

556  
557 The Councilor went on to say what is being discussed here is major densification potential with  
558 no minimums associated which could impact that part of the City negatively (unintended  
559 consequence) if you let people run free with no setback or density requirements.

560  
561 Mr. Clancy recalls a rural district on Old Walpole Road which has City water and stated he  
562 agrees with the Mayor that he could not see a good reasoning for restricting different districts.  
563 We are a city in need of housing and could not see this being something that people are going to  
564 be clamoring to do. He did not feel the City should restrict a district just because they don't have  
565 sewer and water. There are many ways develop and it is up to the developer to decide.

566  
567 Ms. Vezzani felt it shouldn't be encouraged but if there was an opportunity for a developer to use  
568 a sewer system that made sense for that particular area, could the developer then decide to come  
569 with the plan with a variance for that particular development. Mr. Clements stated that was a  
570 good point; they could go to the Zoning Board of Adjustment to get a variance from any of the  
571 provisions in this ordinance. He added the hardship test would be interesting. He also noted there  
572 is nothing preventing a potential developer from extending water and sewer lines to a potential  
573 lot at their cost if they choose to do so. Mr. Clements stated that the intent of the Ordinance was

574 to provide lower cost dwelling units and that private wells and septic are expensive and not to  
575 say that hooking into City services is not expensive. However, having city utilities is cheaper in  
576 the long run than having private well and septic.

577  
578 Councilor Remy felt this overlay needs to be restricted to where there is or can be water and  
579 sewer. He stated he could not imagine a100 unit development on a 10 acre lot in the middle of  
580 nowhere because there is no minimum lot size. He noted the city has a CRD process, which had  
581 a lot of thought put into it around protecting land around it and using the density in the right way.

582  
583 The Chairman stated there are a number of items that have been discussed with respect to the  
584 proposed ordinance: height, number of floors, whether or not daycare was appropriate to have  
585 included as one of the commercial items, setbacks, architectural standards, short term rentals to  
586 be included or not, how to address existing structures (clarification around that), city water and  
587 sewer restricting it to just that area. He stated he would not mind continuing this discussion and  
588 asked whether the committee had other areas they would like to discuss.

589  
590 Councilor Remy asked what the expected outcome from tonight's meeting is. The Chair stated  
591 this is a workshop so the outcome is one of three things: it moves forward and the PLD  
592 Committee calls for a public hearing, Planning Board indicates it is consistent with the Master  
593 Plan, or the committee continues it to next month.

594  
595 Mr. Clements stated at some point it could become an A version and it could come back to this  
596 Body, which will delay the adoption by a month.

597  
598 Councilor Haas in an effort to expedite this item, the changes being proposed tonight don't seem  
599 to be too onerous and asked whether a public hearing could be scheduled through the PLD  
600 Committee and move those comments to staff for revision.

601  
602 Councilor Bosley in response stated the process of how these ordinances are adopted through  
603 Council is very lengthy and it starts and stops in different places. If a public hearing is conducted  
604 and there is additional feedback, and the PLD Committee recommends it sends the ordinance  
605 back to the Joint Committee, it will have to go to another public hearing. She added every A  
606 version and B version gets brought back through a formal public hearing process, and it has to  
607 have a first reading and a second reading at full council, and has to go back to the PLD  
608 Committee for final recommendation. She added if anyone else has any items that are not the list  
609 Chair Farrington outlined they feel very strongly about it could be perhaps voted on to see if  
610 there needs to be an A version and suggested that a vote be taken tonight.

611  
612 Mr. Clancy stated since the rural district is being included in this, but there is very limited  
613 options and there is some concern about perhaps a10 acre parcel being developed with many  
614 small units, whether there was any way language could be included to say that a maximum lot  
615 size be developed with cottage courts. Take the minimal acreage for a rural district property and  
616 include that language and as the maximum for cottage court overlay. He felt cottage court should  
617 be permitted anywhere in the city.

618

619 Councilor Bosley noted this is a difficult process because of the way the two Bodies meet at the  
620 Joint Committee process. She noted that the two Bodies have very different roles. The Planning  
621 Board ultimately is going look at this ordinance and decide if it meets the master plan. It is  
622 Council's objective to try to craft language inside this ordinance that they feel will benefit the  
623 community as a whole. She indicated she has seen the Joint Committee modify ordinances but it  
624 goes to Council and gets lost because Council doesn't support something in it. She stated her  
625 concern about the rural district is that this is an item that has come up before and could delete the  
626 entire item.

627  
628 Mr. Clancy stated he has raised this at a previous Planning Board meeting – he stated the Board  
629 is given something that works for what is being proposed and not looking at the entire plan. He  
630 stated when he looks at the master plan he sees the need for affordable housing in this  
631 community. From the Planning Board perspective, he felt this cottage court overlay district  
632 should be open to the entire city to address all forms of housing. He stated he is willing to work  
633 with those concerns that the city had when reducing the rural district size and his proposal is not  
634 to allow it beyond the minimum lot size for the rural district.

635  
636 Councilor Jones stated from what Mr. Clancy and Councilor Bosley have stated, continuing this  
637 item would be a much better process and moving it on to a public hearing.

638  
639 Councilor Williams stated he agrees with Councilor Bosley with respect to the concerns raised in  
640 the past with the rural district. He added there was much public input when the lot size was  
641 increased in the rural district and would be concerned about adding this type of density to the  
642 rural district.

643  
644 Mr. Kost stated anything to not make this a longer process would be helpful.

645  
646 Mr. Eubanks stated he hears the concerns being raised and felt some of these things, such as  
647 wanting to locate this where there is septic or locate it in a rural district might not be something  
648 that comes up a lot. He stated he would hate to see this item getting tabled for a circumstance  
649 that might never happen. He felt ordinances can always be amended, he felt it was good to keep  
650 this momentum moving forward as there are developers waiting on this to happen. If it gets  
651 delayed as the city's consultant he was not exactly sure what path the city would want him to go  
652 as far as changes. He suggest Section 17.5.3, C. to add the word *building and fire code*.

653  
654 Section 17.5.3, A add the word *new* in front of *units*, then let this move forward and if the city  
655 finds out there are developers in the rural area that are on septic who are interested in this – the  
656 city looks at maybe revising the ordinance.

657  
658 Councilor Ormerod felt delaying one more month would be better rather than delaying it by four  
659 months by going through the entire cycle and coming back. He stated he appreciated the  
660 Chairman's list.

661  
662 Councilor Remy asked the Chairman to review his list again: Height of the building and number  
663 of floors restriction. Councilor Remy asked what the discussion about height was. The Chair  
664 stated the Mayor suggested we might be able to include another floor.



665  
666 Daycare as something that would be one of the permitted commercial uses with residential above  
667 it. Councilor Williams clarified this item was in reference to whether housing should be required  
668 above daycare uses.

669  
670 Councilor Remy asked the Mayor if he would be amendable to voting on this as is and go back  
671 and adding a floor. The Mayor stated the change is clear enough to be voted on tonight. He felt it  
672 would be big deal to a developer to be able to put parking underneath and still put three floors  
673 above – but did not feel it was a huge change in this ordinance.

674  
675 Chair Bosley stated from what she has heard the City Attorney say in the past, at some point  
676 when you make enough changes and they are substantial enough it automatically creates an A  
677 version and the process needs to restart. Mr. Rounds stated his recollection of an A version is  
678 that if there are concrete changes, continue the meeting and staff comes back to the next meeting  
679 with those changes for the A version, then the process continues as the A version.

680  
681 The next time on the list was Setbacks – Councilor Haas clarified the concern was whether to  
682 follow the existing zoning requirements. Councilor Remy asked whether this can be voted on as  
683 is and changes made later is necessary. Councilor Haas responded that the setback was not a deal  
684 breaker for him.

685  
686 Next item on the list is architectural standards – Councilor Remy stated this was an issue he  
687 raised; he does not like the lists but it is not a roadblock for him. He rather just have a “good” or  
688 a “bad” list. Ms. Markelon asked whether this list is something the Planning Board would use for  
689 approval or whether it is something the developer would use. Mr. Clements stated they are just  
690 guidelines; not hard yes’s or hard no’s’, but ultimately an element of the product that is going to  
691 come before the Planning Board is whether this design would fit in within neighborhood  
692 character. The list is designed to guide a developer to use things that promote a harmonious  
693 citing into a neighborhood. If they choose to not do that and you choose to go outside of  
694 neighborhood character, they may receive opposition from the neighborhood itself. They may  
695 receive opposition from individual Planning Board members who want a more traditional New  
696 England style as opposed to something more dramatic. Those lists are a guidance to a developer.  
697 Ms. Markelon stated this is where she is stuck on – the list is for the developer while the Board  
698 has its own guidelines. Mr. Clements stated there will be some give and take between the  
699 developer and the Board when it comes to what is included in this list.

700  
701 Mr. Eubanks stated it is really important to note that this list is a general guidance to the  
702 developer of things he needs to be thinking about before he/she goes to the Planning Board. They  
703 could ignore everything on the list and come up with a great building but the Board still has total  
704 authority to make a ruling on this based on how they feel about it and if it fits the context or not.  
705 He added this list works in the City of Charleston, South Carolina.

706  
707 Mr. Hoefler stated personally he does not have a concern with the architectural guidelines as  
708 presented, although he may express concern about wall depth. He felt on the whole having the  
709 concept of having some leeway back and forth is a good thing and felt the item should be moved  
710 forward, should everyone agree to do so.

711  
712 Next item on the list was short term rentals – The Chair stated it was agreed this would be a  
713 citywide issue not just pertaining to this ordinance.

714  
715 The next item – existing structure or unit on a lot – The Chair noted inserting the word “new”  
716 was going to be solution proposed and same was true with inserting the word building in the  
717 building and fire code sentence.

718  
719 The next is whether city water and sewer would be a requirement for this project.  
720

721 A motion was made by Councilor Remy that the Planning Board finds Ordinance O-2024-01 –  
722 adjusted for the two scrivener errors to add “building” in Section 17. 5.3 and add “new” in  
723 Section 17.5.3A in the appropriate locations consistent with the master plan. The motion was  
724 seconded Kenneth Kost.

725  
726 Councilor Tobin asked with respect to building and fire code, is this something that would be  
727 maintained if it is a managed property. Chair Farrington stated the Planning Board would address  
728 the proposal and approve it or not approve it based on that language. Once it is built, the city has  
729 an enforcement department that would address those concerns. The Councilor asked if there is  
730 opportunity to include this language. Councilor Bosley stated similar to the Airbnb conversation,  
731 what needs to be discussed here tonight is the language inside the ordinance. The city has its own  
732 language for enforcement, and Council is working on that. She indicated staff is working on  
733 different housing standards in different areas in the land development code where those  
734 standards live and what the enforcement mechanisms are. Things outside of this ordinance need  
735 to get worked on for the whole city and not just for this one particular item. She indicated  
736 Councilor Tobin’s points are well taken and staff is aware of some issues that Council will like  
737 worked on.

738  
739 Councilor Ormerod noted the proposed motion does not include items from the Chairman’s list,  
740 and would like to propose a way to deal with that. He indicated if it is amenable to Mayor Kahn  
741 on the height – it could be a citywide issue and could be beyond the scope of what we are trying  
742 to accomplish tonight.

743  
744 With no further comments, the Chair closed the public hearing.  
745

746 The Mayor stated he would like to direct people to the map and notice how much of that map is  
747 in the light yellow and yellow are areas without water and sewer and hence cuts out a lot of  
748 territory in the city. He reiterated he wants to see this go forward but to note that there are  
749 significant territories in the city not being able to take advantage of the density this ordinance is  
750 proposing. He felt this is an item that needs to be reconsidered.

751  
752 The motion made by Councilor Remy was approved 6-2 by the Planning Board.  
753

754 A motion was made by Councilor Jones that the Planning Licenses and Development Committee  
755 request the Mayor set a public hearing for Ordinance O-2024-01. The motion was seconded by  
756 Councilor Williams and was unanimously approved.

757  
758  
759  
760  
761  
762  
763  
764  
765  
766  
767  
768  
769  
770  
771  
772  
773  
774  
775  
776  
777  
778  
779  
780  
781

**IV) New Business**

- Councilor Jones noted the three commercial nodes previously noted. They are all in West Keene:
- (1) Upper Court Street where the American Legion, Dunkin Donuts and Savings Bank of Walpole are located
  - (2) Where Summit Road and Park Avenue fork off next to the Irving station, Laundromat, and a Chinese restaurant etc.
  - (3) Lower down on Park Avenue where Jack’s True Value hardware and Park Market Avenue Deli

He noted the new Licensing Board that was approved last year has the potential to approve certain things that could go into those areas. He suggested in the future looking at delineating those commercial areas.

**V) Next Meeting**

There being no further business, Chair Farrington adjourned the meeting at 9:08 PM.

Respectfully submitted by,  
Krishni Pahl, Minute Taker

Reviewed and edited by,  
Evan J. Clements, AICP, Planner  
Jesse Rounds, Community Development Director

## MEMORANDUM

**To:** Joint Committee of the Planning Board and PLD Committee  
**From:** Jesse Rounds, Community Development Director  
**Date:** March 1, 2024  
**Subject:** O-2023-16 – Relating to Permitted Uses in the Downtown Core, Downtown Growth, and Commerce Districts

---

### Overview

This ordinance establishes a use definition for “Charitable Gaming Facility” in Article 8 of the Land Development Code (LDC) and proposes to permit this use in the Downtown Growth and Commerce Districts by right. Currently, “Charitable Gaming Facility” is undefined and, in the past, has been interpreted to fall under the definition of “Recreation / Entertainment Facilities – Indoor,” which is permitted in several districts including Downtown Core, Downtown Growth, Downtown Institutional, Commerce, Commerce Limited, and Business Growth and Reuse. Several of these districts may not be compatible with a Charitable Gaming Facility use and its related site and traffic impacts.

This ordinance also proposes to remove drive-through uses as a permitted accessory use by Special Exception in the Downtown Core District. The Downtown Core is fully contained within the Downtown Historic District. Drive-through uses are generally incompatible with the historic development pattern and pedestrian-oriented nature of the historic downtown and would be better suited in automobile-oriented areas of the City. Drive-through uses would continue to 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 District.

### Charitable Gaming Facility – Overview and Proposed Definition

This ordinance proposes to establish the following use definition for “Charitable Gaming Facility” in Section 8.3.2 of Article 8, under the category of Commercial Uses:

*“Charitable Gaming Facility – A facility licensed in accordance with the requirements of RSA 287-D and operated by a Licensed Game Operator as defined by RSA 287-D:1, VII; or any facility operated by a person or entity licensed by the lottery commission under RSA 287-D:7 to operate games of chance on 5 or more dates per calendar year. Does not include games licensed under RSA 287-E.”*

Charitable Gaming Facilities are not defined in the Land Development Code. In order to permit this use within the City, the Zoning Administrator has determined that the closest definition in our current code is “Recreation / Entertainment Facilities – Indoor.” Charitable Gaming Facilities are a defined and licensed use at the state level and appear to differ from the other activities that

fall under “Recreation / Entertainment Facilities – Indoor.” In addition, this use has grown in popularity across the state. A number of cities and towns that do not have a separate definition for this use have seen this use proliferate in areas of their community that may or may not be appropriate. Some communities, such as the City of Nashua, do separate out the use and as a result are better able to target this type of development in areas of the city that the community has determined are appropriate.

### **Charitable Gaming Facility – Proposed Districts**

Staff propose to allow “Charitable Gaming Facility” by right in the Downtown Growth (DT-G) District and the Commerce (COM) District. These districts are located in areas with larger lots, more infill development potential, and access to parking that might be attractive to Charitable Gaming Facilities. These are the two districts where charitable gaming facilities either exist now or have been located in the recent past. The intent statements for these districts are included below:

- **Downtown Growth:** 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.
- **Commerce:** 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.

The Downtown Growth District includes the areas of the downtown that have the most available land for new development and redevelopment to occur. This district is located along the old railroad land and allows for high intensity uses and lots with higher massing and scale than any other district in the city except the Downtown Core. For example, the maximum height is 7 stories/85 feet, and allowed commercial uses include (but are not limited to) bars, event venues, funeral homes, restaurants, Recreation / Entertainment Facilities – Indoor and Outdoor, and light retail establishments. While this district generally does not require on-site parking, many of the properties in this district are larger in size and have sufficient room to accommodate on-site parking if needed. However, public parking (on street and surface lots) is available throughout most of this district, and the intent is for this district, as it develops, to continue the pedestrian-oriented look and feel of the Downtown Core.

The Commerce District is located in automobile-oriented areas of the city where all parking must be accommodated on site. A wide array of commercial uses are allowed in this district, including (but not limited to) bars, event venues, funeral homes, hotels and motels, restaurants, Recreation / Entertainment Facilities – Indoor and Outdoor, and retail establishments (heavy and light).

Both districts seem appropriate for Charitable Gaming Facilities, which are similar to other uses already allowed in these districts in terms of scale, intensity and potential site impacts such as noise, traffic generation and parking. These areas of the city are already developed or have been identified as areas where new development of high intensity and scale should occur.

In contrast, several of the districts where “Recreation / Entertainment Facility – Indoor” is allowed by right may not be compatible with Charitable Gaming Facility uses. Zoning districts like Downtown Core and Downtown Institutional are specifically defined to represent areas of the city with a unique character (such as the historic and pedestrian-oriented Downtown Core) or uses (i.e., the Keene State College campus). Zoning Districts like Commerce Limited and Business Growth & Reuse are focused on fostering appropriate commercial and light industrial uses that would not be out of place adjacent to residential neighborhoods.

For example, the intent statement for Business Growth and Reuse District states that it is intended for development that is *“of a scale and type compatible with adjacent residential neighborhoods.”* To that end, many of the uses allowed within this district are only allowed with limitations to restrict the size and intensity of the use. For example, Bed and Breakfast, Office, Cultural Facility, Private School, Industrial – Light, Warehouse & Distribution, and Wholesale are all uses that are permitted with limitations where the limitations are related to the size of the use and/or increased setbacks from residential areas. Therefore, staff recommend that a Charitable Gaming Facility, which has the potential to generate noise and traffic during hours that may not be compatible with adjacent single-family neighborhoods, should not be allowed in this district or should only be allowed with limitations to restrict the size and potential impacts on surrounding neighborhoods.

### **Drive-through Uses**

This ordinance also proposes to remove the option to seek a Special Exception from the Zoning Board of Adjustment to allow drive-throughs as an accessory use in the Downtown Core District. The Downtown Core is the heart of downtown Keene and is co-located with the Downtown Keene Historic District. The 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. The building and streetscape form in Keene emphasizes street level development that encourages walking. Drive-through uses drawing cars downtown for short and intermittent visits do not support either the walkable scale or the variety of mixed-uses that depend on residents and visitors coming to the downtown for extended periods of time.

The Downtown Chapter of the Master Plan states that new buildings in the downtown should be positioned to support a human scale and notes that “Moving building frontage up to the sidewalk in redevelopment areas of the downtown creates a “street wall” that encloses and focuses street and sidewalk activity.” Drive-through uses are in direct conflict with this goal because they, by definition, are oriented and designed for automobiles at the expense of pedestrian comfort and safety.

### **Master Plan Consistency**

The Master Plan has an entire chapter devoted to the downtown, and states that *“It is a central gathering place and the most visible representation of the community to visitors.”* The Comprehensive Master Plan specifically recognizes the importance of the design and the scale of downtown, especially for infill development, stating that appropriate infill development in the downtown:

- Is similar to Keene’s traditional downtown streetscape layout and massing of buildings on upper Main Street
- Incorporates wide sidewalks
- Includes streetscape amenities such as street trees, benches, rain gardens, traffic calming bump-outs, pocket parks, etc.
- Supports a high level of pedestrian and bicyclist connectivity through effective use of bike lanes and pathways
- Allows for a mix of uses that includes retail, commercial, institutional, and residential components
- Increases density within the downtown core, fostering downtown vibrancy and supporting community goals to reduce greenhouse gas emissions, create a walkable and bikeable community, encourage growth within the 9/10/12 Bypass, and protect valuable open space resources (such as Keene’s hillsides for their visual aesthetic and flood mitigation characteristics)

The Master Plan also states that downtown development should be consistent with the goals of downtown vibrancy and artistic, cultural, education, institutional, and entertainment uses. These goals conflict with the level of service necessary for a Charitable Gaming Facility which will compete for public parking with other uses at similar times of the day. In addition, they conflict with Drive-Through uses that by necessity are automobile-oriented.



# APPLICATION TO AMEND THE ZONING ORDINANCE

Petitioner: Community Development Department Date: October 16, 2023

Address: 3 Washington Street, Keene

Telephone: (603) 352-5440 Email: jrrounds@keenenh.gov

Table 4-1 of Article 4; Table 6.1.5 of Article 5; Table 8-1, Section 8.

Existing Section Reference in Chapter 100, Land Development Code: \_\_\_\_\_

Does the amendment affect "Minimum Lot Size"?  Yes  No

Does the amendment affect "Permitted Uses"?  Yes  No

Number of parcels in Zoning District\*: \_\_\_\_\_ <sup>DT-C, DT-G, and COMM</sup> 168

Validation of Number of parcels by the  
Community Development Department

  
\_\_\_\_\_  
Petitioner's Signature

### SUBMITTAL REQUIREMENTS WHICH MUST BE COMPLETE AT TIME OF SUBMISSION TO THE CITY CLERK:

- A properly drafted Ordinance containing the amendment in a form meeting the requirements of the City Clerk.
- A typed or neatly printed narrative explaining the purpose of, effect of, and justification for the proposed change(s).
- \$100.00 application fee.
- As provided for in RSA 675:7, if the proposed amendment would change the minimum lot sizes or the permitted uses in a zoning district, **\*and such change includes 100 or fewer properties**, the Petitioner shall submit a notarized list of property owners affected by the zoning amendment. The list shall include the tax map number and address of each abutter or owner, and must be current with the Assessing Department's records within ten days of submittal. Two sets of mailing labels shall be provided.

Date Received by City Clerk: \_\_\_\_\_ Ordinance Number: 0-2023-16

On City Council agenda: \_\_\_\_\_ Workshop to be held: \_\_\_\_\_

Public Hearing to be held \_\_\_\_\_





## APPLICATION TO AMEND THE ZONING ORDINANCE

### **APPLICABLE FEES:**

Application Fee @ \$100.00 \$ \_\_\_\_\_

Publication of Notice in The Keene Sentinel @ \$90.00 \$ \_\_\_\_\_

Postage Fees for property owners/agents and abutters at  
current USPS 1<sup>st</sup> Class Mailing rate  
*(Only needed if amendment impacts 100 or fewer properties)* \$ \_\_\_\_\_

**Total Fees submitted to City Clerk** \$ \_\_\_\_\_

**The petitioner is also responsible for the publication costs for the public workshop before the joint Planning Board and Planning, Licenses and Development Committee. Additional fees will be collected by the Community Development Department for the mailing costs associated with the public workshop (If a mailing is required pursuant to RSA 675:7), as well as the publication of the public workshop notice.**



# CITY OF KEENE

In the Year of Our Lord Two Thousand and \_\_\_\_\_ Twenty-Three

AN ORDINANCE Relating to Amendments to the Land Development Code, Permitted Uses in the Downtown Core, Downtown Growth and Commerce Districts

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

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

1. Amend Section 8.3.2. of Article 8 to add a definition for “Charitable Gaming Facility” under the category of Commercial Uses, as follows:

**I. Charitable Gaming Facility**

**1. Defined. Charitable Gaming Facility – A facility licensed in accordance with the requirements of RSA 287-D, and operated by a Licensed Game Operator as defined by RSA 287-D:1, VII; or any facility operated by a person or entity licensed by the lottery commission under RSA 287-D:7 to operate games of chance on 5 or more dates per calendar year. Does not include games licensed under RSA 287-E.**

2. Amend Section 8.4.2.C.2.a, “Specific Use Standards” of Article 8 to remove drive-through uses as a permitted use by Special Exception in the Downtown Core District, as follows:
  - 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.
3. Update Table 8-1 “Permitted Principal Uses By Zoning District” in Article 8, Table 4-1 “Downtown Districts Permitted Uses” in Article 4, and Table 5.1.5 “Permitted Uses” in Article 5 to display “Charitable Gaming Facility” as a permitted use in the Downtown Growth District and Commerce District under the category of Commercial Uses.

\_\_\_\_\_  
George S. Hansel, Mayor

**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. Charitable Gaming Facility**

1. **A facility operated by a Licensed Game Operator as defined in RSA 287-D:1.VII or any facility operated by a business licensed by the lottery commission to operate games of chance for 5 or more dates per calendar year. Does not include games of chance contained in RSA 287-E.**

**J. 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.

**K. 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.

**L. ~~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.

**M. ~~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.

**N. ~~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.).

**O. ~~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.

**P. ~~O-~~ Hotel/Motel**

1. **Defined.** A commercial facility that provides rooms for sleeping and customary lodging

**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,

TABLE 8-1: PERMITTED PRINCIPAL USES BY ZONING DISTRICT

P = Permitted P<sup>1</sup> = 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 #

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	
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 <sup>1</sup>	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	8.3.1.B
Dwelling, Multifamily	CRD	-	CRD	CRD	P <sup>1</sup>	P	P	P <sup>1</sup>	P P <sup>1</sup>	P	P	P	-	P <sup>1</sup>	-	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 <sup>1</sup>	-	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 <sup>1</sup>	-	-	-	P <sup>1</sup>	SE	P <sup>1</sup>	-	-	-	-	SE	-	8.3.2.G
Car Wash	-	-	-	-	-	-	-	-	-	SE	-	-	-	P	P	-	-	-	-	P	-	-	-	-	8.3.2.H
<b>Charitable Gaming Facility</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>P</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>P</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>8.3.2.I</b>
Clinic	-	-	-	-	-	-	-	P	P	P	P	-	P	P	P	-	-	-	-	-	-	P	-	-	8.3.2.IJ
Event Venue	-	-	-	-	-	-	-	-	P	-	-	-	P	P	-	-	-	-	-	-	-	-	SE	-	8.3.2.JK
Funeral Home	-	-	-	-	-	-	-	-	P	P	P	P	-	P	P	-	P	P	-	-	-	-	-	-	8.3.2.KL
Greenhouse / Nursery	P	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P	-	-	-	P	-	-	P	-	8.3.2.LM
Health Center / Gym	-	-	-	-	-	-	-	P	P	P	P	-	P	P	P	P	-	-	-	P	-	P	-	-	8.3.2.MN
Heavy Rental & Service Establishment	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	-	-	-	-	P	-	-	-	-	8.3.2.NO
Hotel/Motel	-	-	-	-	-	-	-	P	P	-	-	-	P	P	-	-	-	-	-	-	-	-	-	-	8.3.2.OP
Kennel	P	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	-	8.3.2.PQ
Micro-Brewery/Micro-Distillery/Micro-Winery	-	-	-	-	-	-	-	P	P	-	-	-	-	P	P	-	-	-	-	-	-	-	-	-	8.3.2.R-T
Motor Vehicle Dealership	-	-	-	-	-	-	-	-	-	P	-	-	-	P	P	-	-	-	-	-	-	-	-	-	8.3.2.TU
Neighborhood Grocery Store	-	-	-	-	-	SE	-	P	P	P	P	-	-	P	-	P	P	-	-	-	-	-	-	-	8.3.2.UV
Office	-	-	-	-	-	-	-	P	P	P	P	P	P	P	P	P <sup>1</sup>	P <sup>1</sup>	P	P <sup>1</sup>	SE	SE	P	-	-	8.3.2.VW
Personal Service Establishment	-	-	-	-	-	-	-	P	P	P	P	-	P	P	P	P	P	-	-	-	-	P	-	-	8.3.2.WX
Private Club / Lodge	-	-	-	-	-	-	-	P	P	P	P	SE	-	P	P	-	-	SE	-	-	-	-	-	-	8.3.2.XY
Recreation/Entertainment Facility - Indoor	-	-	-	-	-	-	-	P	P	-	-	-	P	P	P	P	-	-	-	-	-	-	-	-	8.3.2.YZ
Recreation/Entertainment Facility - Outdoor	-	-	-	-	-	-	-	-	P	-	-	-	P	P	P	-	-	-	-	-	-	-	SE	-	8.3.2.ZAA
Research and Development	-	-	-	-	-	-	-	SE	P	-	-	-	P	P	P	P	-	-	P	P	P	P	-	-	8.3.2.AAAB
Restaurant	-	-	-	-	-	-	-	P	P	P	P	-	P	P	P	P <sup>1</sup>	P <sup>1</sup>	-	-	-	-	-	-	-	8.3.2.ABAC
Retail Establishment, Heavy	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	-	-	-	-	-	-	-	-	-	8.3.2.ACAD
Retail Establishment, Light	-	-	-	-	-	-	-	P	P	P	P	-	P	P	P	-	P <sup>1</sup>	-	-	-	-	P	-	-	8.3.2.ADAE
Self Storage Facility - Exterior Access	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	-	-	-	-	P	-	-	-	-	8.3.2.AEAF
Self Storage Facility - Interior Access	-	-	-	-	-	-	-	-	SE	P	-	-	-	P	P	-	-	-	-	P	-	-	-	-	8.3.2.AFAG
Sexually Oriented Business	-	-	-	-	-	-	-	-	-	-	-	-	-	P <sup>1</sup>	-	-	-	-	-	-	-	-	-	-	8.3.2.AGAH
Specialty Food Service	-	-	-	-	-	-	-	P	P	P	P	-	P	P	P	P	P	-	-	-	-	-	-	-	8.3.2.AHAI
Vehicle Fueling Station	-	-	-	-	-	-	-	-	-	-	-	-	-	P <sup>1</sup>	P <sup>1</sup>	-	-	-	-	-	-	-	-	-	8.3.2.AIAJ

### 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<sup>1</sup>" 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 <sup>1</sup>	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 <sup>1</sup>	-	8.3.2.G
Car Wash	-	-	SE	-	-	-	8.3.2.H
<b>Charitable Gaming Facility</b>	<b>-</b>	<b>P</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>8.3.2.I</b>
Clinic	P	P	P	P	-	P	8.3.2.J
Event Venue	-	P	-	-	-	P	8.3.2.JK
Funeral Home	-	P	P	P	P	-	8.3.2.KL
Health Center / Gym	P	P	P	P	-	P	8.3.2.MN
Hotel/Motel	P	P	-	-	-	P	8.3.2.OP
Micro-Brewery/Micro-Distillery/Micro-Winery	P	P	-	-	-	-	8.3.2.R-T
Motor Vehicle Dealership	-	-	P	-	-	-	8.3.2.TU
Neighborhood Grocery Store	P	P	P	P	-	-	8.3.2.UV
Office	P	P	P	P	P	P	8.3.2.VW
Personal Service Establishment	P	P	P	P	-	P	8.3.2.WX
Private Club / Lodge	P	P	P	P	SE	-	8.3.2.XY
Recreation/Entertainment Facility - Indoor	P	P	-	-	-	P	8.3.2.YZ
Recreation/Entertainment Facility - Outdoor	-	P	-	-	-	P	8.3.2.ZAA
Research and Development	SE	P	-	-	-	P	8.3.2.AAAB
Restaurant	P	P	P	P	-	P	8.3.2.ABAC
Retail Establishment, Light	P	P	P	P	-	P	8.3.2.ADAE

## 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

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

### 5.1.3 Buildout

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

### 5.1.4 Height

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

## 5.1.5 Permitted Uses

RESIDENTIAL USES		
Dwelling, Multi-family	P <sup>1</sup>	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
<b>Charitable Gaming Facility</b>	<b>P</b>	<b>8.3.2.I</b>
Clinic	P	8.3.2.IJ
Event Venue	P	8.3.2.JK
Funeral Home	P	8.3.2.KL
Greenhouse / Nursery	P	8.3.2.LM
Health Center / Gym	P	8.3.2.MN
Hotel/Motel	P	8.3.2.OP
Micro-Brewery/Micro-Distillery/ Micro-Winery	P	8.3.2.R-T
Motor Vehicle Dealership	P	8.3.2.TU
Neighborhood Grocery Store	P	8.3.2.UV
Office	P	8.3.2.VW
Personal Service Establishment	P	8.3.2.WX
Private Club / Lodge	P	8.3.2.XY
Recreation/Entertainment Facility - Indoor	P	8.3.2.YZ
Recreation/Entertainment Facility - Outdoor	P	8.3.2.ZAA
Research and Development	P	8.3.2.AAAB
Restaurant	P	8.3.2.ABAC
Retail Establishment, Heavy	P	8.3.2.ACAD
Retail Establishment, Light	P	8.3.2.ADAE
Self Storage Facility - Exterior Access	P	8.3.2.AEAF
Self Storage Facility - Interior Access	P	8.3.2.AFAG
Sexually Oriented Business	P <sup>1</sup>	8.3.2.AGAH
Specialty Food Service	P	8.3.2.AHAI
Vehicle Fueling Station	P <sup>1</sup>	8.3.2.AIAJ
Vehicle Rental Service	P	8.3.2.AJAK
Vehicle Repair Facility – Major	P <sup>1</sup>	8.3.2.AKAL
Vehicle Repair Facility – Minor	P <sup>1</sup>	8.3.2.ALAM
INSTITUTIONAL USES		
		SECTION
Community Center	P <sup>1</sup>	8.3.3.A
Cultural Facility	P <sup>1</sup>	8.3.3.B
Day Care Center	P	8.3.3.C