



Due to the COVID-2019 State of Emergency, the City Council will be holding its meetings remotely using the web-based program, Zoom. City Councilors will be participating in this meeting remotely. Members of the public will be able to access this public meeting through a variety of options, described below. If you encounter any issues accessing this meeting, please call 603-757-0622 during the meeting. To view the City Council meeting, please navigate to [www.zoom.us](http://www.zoom.us) and enter the Meeting ID# 872 3897 2857. To listen via telephone call 877-853-5257 and enter the Meeting ID # 872 3897 2857.

KEENE CITY COUNCIL  
Council Chambers, Keene City Hall  
April 15, 2021  
7:00 PM

Roll Call  
Pledge of Allegiance

MINUTES FROM PRECEDING MEETING

- April 1, 2021

**A. HEARINGS / PRESENTATIONS / PROCLAMATIONS**

1. Public Hearing Notice - Land Development Code

**B. ELECTIONS / NOMINATIONS / APPOINTMENTS / CONFIRMATIONS**

1. Confirmation  
Energy and Climate Committee
2. Nomination  
Assessor's Board

**C. COMMUNICATIONS**

1. Brewbakers Cafe - Request to Serve Alcohol on City Property - Sidewalk Cafe
2. Kevin Leary - Request for Access to Property - Old Gilsum Road
3. Concerned Citizens of Cheshire County - Efficacy of Face Coverings
4. Mindy Cambiar/Hundred Nights Shelter - Request to Use City Property - Parking of Coach Bus
5. Edward Coppola/The Stonewall Farm Board - Solar Restrictions in the Agricultural Zoning District as Contemplated in the Land Development Code
6. Peter Espiefs - Regarding the Congregate Care and Social Service License - Ordinance O-2021-04

**D. REPORTS - COUNCIL COMMITTEES**

1. Request for Exception from the Public Improvement Standards – City Engineer
2. Denise Meadows – Request to Convert Loading Zone Space on Railroad Street to a Mobile Vendor Space
3. Dave Kirkpatrick/Cheshire TV - Requesting an Opportunity to Address City Councilors Regarding the Current Situation with Cheshire TV
4. Report - Ad Hoc Racial Justice and Community Safety Committee
5. Acceptance of Donations - Parks, Recreation and Facilities Director

6. Acceptance of the 2017 Homeland Security Grand Award - HazMat Allocation - Fire Chief
7. PANJANDRUM Foundation Grant - Police Chief
8. FAA Coronavirus Response and Relief Supplemental Appropriation Act (CRRSAA) Grant for Airport - Airport Director
9. Airport Restaurant Lease - Airport Director
10. Continued Discussion: Water and Sewer Methodology and Rates
11. Authorization to Provide Testimony - HB 111 - City Attorney

**E. CITY MANAGER COMMENTS**

**F. REPORTS - CITY OFFICERS AND DEPARTMENTS**

**G. REPORTS - BOARDS AND COMMISSIONS**

1. City of Keene Community Power Plan

**H. REPORTS - MORE TIME**

**I. ORDINANCES FOR FIRST READING**

1. Relating to Designated Loading Zones  
Ordinance O-2021-03
2. Relating to Chapter 46 Licenses and Permits  
Ordinance O-2021-04

**J. ORDINANCES FOR SECOND READING**

1. Relating to Sewer Service and Industrial Pretreatment  
Ordinance O-2021-02

**K. RESOLUTIONS**

Non Public Session  
Adjournment

A regular meeting of the Keene City Council was held on Thursday, April 1, 2021. The Honorable Mayor George S. Hansel called the meeting to order at 7:00 PM. Mayor Hansel read into the record the Emergency Order #12, issued by the Governor of the State of New Hampshire pursuant to Executive Order #2020-04. He continued that the members of the City Council would be participating remotely. The Mayor asked that during the roll call for attendance, each Councilor identify their online presence and whether there are others with them in the room. Roll called: Stephen L. Hooper, Michael J. Remy, Janis O. Manwaring, Michael Giacomo, Randy L. Filiault, Robert C. Williams, Philip M. Jones, Gladys Johnsen, Andrew M. Madison, Raleigh C. Ormerod, Bettina A. Chadbourne, Catherine I. Workman, Mitchell H. Greenwald, Kate M. Bosley, and Thomas F. Powers were present. A motion by Councilor Powers to accept the minutes from the March 18, 2021 regular meeting was duly seconded by Councilor Bosley and the motion passed on a roll call vote with 15 Councilors present and voting in favor. The Mayor led the Pledge of Allegiance.

#### ANNOUNCEMENTS

The Standing Committees will start meeting in a hybrid fashion beginning on April 7. Councilors will be encouraged to wear face coverings. The City Clerk will communicate other information that Councilors should be aware of in advance of the meetings.

#### RESOLUTION – IN APPRECIATION OF DANIEL S. LANG UPON HIS RETIREMENT

A memorandum from ACM/HR Director, Beth Fox, read recommending that the City Council adopt Resolution R-2021-09, In Appreciation of Daniel S. Lang Upon His Retirement. Mayor Hansel read the Resolution into the record. A motion by Councilor Powers to adopt resolution R-2021-09 was duly seconded by Councilor Bosley and the motion passed on a unanimous roll call vote with 15 Councilors present and voting in favor.

#### PUBLIC HEARING – MID-GRANT – CURRENT CDBG PROJECTS – MONADNOCK FOOD CO-OP EXPANSION AND SCS/SHELTER IMPROVEMENTS

Mayor Hansel opened the first public hearing for the Monadnock Food Co-op Expansion Community Development Block Grant (CDBG) project. The City Clerk read the public notice.

The Mayor recognized James Weatherly, Planning Technician at Southwest Regional Planning Commission (SWRPC) to address the Monadnock Food Co-op project. Mr. Weatherly was the Grant Administrator for the two grants under discussion; the City was the fiscal sponsor of both. These public hearings provided the public an opportunity to comment on the Federal Community Development Block Grants currently underway. During this first public hearing, Mr. Weatherly would focus on the Monadnock Economic Development Corporation –Monadnock Food Co-op expansion project. The City of Keene was awarded \$500,000 of CDBG funds to be used for soft costs and equipment purchases for the Co-op expansion project. The project closed in late 2019, job creation was ongoing, and the expansion was complete and operational. Additionally, as of December 31, 2020, 19 of the 25 required jobs had been created. CDBG funds are based on job creation for persons with low to moderate incomes. While the project was requesting additional time in response to a slower than anticipated start-up due to the Covid-19 pandemic, Mr. Weatherly said it was clear that substantial progress had been made on job creation and the project was anticipated to meet the full jobs requirement by the extended end date of June 30, 2022. All funds for soft costs and equipment purchases were drawn down in the spring of 2020.

The Mayor welcomed Michael Faber, General Manager of the Monadnock Food Co-op, who said this grant had been an important part of the Co-op's expansion funding. Mr. Faber said the Co-op had been working for years to expand their facility and meet community needs. He said that in 2019, construction began on the 6,700 square foot expansion and had been completed mostly as of this date and was going extremely well overall, with positive response from the community resulting in a 17% increase in sales over the previous year. As a result, there had been other community impacts such as more support for local farmers and producers as well as making healthy foods more accessible in the downtown area. As Mr. Weatherly mentioned that job creation was an important part of the excellent progress that had been made. Mr. Faber said that once Covid-19 subsided and the food Departments could return to some level of normalcy, then filling the remainder of those 25 jobs should be possible by June 2022. Overall, the Co-op continued navigating through Covid-19 like everyone and hoped to see it end soon so it could move fully into this new phase, with the community able to come together again.

The Mayor recognized Steve Fortier, Interim President of MEDC, who said he hoped the City Council was feeling as proud of this project as everyone at MEDC was. Mr. Fortier recalled the vital role MEDC played in meeting many needs identified in the region. MEDC was glad to be involved with this expansion and partnership with the City of Keene in general over the last 30 years. He said MEDC had played an obvious critical role in development and supporting expansion or relocation of some of the region's most significant employers, contributing to the tax base of Keene and other communities where projects were supporting local economies and creating hundreds if not thousands of jobs. An MEDC Board member, Jim Rousmaniere, was currently researching each of MEDC's projects to learn the significance of tax payments to cities and towns in which MEDC exists and the number of employees hired over the last 30 years. Additionally, Mr. Fortier said that the Co-op was special, having created jobs and supporting the community through many other economic benefits. Beyond that, the Co-op was a key player in the region's food system, ensuring that it was resilient and supported through public education, community events, and now this expansion that would allow it to be a community hub. Mr. Fortier thought all of those roles were very important. On a personal note, he said that Mr. Faber, his staff, and volunteers had been doing inspiring work. Being on the Board of the Great River Co-op in Walpole, Mr. Fortier called it his source of inspiration to be involved with the amazing community contributions. Mr. Fortier concluded that MEDC was delighted to be a part of this project and again partnering with the City to help some amazing organizations come to life.

Mayor Hansel opened the floor to comments from the Council and public.

Councilor Ormerod was pleased to hear of the progress on this important community project despite challenges. He wanted to ensure that the Co-op could accomplish filling all 25 required jobs and asked whether there would be penalties for not reaching 25 during what he called these truly desperate times, and what support was needed to reach the 25 jobs. Mr. Weatherly said that the project was requesting a one-year extension to ensure they could meet this goal and the request for extension was underway, which was the support needed. Through conversations with all stakeholders, he thought the Co-op was in a good position to fill all 25 jobs by June 2022. He thought the true crux was Covid-19 reducing traffic to the deli and the prepared foods sections. Regarding a penalty, Mr. Weatherly said that job creation was tied to the project finances and if it seemed that reaching 25 was not possible by the extended deadline, there would need to be conversations between the grantors and all other stakeholders involved. He thought that with vaccines increasing the project should be able to complete successfully by the extended deadline.

Councilor Jones recalled that for a long time the City was required to have someone from a non-profit organization manage its CDBG grants and for a long time that person was Linda Mangones from the Keene Housing Authority. He asked whether that was still a requirement and if so, who was doing that work now. The City Manager replied that Mr. Weatherly was managing the City's grants through the SWRPC.

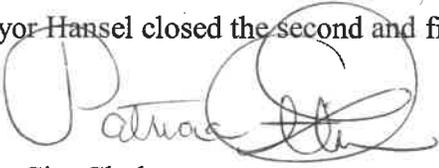
Mayor Hansel closed the first public hearing on the Monadnock Food Co-op project and opened the second public hearing on the Southwestern Community Services (SCS) Shelters project and reintroduced James Weatherly, Planning Technician at SWRPC.

Mr. Weatherly said that on March 11, 2020 the City was awarded \$500,000 of Public Facility grant funds for the purpose of assisting Southwestern Community Services (SCS) to acquire three shelter facilities and to rehabilitate two shelters on Elm and Water Streets. SCS had operated the three shelter facilities for many years, but was leasing them from Keene Housing and the Cheshire Housing Trust. As such, a primary part of this project was to consolidate ownership of the three facilities in the interest of added efficiency, in addition to the long-delayed capital needs for both the Elm and Water Streets locations. Mr. Weatherly continued that the Water Street shelter was at capacity most of the time and therefore capital improvements could be challenging and expensive outside of this CDBG funding, making it a critical project. Mr. Weatherly continued that all three of the facilities were acquired ultimately in spring 2020 despite the project encountering design work delays due to Covid-19. The project went to bid and would begin construction hopefully later in April 2021, with substantial completion by the fall 2021, and with the project to keep its funding end date of December 31, 2021.

Approximately one third of the grant was drawn down for architectural acquisition costs as well as administration costs on the Water and Elm Streets locations.

At 7:28 PM with no further comments, Mayor Hansel closed the second and final public hearing for the SCS Shelter project.

A true record, attest:

  
City Clerk

#### PRESENTATION – WATER AND SEWER RATES – RAFTELIS

Mayor Hansel introduced the Director of Public Works/Emergency Management Director, Kurt Blomquist, who introduced consultants Luke Eastman and Dave Fox of Raftelis to share a presentation.

The Director of Public Works began by saying this was an opportunity to bring the Council up-to-date on the complete water and sewer rate study. Although the water portion was completed in early 2020, the City Council choose to forego any increase in the water rates during the last year due to Covid-19. Following this presentation, discussions on revenue recovery and possible rate increases would continue with the Finance, Organization & Personnel Committee. Before comprehensive review of these rates in 2019, it had been 17 years since the existing water and

sewer charge structure was adopted, with a fixed cost based on meter size and a uniform volumetric charge for all users. The Director of Public Works said it was reasonable to determine whether the City was recovering its operating costs in part through its water and sewer rates. He said the study also presented an opportunity to review the Council's infrastructure goal and ensure that rates were supporting those as well. He said that the City had a fairly simplistic rate structure, with only single rates for both water and sewer. As with many City projects, this rate study team was comprised of the consultants who were speaking, the City of Keene Finance Director – Merri Howe, Public Works Department Staff, and Councilor Powers, who provided guidance and a Council perspective. There was a request for proposals process and the Council ultimately authorized moving forward with Raftelis. Water and sewer rate studies were a common part of Raftelis' consulting services, led by some of the top academics and professionals in the industry.

The study's lead consultant, Mr. Eastman said it had been a pleasure working with the City on this study, including the Director of Public Works, Aaron Costa, and their Staff in addition to the Finance Director and her Staff, who provided critical answers questions for the study on billing data, budgets, and capital improvement plans that were required for study like this. Mr. Eastman provided an overview of the rate study process, stating that there would be more details during the Finance, Organization & Personnel Committee meeting on April 8. Mr. Eastman was the lead Senior Manager with Raftelis, which he said was the largest firm in the country focusing on financial and pricing management consulting services for the water, sewer, and stormwater industries. Mr. Eastman said that beginning in December 2019, he and Mr. Fox met with City Staff to set the direction for this study and identify priorities. The resulting priority was to update the water, sewer, and fire rates to meet the City's objectives. To accomplish that priority, the study analyzed the miscellaneous fees charged to water and utility customers to ensure they were within common industry practices. Next, cost or revenue requirements were identified based on demand projections to determine how consumption for the water and sewer utility could trend over time. Then, costs were allocated to different customer types that Keene serves to design a rate structure that works to meet the City's financial and rate policy. Finally, the study assessed rate effectiveness and addressed pricing objectives.

Mr. Eastman continued on pricing objectives, which are what the City wants to accomplish with the price of water and sewer services including: financial sufficiency, administrative ease, equity, customer understanding, revenue stability, conservation, defensibility, and affordability. Ultimately during this study, the first priority identified was financial sufficiency, which means having enough revenues to run the system properly and continue delivering quality service to the City's customers. The second key priority identified was affordability, which means ensuring that the significant amount that customers pay for service is affordable if charges must occur and that those charges mitigate any impacts for certain customers in need. The final key priority identified was revenue stability, which means ensuring that revenues from utilities are stable enough to withstand financial or operational disruption. The remaining pricing objectives were still important and accounted for when designing possible new rates.

Before designing rates, the consultants needed a full financial understanding of water and sewer utilities and therefore assessed costs over multiple years in terms of quantity of customers, demand on the water/sewer systems, revenues, operating expenses, the Capital Improvement Program (CIP), and fund balance or cash reserves. Mr. Eastman said that the water and sewer industry is capital intensive; when the City needs to pay for new capital projects, there must be a

decision to use cash, debt, or an optimal mix that mitigates customer impacts while meeting financial and operational goals. Simultaneously, the City must also consider its cash reserves and Fiscal Policies to ensure those are met at all times. As such, the consultants built a Microsoft Excel financial model that simulated rates according to the City's objectives, costs, and revenues projected over time to track customer rates for several usage levels to ensure that bills remain affordable and reasonable. This process and its results would be discussed in greater detail at the April 8 FOP meeting.

Mr. Eastman discussed the bigger picture of Keene's water and sewer utilities based on this study. The study projected water costs increasing significantly in the near term primarily due to CIP costs, which he said was not surprising to him as a rate consultant in a capital intensive industry, particularly with Keene's needs to replace large scale infrastructure, upgrade well fields, upgrade storage tanks, distribution improvements, and miles of pipe upgrades that often do not come to mind when costs increase. For example, one of the capital improvements driving increased rates was sewer main improvements. Mr. Eastman said that Keene's customers had been very stable over time, meaning that there had been low customer growth compared to other cities across the country and therefore, the City could depend less on revenues from customer growth. Consumption had also been declining per capita, driven primarily by residential and commercial utility fixture replacements or repairs. Per household and per capita, water use was declining, which posed challenges for the City selling water and sewer services to those customers. Lastly, Mr. Eastman said that increased regulations and compliance costs were another financial pressure.

Mr. Eastman continued discussing the proposed water rate structure. He said that the identified financial pressures demonstrated that a change was needed. Changing rate structures were often an opportunity to ensure the City is operating as it would like in a way that could help to benefit all customers. As such, Mr. Eastman thought the study had identified a way to handle those financial pressures, which was for the City to institute a "lifeline" rate for residential customers. A lifeline rate would charge residential customers only one low price per gallon for an essential amount of water, such as the amount that a typical small household would use for showering or cooking. Then, the rate would increase once the household exceeded that usage amount. The concept was that water conservation would be incentivized, demonstrating the cost of service rationale of what an essential amount of water is and that customers should pay more for non-essential demands on the City infrastructure. This residential lifeline rate would benefit very low volume users and residential customers that use typical or intermediate amounts because they would be charged a lower rate for the initial essential usage. Therefore, Mr. Eastman said that he saw the lifeline rate as a great, affordable, friendly opportunity. Beyond the lifeline rate, he suggested based on the study to follow an industry standard practice that increases quarterly charges based on meter size. Residential customers would pay the lowest price and the price would increase from there. Therefore, in the proposed rate structure, non-residential customers would pay a uniform biometric rate and would not be able not participate in lifeline rates because it is hard to determine an essential water use for commercial users. Mr. Eastman concluded by discussing the proposed sewer rate structure that would maintain much of the current rates. There would also be a quarterly fixed charge per meter size and a uniform volumetric rate.

Mr. Eastman said that when the study concluded in spring 2020, Raftelis delivered the rate study report outlining recommendations and findings, recommended rates at that time, and a customized financial model to help project costs and revenues to allow sound financial decision

making for the utilities. He demonstrated a draft bill and insert that explained the rate changes, which could be mailed to customers when the new rates are implemented. Mr. Fox added that it was not as though the City did nothing with these deliverables since the spring 2020, but rather they made a very conscious decision to not implement any rate increases at that time due to the pandemic, which he said was common with other clients that were ramping-up again to begin implementing this summer.

Councilor Ormerod noticed that conservation was not listed as a key metric but he still saw punitive charges for going over, and so he asked why it was not a key measure in the analysis. Mr. Eastman said that the City did identify conservation as a priority and the lifeline rate would promote water conservation more than the current rate because of the two-tiered system proposed which would make high water use more expensive and would itself send a price signal to residential customers that prioritize conservation.

The Mayor thanked the presenters while acknowledging that the discussion would continue at the next FOP Committee meeting.

#### CONFIRMATIONS

The Mayor made the following nominations. To the Energy & Climate Committee, Suzanne Butcher, with a term to expire December 31, 2023. To the Airport Development & Marketing Committee, Alona Florenz, with a term to expire December 31, 2023. To the Partner City Committee, Lena Kridlo, with a term to expire December 31, 2023. To the Ashuelot River Park Advisory Board, Ruzzel Zullo, with a term to expire December 31, 2022. A motion by Councilor Powers to confirm the nominations was duly seconded by Councilor Bosley and the motion passed on a unanimous roll call vote with 15 Councilors present and voting in favor.

#### NOMINATION

The Mayor submitted the following nomination. To the Energy & Climate Committee, Bryan Lake, with a term to expire December 31, 2021. Mayor Hansel tabled the nomination until the next regular meeting.

#### COMMUNICATION – KELLY BALLARD – RESIGNATION – HERITAGE COMMISSION

A communication was received from Kelly Ballard, resigning from the Heritage Commission after approximately one year of service. A motion by Councilor Powers to accept the resignation with regret and appreciation of service was duly seconded by Councilor Bosley and the motion passed on a unanimous roll call vote with 15 Councilors present and voting in favor.

#### COMMUNICATION – DAVE KIRKPATRICK/CHESHIRE TV – REQUESTING AN OPPORTUNITY TO ADDRESS CITY COUNCILORS

A communication was received from the Executive Director of Cheshire TV, requesting an opportunity to address the City Council on the current situation with Cheshire TV. Mayor Hansel referred the communication to the Finance, Organization & Personnel Committee.

Mayor Hansel said he had a good conversation with Mr. Kirkpatrick and now better understands the type of discussion he sought. The Mayor clarified to Mr. Kirkpatrick during that discussion that this referral to Committee was not an opportunity to discuss or negotiate publically any contracts under negotiation and that the City has rules of decorum the must be adhered, including

no finger-pointing, questioning others' intentions, or providing testimony. Mayor Hansel expects those rules to be followed by anyone in the Council Chambers. Discussions at Committee meetings are presentations of facts meant to be useful in decision making processes. Mayor Hansel looked forward to hearing more from Mr. Kirkpatrick and the public on the vision for Cheshire TV.

**COMMUNICATION – JAN MANWARING/PATHWAYS FOR KEENE – REQUEST TO USE CITY PROPERTY – 4 ON THE 4TH ROAD RACE**

A communication was received from Councilor Manwaring and Pathways for Keene with their annual request to use City property for the July 4, 2021 race. Mayor Hansel referred the request to the Planning, Licenses & Development Committee.

**COMMUNICATION – DENISE MEADOWS – REQUEST TO CONVERT A LOADING ZONE SPACE ON RAILROAD STREET TO A MOBILE VENDOR SPACE**

A communication was received from Denise Meadows, on behalf of Charcoal Charlie Productions, requesting that the City Code be amended to allow an existing loading zone on Railroad Street be converted back to a mobile vendor space. Mayor Hansel referred the communication to the Municipal Services, Facilities & Infrastructure Committee.

**MSFI REPORT – AMENDED REQUEST FOR PROPERTY ACCESS OFF THE OLD GILSUM ROAD THROUGH CITY OF KEENE UTILITY ROAD**

A Municipal Services, Facilities & Infrastructure Committee report read recommending acceptance of the communication from Mr. Leary for access to property off the Old Gilsum Road through the City of Keene utility road. . Mayor Hansel filed the matter into the record as informational with the understanding that Mr. Leary would be submitting an updated request.

**MSFI REPORT – REQUEST FOR USE OF CITY PROPERTY – POLICE DEPARTMENT MEMORIAL STONE – POLICE CHIEF**

A Municipal Services, Facilities & Infrastructure Committee report read recommending that the City Council approve the use of City property to place a Police Department memorial stone outside the Police Department at 400 Marlboro Street. A motion by Councilor Manwaring to carry out the intent of the report was duly seconded by Councilor Giacomo. The motion passed on a unanimous roll call vote with 15 Councilors present and voting in favor.

**MSFI REPORT – PURCHASE OF THE ROBERT J. PROWSE MEMORIAL BRIDGE – CITY ENGINEER**

A Municipal Services, Facilities & Infrastructure Committee report read recommending that the City Manager be authorized to do all things necessary to negotiate and execute a Bill of Sale along with Restrictive Covenants for the historical preservation of the Robert J. Prowse Memorial Bridge. A motion by Councilor Manwaring to carry out the intent of the report was duly seconded by Councilor Giacomo.

The City Manager stated that the bridge could be stored in its current location for up to 10 years and there was time to seek grants and raise funds before the City was committed to spending additional money to move the bridge to Keene.

The motion passed on a unanimous roll call vote with 15 Councilors present and voting in favor.

**MSFI REPORT – REQUEST FOR EXCEPTION FROM THE PUBLIC IMPROVEMENT STANDARDS – CITY ENGINEER**

A Municipal Services, Facilities & Infrastructure Committee report read recommending that Liberty Utilities be granted an exception from Sec. 70-127 (3) of the Public Improvement Standards in order to restore existing asphalt sidewalks on Roxbury St. with asphalt. A motion by Councilor Manwaring to carry out the intent of the report was duly seconded by Councilor Giacomo.

Discussion ensued, with some Councilors expressing opposition to wavering from the concrete sidewalk standard. The City Manager clarified that Liberty Utilities was seeking an exception to replace the sidewalk with asphalt instead of concrete, but that the alternative was for them to cut a trench down the middle of Roxbury Street, which could be avoided through this compromise to place the mains under the sidewalk instead. Some Councilors did not see this as a compromise for the City. There was discussion of the City possibly paying the difference between the asphalt sidewalks that Liberty Utilities proposed to replace and the City's concrete standard as a compromise, which some opposed as a benefit to the utility and not the City.

A motion by Councilor Filiault to send this matter back to Committee was duly seconded by Councilor Chadbourne.

The City Attorney said the new motion took precedent over the previous one to carry out the intent of the report. Councilor Filiault confirmed his intent for the MSFI Committee to continue this discussion and report back to full Council. The matter could later then proceed to FOP if needed.

The motion to send the matter back to the MSFI Committee passed unanimously on a roll call vote with 15 Councilors present and voting in favor.

**PLD REPORT – REPRESENTATIVE JOE SCHAPIRO – URGING THE CITY TO TAKE A POSITION ON HB 266**

A Planning, Licenses & Development Committee report read recommending a letter be sent in opposition to House Bill 266 relative to the enforcement of immigration laws and the prohibition of sanctuary policies to the Keene Legislative Delegation, all State Senators, and the Governor, and that the City Attorney be authorized to speak and testify on the City Council's behalf. A motion by Councilor Bosley to carry out the intent of the report was duly seconded by Councilor Greenwald. Discussion ensued on oppositions to HB 266. The motion passed on a unanimous roll call vote with 15 Councilors present and voting in favor.

**PLD REPORT – RELATING TO PROPOSED CONGREGATE LIVING AND SOCIAL SERVICE LICENSE – SENIOR PLANNER**

A Planning, Licenses & Development Committee report read recommending that the City Manager introduce an ordinance to City Council related to amendments to Chapter 46 of City Code, and the establishment of a Congregate Living and Social Service License. A motion by Councilor Bosley to carry out the intent of the report was duly seconded by Councilor Greenwald. The motion passed on a unanimous roll call vote with 15 Councilors present and voting in favor.

PLD REPORT – CONTINUED DISCUSSION – REQUESTING MINUTES BE KEPT OF MEETINGS BETWEEN THE MAYOR, THE CHARTER OFFICERS, AND THE COMMITTEE CHAIRS

A Planning, Licenses & Development Committee report read referring the matter to the full City Council for their wisdom and discussion. Mayor Hansel filed the report.

A motion by Councilor Bosley to deny the request from Councilor Filiault to have minutes kept at meetings between the Mayor, Charter Officers, and the Committee Chairs was duly seconded by Councilor Greenwald. Discussion ensued.

Councilor Bosley referred to provisions in the City Council Rules of Order by noting that any rules of procedure regarding the City Council or the Standing Committees require an amendment to the Council's Rules of Order. The amendment process requires 2 readings before the City Council and a 2/3 vote for adoption of any amendment. The Councilor continued that any further discussion at the PLD Committee would be in order to discuss whether we are talking about creating minutes, providing summary notes, inviting non-committee members to join, or providing a recording of the discussion. Those details need to be hammered out before the amendment language can be crafted.

The City Attorney stated that the City Council had very broad authority regarding what it could do with its Rules of Order and how the Council operates. He said it should be clear that the Council has authority to make changes to its Rules of Order. The City Attorney continued that the question should be whether the Council should make this change, which was a policy question the Council had to grapple with. He said it was true that the Council could go above and beyond RSA 91-A to the extent that it chooses. However, the City Attorney said he took issue with blurring the lines of what constitutes a public body, for which others in the public had expressed concerns during discussions on this matter, while other questioned why the Council had not yet gone above RSA 91-A regarding this particular meeting. The City Council has three Standing Committees that were created in the Rules of Order with very substantive advisory roles in the Council's operation. The City Attorney quoted the definition of an advisory committee in RSA 91-A: "Any committee whose primary purpose is to consider an issue or issues designated by the appointing authority so as to provide such authority with advice or recommendation concerning the formulation of any public policy or legislation that may be promoted, modified, or opposed by such authority." The City Attorney said the Standing Committees do just that with business referred to them – they take testimony and evidence to judge the competing interests of various parties and make a recommendation back to City Council. Conversely, the City Attorney said that the meetings under discussion between himself, the City Manager, the City Clerk, the Mayor, and the Standing Committee Chairs are administrative and serve the purpose to ensure that Standing Committee meetings proceed in a fairly orderly manner; he said that nothing of substance is discussed on any of the matters coming before Committee but rather just logistics such as possible meeting duration, technology needed, or Staff attending. Everything he mentioned that occurs at those meetings was allowed under law without creating a public body. The City Attorney was clear that the City was not violating RSA 91-A. One of the principal requirements of both the City Attorney and City Clerk is to ensure that the City Council and its Standing Committees do not violate state statute. That said, the City Council had the option to create the minutes requirement for this administrative meeting within its Rules of Order. He stated that his preference would be to not blur those lines.

He believes firmly in transparency, which he said had been striven for in all public business within the City, but because transparency happens in a public context and if these meetings were operating as such then he advised creating the public body with rules that comply with statute. It was the Council's decision whether to have a hybrid situation for just minutes as suggested, but the City Attorney said it must comply with State law.

Further discussion ensued on the merits of different options. Standing Committee members expressed challenges with receiving agenda packets less than 36 hours before the meetings.

Mayor Hansel said he wanted to be very clear that every one of these meetings he had attended or conducted had never gone off topic. He was unsure whether this issue arose due to Terry Clark's resignation from the City Council or anything else, but he wanted to be clear that no such off-topic discussions occurred and the City Attorney was present at the meetings to ensure just that.

The City Attorney reminded that any audio recording taken of a meeting or document created would qualify as subject to public disclosure.

On a roll call vote of 11-4, the motion to deny Councilor Filiault's request passed. Councilors Filiault, Williams, Jones, and Workman voted in opposition.

#### FOP REPORT – FARMER’S MARKET OF KEENE – REQUESTING A WAIVER OR REDUCTION IN FEES

A Finance, Organization & Personnel Committee report read recommending a waiver of the parking rental fee as well as the \$60.00 access fee to the City’s electrical service for the 2021 season of the Farmer’s Market. A motion by Councilor Powers to carry out the intent of the report was duly seconded by Councilor Hooper. The motion passed on a unanimous roll call vote with 15 Councilors present and voting in favor.

#### FOP REPORT – REQUEST TO ACCEPT 2021 WELLNESS GRANT – HUMAN RESOURCES DIRECTOR

A Finance, Organization & Personnel Committee report read recommending that the City Manager be authorized to do all things necessary to accept the wellness grant from Health Trust to be used for employee wellness activities in 2021. A motion by Councilor Powers to carry out the intent of the report was duly seconded by Councilor Hooper. The motion passed on a unanimous roll call vote with 14 Councilors present and voting in favor. Councilor Jones was absent for the vote.

#### FOP REPORT – REPORT ON 2020 DONATIONS AND REQUEST TO SOLICIT DONATIONS FOR 2021 – HUMAN RESOURCES DIRECTOR

A Finance, Organization & Personnel Committee report read recommending that the City Manager be authorized to accept donations associated with 2021 solicitation efforts, should they occur related to employee activities. A motion by Councilor Powers to carry out the intent of the report was duly seconded by Councilor Hooper. The motion passed on a unanimous roll call vote with 15 Councilors present and voting in favor.

FOP REPORT – LEASE AGREEMENT FOR AIRPORT AMUSEMENTS – RUNWAY FUN PARK, LLC – AIRPORT DIRECTOR

A Finance, Organization & Personnel Committee report read recommending that the City Manager be authorized to do all things necessary to negotiate and execute a lease with Runway Fun Park LLC for a parcel of land at the airport. A motion by Councilor Powers to carry out the intent of the report was duly seconded by Councilor Hooper. The motion passed on a unanimous roll call vote with 15 Councilors present and voting in favor.

FOP REPORT – NPDES TECHNICAL ASSISTANCE CHANGE ORDER 2 – WWTP OPERATIONS MANAGER

A Finance, Organization and Personnel Committee report read recommending that the City Manager be authorized to do all things necessary to negotiate and execute Change Order 2 with Weston & Sampson Engineers to perform technical services for the City's National Pollution Discharge Elimination System permit renewal process for an amount not to exceed \$25,000 for contract 04-13-18. A motion by Councilor Powers to carry out the intent of the report was duly seconded by Councilor Hooper. The motion passed on a unanimous roll call vote with 15 Councilors present and voting in favor.

CITY MANAGER COMMENTS

The City Manager shared that at the April 8 FOP meeting, the Committee would be discussing the details of the new proposed water & sewer rate structure and she hope that Councilors would attend if available. She would also be providing an overview of the some of the challenges and opportunities related to revenues and expenses for the upcoming Fiscal Year 2022 budget conversations.

Additionally, the City Manager shared that hybrid Council Committee meetings would start beginning April 7. Trial runs were underway with the new equipment, which allows integration of the upgraded digital cameras and microphones in Council Chambers with Zoom and Cheshire TV's broadcast, which creates a much better product for the viewers at home and a better experience for Councilors in Council Chambers. It would allow Councilors to see and interact with the people participating remotely on zoom. The City Manager asked for patience and understanding because Staff fully expect the first few times going live to have glitches. However, just like virtual meetings, with some time and practice it would get better and easier. Only Council members would be allowed in the room. Councilors who prefer to still participate remotely would be able to do so through Zoom. The public would participate remotely. Due to capacity limitations from the required six-foot distancing, Staff in the room would also be limited to herself and an Assistant City Manager hosting the Zoom meeting. She strongly encouraged everyone to wear their masks even though there would be six feet of separation between everyone. Presence in the room would be for an extended amount of time and the safest way to do so is to wear a mask. As more people become fully vaccinated, Covid-19 positivity numbers decline, and statewide mask ordinances are re-evaluated, there would be opportunities to revisit this within the next few months. The City Clerk would remind Councilors to bring their Chromebooks and charging cords if attending in person.

Next, the City Manager was happy to announce the hiring of Amanda Trask in the new role of Social Host Ordinance/Community Liaison Specialist, which was created to support the newly

adopted Social Host Ordinance. This is a 20-hour per week position funded jointly by the City and Keene State College. Ms. Trask graduated from Keene High School, attended Keene State College, and earned a Bachelor's degree in Health and Psychology. Later she completed her Masters in Acupuncture at New England Medical School and Masters at Tufts Medical School in Pain Research, Education, and Policy. She has worked for Cheshire Medical Center in Keene as a program director and KSC as adjunct professor where she has taught for 10 years. She would start her new role this month.

This week, the City Manager signed onto a letter with the town & city managers in the communities of Manchester, Nashua, Henniker, New London, Plymouth, Hanover, and Durham, requesting the opportunity to work with the Governor and the NH Department of Health and Human Services to develop a plan to include the extension of vaccinations to roughly 20,000 temporary NH residents densely congregated and interspersed with our residents in these NH college communities.

The City Manager discussed legislative crossover that would happen in the next few weeks. She said there were many problematic and downright troubling bills coming out of the House and Senate this year. She had scheduled a meeting with Keene's legislative delegation to discuss these on Wednesday, April 14.

The City Manager continued providing her Covid-19 update. She said that at the meeting with our partners this week she heard that while KSC numbers have ticked-up slightly to 18 active cases, that was still a less than 1% positivity rate. KSC was planning an outdoor commencement this year. To keep their numbers manageable and allow for social distancing, parents would not be able to attend unfortunately. Cheshire Medical Center reported that the positivity numbers were still staying elevated but their percentage positive dropped from 6.8% last week to 4.9% this week. They had four Covid-19 patients in the hospital. Last week the Krif Road vaccination site vaccinated 1,300 people in one day. On average they were vaccinating about 1,000 people per day. The Krif Road site had vaccinated about 30,000 total people in our region. Lastly, just a reminder that on April 2 anyone over the age of 16 could register for the vaccine.

Youth Services Manager/Juvenile Court Diversion Coordinator, Demi Kirby, was recently awarded the Monadnock Region Outstanding Women Award. As our Youth Services Manager, she had been able to increase the number of youths Keene serves, growing cases from 13 per year when started to an average of 33 cases per year now. She is passionate about prevention and intervention for high-risk youth and providing parents and the community with opportunities to improve. She volunteers with the YMCA's Monadnock Youth Coalition along with several other community clubs and organizations. The City Manager shared in congratulating Ms. Kirby.

#### PB-PLD REPORT – LAND DEVELOPMENT CODE AND DOWNTOWN ZONING

A report from the Joint Planning Board – Planning, Licenses and Development Committee report read recommending that the Mayor set a Public Hearing date for O-2020-10A and O-2020-11A for April 15, 2021. Mayor Hansel scheduled the public hearing for Thursday, April 15, 2021 at 7:00 PM.

#### MORE TIME – DARREN HUMPHREY – REQUEST TO USE CITY PROPERTY

04/01/2021

A Planning, Licenses and Development Committee report read recommending on a vote of 5-0 to place this item on more time to allow Mr. Humphrey to submit a feasible plan for outdoor seating. Mayor Hansel granted more time.

SEWER SERVICE AND INDUSTRIAL PRETREATMENT – ORDINANCE O-2021-02

A memorandum from the Director of Public Works/Emergency Management Director, Kurt Blomquist, read recommending that Ordinance O-2021-02, Relating to Sewer Service, be read and referred to the Municipal Services, Facilities and Infrastructure Committee. Mayor Hansel filed the memorandum and referred Ordinance O-2021-02 to the MSFI Committee for first reading.

RESOLUTION – REALLOCATION OF BOND FUNDS – WWTP PERMIT

A Finance, Organization & Personnel Committee report read recommending the adoption of Resolution R-2021-14. Mayor Hansel filed the report. A Motion by Councilor Powers to adopt Resolution R-2021-14 was duly seconded by Councilor Hooper and the motion passed on a unanimous roll call vote with 15 Councilors present and voting in favor.

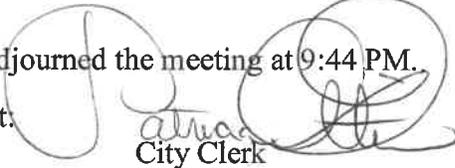
RESOLUTION – REQUEST TO ENDORSE CARBON FEE AND DIVIDEND – ENERGY AND CLIMATE COMMITTEE

A Planning, Licenses & Development Committee report read recommending that the City Manager introduce a Resolution (patterned on the draft Resolution with minor comment and revisions from the City Attorney) that would endorse the Federal Carbon Fee and Dividend Legislation and that an accompanying letter be sent along to our Federal Delegation, the President, Governor, and Keene’s Legislative Delegation. Mayor Hansel filed the report. Resolution R-2021-18 was read by title only. A motion by Councilor Bosley to adopt R-2021-18 was duly seconded by Councilor Greenwald and the motion passed on a unanimous roll call vote with 15 Councilors present and voting in favor. Resolution R-2021-18 was declared adopted.

ADJOURNMENT

There being no further business, Mayor Hansel adjourned the meeting at 9:44 PM.

A true record, attest:

  
Patricia  
City Clerk



### **Notice of Public Hearing**

Notice is hereby given that a Public Hearing will be held before the Keene City Council relative to Ordinances O-2020-10A and O-2020-11A, which relate to the establishment of the City of Keene Land Development Code and changes to the City's downtown zoning districts. Petitioner, City of Keene Community Development Department, proposes to update and unite the City of Keene's regulations related to land use and development, including the Zoning Regulations, into the City of Keene Land Development Code; to establish 6 new zoning districts in Keene's downtown area (Downtown Core, Downtown Growth, Downtown Limited, Downtown Edge, Downtown Transition, Downtown Institutional Campus); to remove the Gilbo Avenue Design Overlay District and the Downtown Railroad Property Redevelopment Overlay District; and, to modify the SEED Overlay District. This proposed map change would affect 316 parcels, encompassing a total land area of approximately 220-acres, and would result in the removal of the Central Business and Central Business Limited Zoning Districts.

The full text of the ordinances and the proposed Land Development Code, as well as a summary document and maps displaying the proposed changes is available at [www.keenebuildingbetter.com/lcd](http://www.keenebuildingbetter.com/lcd), or by appointment at Keene City Hall at 3 Washington St, Keene, NH during business hours. To make an appointment, email [communitydevelopment@ci.keene.nh.us](mailto:communitydevelopment@ci.keene.nh.us) or call (603) 352-5440.

**HEARING DATE: APRIL 15, 2021**  
**HEARING TIME: 7:00 PM**

Due to the COVID-19 State of Emergency, the City Council will be holding this public hearing remotely. Members of the public will be able to access this public hearing through any of the following methods:

- To participate online, visit [www.zoom.com/join](http://www.zoom.com/join) and enter Meeting ID: 872 3897 2857.
- To listen via telephone, call (312) 626-6799 or (877) 853-5257 (*toll-free*) and enter Meeting ID: 872 3897 2857. When the meeting is open for public comments, callers may press \*9 if interested in commenting or asking questions.

The following telephone number may be used during the meeting to notify the public body of any problem with access: (603) 757-0622. More information about this meeting is available at the City Council webpage at: [ci.keene.nh.us/my-city-government/city-council](http://ci.keene.nh.us/my-city-government/city-council).

Per order of the Mayor and Councilors of the City of Keene, this first day of April, two thousand and twenty one.

Attest:

City Clerk



# CITY OF KEENE

In the Year of Our Lord Two Thousand and Twenty  
Relating to City of Keene Land Development Code

AN ORDINANCE .....

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

That the Code of Ordinances of the City of Keene, New Hampshire, as amended, is hereby further amended as follows.

1. Add Chapter 100, "Land Development Code" to the Code of Ordinances, which shall read as presented in the attached document entitled, City of Keene, New Hampshire Land Development Code dated April 2021. This draft document contains amended versions of the City's Zoning Regulations, Subdivision Regulations, Site Plan Regulations, Historic District Regulations, Floodplain Regulations, Public Improvement Standards (referred to as Public Infrastructure Standards), Earth Excavation Regulations, and all related application and review procedures.
2. Remove the following sections of the Code of Ordinances in their entirety.
  - a. Chapter 18. Article V. "Historic Districts"
  - b. Chapter 34. "Environment"
  - c. Chapter 54. "Natural Resources"
  - d. Chapter 70. "Public Improvement Standards"
  - e. Chapter 102. "Zoning"
  - f. Appendix B. Fee Schedule. Chapter 54. "Natural Resources". Article II. "Floodplain"
  - g. Appendix B. Fee Schedule. Chapter 54. "Natural Resources". Article III. "Land Filling and Excavation"
  - h. Appendix B. Fee Schedule. Chapter 70. "Public Improvement Standards"
  - i. Appendix B. Fee Schedule. Chapter 74. "Sign Code"
  - j. Appendix B. Fee Schedule. Chapter 102. "Zoning"
3. Delete the stricken text and add the bolded underlined text in the following sections of the Code of Ordinances.
  - a. Chapter 18. "Building Regulations." Article I. "In General." Sec. 18-2. "Definitions."  
*"Lodginghouse shall mean any dwelling for ~~more than four~~ **between 5 and 16** unrelated natural persons, which ~~lets~~ **provides separate rooms for** sleeping accommodations ~~for a fee for a transient or permanent basis, without personal care services, with or without meals, but~~ **and** without separate cooking facilities for individual occupants. A lodginghouse may include separate living quarters for an on-site property manager. For purposes of this **article**, the term lodginghouse shall not include a hotel or motel."*
  - b. Chapter 18. Article III. "Property and Housing Standards." Section 18-259. "Sanitary Facilities."  
*"(4) Sanitary facilities, shared facilities—~~Lodging House~~ **Congregate Living Uses.** At least one water closet, lavatory, and bathtub or shower shall be provided for all ~~lodginghouses~~ **congregate living uses, as defined in Chapter 100, Article 8 in the City Code of Ordinances,** for up to four rooms used as bedrooms. All such facilities*

shall be located within the building housing the sleeping rooms. Said facilities shall be accessible from a common hall, passageway, or a room used in common (lounge) and shall be not more than one story removed from any persons sharing such facilities. Such facilities shall not be located in a basement.”

- c. Chapter 18. Article III. “Property and Housing Standards.” Section 18-307. “Determination of the housing standards enforcement officer; issuance of orders, posting of placards.”

“(c) Any dwelling, dwelling unit or lodginghouse congregate living use as defined in Chapter 100, Article 8 of the City Code of Ordinances, which has been determined unfit for human habitation and which has been placarded as such by the housing standards enforcement officer shall be vacated within a reasonable time as required by the housing officer. No owner shall rent to any person for human habitation, and no person shall occupy, any dwelling or dwelling unit which has been determined unfit for human habitation and which has been placarded by the housing officer after the date which the officer has required the dwelling or dwelling unit to be vacated.”

- 4. Add the following language to Chapter 2, Article 5 “Boards and Commissions”, Division 15

“Planning Board,” relating to the powers of the Planning Board with respect to establishing a Minor Project Review Committee.

“(37) [*The Planning Board shall*] have the authority to delegate its site review powers and duties in regard to minor site plans to a committee of technically qualified administrators chosen by the Planning Board from the departments of public works, community development, or other similar departments in the City, in accordance with NH RSA 674:43(III). The process and procedures for this committee, which shall be known as the Minor Project Review Committee, are set forth herein in Article 25 of Chapter 100 of the City Code of Ordinances.”

- 5. Add to Appendix B of the City Code of Ordinances, “Chapter 100. Land Development Code (LDC) Fee Schedule,” which shall read as follows.

**“Chapter 100. Land Development Code (LDC) Fee Schedule**

§14.3 Sustainable Energy Efficient Development Overlay District Incentive	
Application Fee.....	\$100.00
§22.4 Service Connection Permit	
Engineering Inspection Fees.....	\$55.00 per hour
Residential, Institutional or Commercial Building Service Connection Permit.....	\$15.00
Industrial Building Service Connection Permit.....	\$30.00
§25.3 Zoning Text or Zoning Map Amendment	
Application Fee.....	\$100.00
Published Public Notice Fee.....	\$90.00
§25.4 Land Development Code Amendment	
Application Fee.....	\$100.00
Published Public Notice Fee.....	\$90.00

§25.5 Zoning Variance Application Fee.....	\$100.00
§25.6 Zoning Special Exception Application Fee.....	\$100.00
§25.7 Expansion or Enlargement of a Nonconforming Use Application Fee.....	\$100.00
§25.8 Equitable Waiver of Zoning Dimensional Requirements Application Fee.....	\$100.00
§25.9 Zoning Administrator Written Interpretation Application Fee.....	\$125.00
§25.10 Subdivision Review	
Subdivision Application Fee.....	\$200.00 + \$100.00 per lot
Conservation Residential Development Subdivision Application Fee....	\$200.00 + \$100.00 per lot
Boundary Line Adjustment Application Fee.....	\$100.00 + \$20.00 per lot
Voluntary Merger Application Fee.....	\$100.00 + \$20.00 per lot
Request to extend expiration of conditionally approved subdivision.....	\$25.00 for 1st request, \$50 for each request thereafter
§25.11 Planning Board Advice and Comment Application Fee.....	\$25.00
§25.12 Site Plan Review	
Major Site Plan Application Fee.....	\$250.00 + \$0.05 per sf gross floor area of new construction
Minor Site Plan Application Fee.....	\$250.00 + \$0.05 per sf gross floor area of new construction
Request to modify an approved site plan.....	\$250.00 + \$0.05 per sf gross floor area of new construction
Request to extend expiration of conditionally approved site plan.....	\$25.00 for 1st request, \$50 for each request thereafter
§25.13 Administrative Planning Review Review Fee.....	\$125.00
§25.14 Conditional Use Permit (CUP)	
Telecommunications CUP Application Fee.....	\$300.00
Hillside Protection CUP Application Fee.....	\$100.00
Surface Water Protection CUP Application Fee.....	\$100.00
Congregate Living and Social Services CUP Application Fee.....	\$100.00
Solar Energy System CUP Application Fee.....	\$100.00
§25.15 Historic District Certificate of Appropriateness (COA)	

Major Project Application Fee.....\$50.00  
 Minor Project Application Fee.....\$25.00  
 Request to modify an approved Major Project COA.....\$50.00

§25.16 Street Access Permit  
 Application Fee.....\$50.00

§25.17 Floodplain Development Permit  
 Floodplain Development Permit Application Fee.....\$50.00 + \$100 per acre (or portion thereof) of special flood hazard area proposed to be altered

§25.18 Sign Permit  
 Applications with a total project cost of \$5,000 or greater).....\$100.00 + \$10.00 per \$1,000 of total project value  
 Applications with a total project value less than \$5,000.....\$100.00

§25.19 Earth Excavation Permit  
 Application Fee.....\$50.00

Mailed Public Notice:  
 Postage for Certified mail.....Current USPS certified mail rate  
 Postage for First Class mail.....Current USPS First Class mail rate

Published Notice (*unless otherwise specified in this Land Development Code Fee Schedule, the published public notice fee shall be as specified below*):  
 Printing fee for legal advertisement in newspaper.....\$62

Recording Fee:  
 Recording Fee.....Current Cheshire County Registry of Deeds Fee, Including LCHIP fee”

Effective Date of this Ordinance: September 1, 2021

\_\_\_\_\_  
 George Hansel, Mayor



# CITY OF KEENE

Ordinance O-2020-11-A

In the Year of Our Lord Two Thousand and ..... Twenty .....

Relating to Change of Zone – Downtown Keene Zoning Update

AN ORDINANCE .....

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

That the Zoning Map of the City of Keene, as adopted by the Keene City Council on December 15, 1977, as part of Chapter 102 entitled, “Zoning”, of the City of Keene, New Hampshire Code of Ordinances, as amended, be hereby further amended as follows.

1. The following zoning districts shall be established on the City of Keene Zoning Map as presented on the attached map, “O-2020-11 – Proposed Downtown Keene Zoning.”
  - a. Downtown Core (DT-C)
  - b. Downtown Edge (DT-E)
  - c. Downtown Growth (DT-G)
  - d. Downtown Institutional Campus (DT-I)
  - e. Downtown Limited (DT-L)
  - f. Downtown Transition (DT-T)
  
2. The parcels listed in the below table shall change zoning districts from the zoning district listed in the column labeled “Current Zoning District” to the zoning district in the column labeled “Proposed Zoning District.”

Tax Map Parcel #	Street Address	Current Zoning District	Proposed Zoning District
585028000000000	124 Water St	(BGR) Business Growth & Reuse	(DT-G) Downtown Growth
585027000000000	122 Water St	(BGR) Business Growth & Reuse	(DT-G) Downtown Growth
585008000000000	4 Crossfield St	(CB) Central Business	(DT-T) Downtown Transition
585024000000000	88 Water St	(CB) Central Business	(DT-T) Downtown Transition
585023000000000	84 Water St	(CB) Central Business	(DT-T) Downtown Transition
585025000000000	92 Water St	(CB) Central Business	(DT-T) Downtown Transition
568046000000000	67 Mechanic St	(CB) Central Business	(DT-L) Downtown Limited
568052000000000	57 Mechanic St	(CB) Central Business	(DT-L) Downtown Limited
554097000000000	47 Mechanic St	(CB) Central Business	(DT-L) Downtown Limited
554087000000000	37 Mechanic St	(CB) Central Business	(DT-L) Downtown Limited
554081000000000	27 Mechanic St	(CB) Central Business	(DT-L) Downtown Limited
554082000000000	17 Mechanic St	(CB) Central Business	(DT-L) Downtown Limited
568072000000000	82 Washington St	(CB) Central Business	(DT-L) Downtown Limited

<b>Tax Map Parcel #</b>	<b>Street Address</b>	<b>Current Zoning District</b>	<b>Proposed Zoning District</b>
568071000000000	74 Washington St	(CB) Central Business	(DT-L) Downtown Limited
568070000000000	64 Washington St	(CB) Central Business	(DT-L) Downtown Limited
568069000000000	50 Washington St	(CB) Central Business	(DT-L) Downtown Limited
568056000000000	11 Vernon St	(CB) Central Business	(DT-L) Downtown Limited
568055000000000	1 Elm St	(CB) Central Business	(DT-L) Downtown Limited
568051000000000	31 Vernon St	(CB) Central Business	(DT-L) Downtown Limited
568050000000000	0 Court St	(CB) Central Business	(DT-L) Downtown Limited
568049000000000	49 Court St	(CB) Central Business	(DT-L) Downtown Limited
568054000000000	34 Mechanic St	(CB) Central Business	(DT-L) Downtown Limited
568053000000000	28 Mechanic St	(CB) Central Business	(DT-L) Downtown Limited
568022000000000	34 Court St	(CB) Central Business	(DT-C) Downtown Core
568021000000000	26 Court St	(CB) Central Business	(DT-C) Downtown Core
568020000000000	12 Court St	(CB) Central Business	(DT-C) Downtown Core
568019000000000	33 Winter St	(CB) Central Business	(DT-C) Downtown Core
575047000000000	60 Winter St	(CB) Central Business	(DT-C) Downtown Core
575046000000000	76 Winter St	(CB) Central Business	(DT-C) Downtown Core
575048000000000	55 West St	(CB) Central Business	(DT-C) Downtown Core
575049000000000	33 West St	(CB) Central Business	(DT-C) Downtown Core
568003000000000	37 Central Sq	(CB) Central Business	(DT-C) Downtown Core
568002000000000	38 Central Sq	(CB) Central Business	(DT-C) Downtown Core
568001000000000	43 Central Sq	(CB) Central Business	(DT-C) Downtown Core
575052000000000	48 Central Sq	(CB) Central Business	(DT-C) Downtown Core
575051000000000	50 Central Sq	(CB) Central Business	(DT-C) Downtown Core
575050000000000	19 West St	(CB) Central Business	(DT-C) Downtown Core
568062000000000	23 Central Sq	(CB) Central Business	(DT-C) Downtown Core
568060000000000	7 Court St	(CB) Central Business	(DT-C) Downtown Core
568061000000000	32 Central Sq	(CB) Central Business	(DT-C) Downtown Core
568063000000000	20 Central Sq	(CB) Central Business	(DT-C) Downtown Core
568064000000000	26 Washington St	(CB) Central Business	(DT-C) Downtown Core
568065000001000	32 Washington St	(CB) Central Business	(DT-C) Downtown Core
568066000000000	34 Washington St	(CB) Central Business	(DT-C) Downtown Core
568067000000000	38 Washington St	(CB) Central Business	(DT-C) Downtown Core
568068000000000	40 Washington St	(CB) Central Business	(DT-C) Downtown Core
568057000000000	10 Vernon St	(CB) Central Business	(DT-C) Downtown Core
568058000000000	32 Washington St	(CB) Central Business	(DT-C) Downtown Core
568059000000000	32 Vernon St	(CB) Central Business	(DT-C) Downtown Core
569056000000000	31 Washington St	(CB) Central Business	(DT-C) Downtown Core
568073000000000	3 Washington St	(CB) Central Business	(DT-C) Downtown Core
568074000000000	4 Central Sq	(CB) Central Business	(DT-C) Downtown Core
568075000000000	1 Central Sq	(CB) Central Business	(DT-C) Downtown Core
569057000000000	40 Roxbury St	(CB) Central Business	(DT-C) Downtown Core
575053000000000	2 Main St	(CB) Central Business	(DT-C) Downtown Core

<b>Tax Map Parcel #</b>	<b>Street Address</b>	<b>Current Zoning District</b>	<b>Proposed Zoning District</b>
574006000000000	25 Roxbury St	(CB) Central Business	(DT-C) Downtown Core
574005000000000	37 Roxbury St	(CB) Central Business	(DT-C) Downtown Core
574004000000000	43 Roxbury St	(CB) Central Business	(DT-C) Downtown Core
574001000000000	65 Roxbury St	(CB) Central Business	(DT-C) Downtown Core
574014000000000	92 Church St	(CB) Central Business	(DT-C) Downtown Core
574013000000000	11 Ninety-Third St	(CB) Central Business	(DT-C) Downtown Core
574034000000000	18 Ninety-Third St	(CB) Central Business	(DT-C) Downtown Core
574012001000000	17 Ninety-Third St	(CB) Central Business	(DT-C) Downtown Core
574011000000000	78 Railroad St	(CB) Central Business	(DT-C) Downtown Core
574010000000000	76 Railroad St	(CB) Central Business	(DT-C) Downtown Core
574003000000000	15 Roxbury Plaza	(CB) Central Business	(DT-C) Downtown Core
574002000000000	21 Roxbury Plaza	(CB) Central Business	(DT-C) Downtown Core
574008000000000	0 Church St	(CB) Central Business	(DT-C) Downtown Core
574009000000000	37 Church St	(CB) Central Business	(DT-C) Downtown Core
575055000000000	42 Main St	(CB) Central Business	(DT-C) Downtown Core
575056000000000	64 Main St	(CB) Central Business	(DT-C) Downtown Core
574007000000000	16 Church St	(CB) Central Business	(DT-C) Downtown Core
575054000000000	22 Main St	(CB) Central Business	(DT-C) Downtown Core
574042000000000	0 Railroad St	(CB) Central Business	(DT-C) Downtown Core
575057000000000	82 Main St	(CB) Central Business	(DT-C) Downtown Core
575058000000000	88 Main St	(CB) Central Business	(DT-C) Downtown Core
574041000000000	0 Cypress St	(CB) Central Business	(DT-C) Downtown Core
585007000000000	96 Dunbar St	(CB) Central Business	(DT-C) Downtown Core
585006000000000	88 Dunbar St	(CB) Central Business	(DT-C) Downtown Core
585005000000000	78 Dunbar St	(CB) Central Business	(DT-C) Downtown Core
575059000000000	100 Main St	(CB) Central Business	(DT-C) Downtown Core
575060000000000	102 Main St	(CB) Central Business	(DT-C) Downtown Core
575061000000000	106 Main St	(CB) Central Business	(DT-C) Downtown Core
575062000000000	110 Main St	(CB) Central Business	(DT-C) Downtown Core
574043000000000	12 Eagle Ct	(CB) Central Business	(DT-C) Downtown Core
574040000000000	75 Railroad St	(CB) Central Business	(DT-C) Downtown Core
575006000000000	115 Main St	(CB) Central Business	(DT-C) Downtown Core
575007000000000	101 Main St	(CB) Central Business	(DT-C) Downtown Core
575008000000000	89 Main St	(CB) Central Business	(DT-C) Downtown Core
575011000000000	87 Main St	(CB) Central Business	(DT-C) Downtown Core
575012000000000	81 Main St	(CB) Central Business	(DT-C) Downtown Core
575013000000000	2 Gilbo Ave	(CB) Central Business	(DT-C) Downtown Core
575014000000000	12 Gilbo Ave	(CB) Central Business	(DT-C) Downtown Core
575024000000000	49 Main St	(CB) Central Business	(DT-C) Downtown Core
575025000000000	45 Main St	(CB) Central Business	(DT-C) Downtown Core
575026000000000	35 Main St	(CB) Central Business	(DT-C) Downtown Core
575027000000000	0 Lamson St	(CB) Central Business	(DT-C) Downtown Core
575022000000000	19 Gilbo Ave	(CB) Central Business	(DT-C) Downtown Core

<b>Tax Map Parcel #</b>	<b>Street Address</b>	<b>Current Zoning District</b>	<b>Proposed Zoning District</b>
575023000000000	0 Gilbo Ave	(CB) Central Business	(DT-C) Downtown Core
575038000000000	70 West St	(CB) Central Business	(DT-C) Downtown Core
575037000000000	60 West St	(CB) Central Business	(DT-C) Downtown Core
575036000000000	43 Saint James St	(CB) Central Business	(DT-C) Downtown Core
575035000000000	49 Saint James St	(CB) Central Business	(DT-C) Downtown Core
575034000000000	44 West St	(CB) Central Business	(DT-C) Downtown Core
575033000000000	34 West St	(CB) Central Business	(DT-C) Downtown Core
575028000000000	17 Federal St	(CB) Central Business	(DT-C) Downtown Core
575032000000000	20 West St	(CB) Central Business	(DT-C) Downtown Core
575031000000000	1 Main St	(CB) Central Business	(DT-C) Downtown Core
575030000000000	15 Main St	(CB) Central Business	(DT-C) Downtown Core
575029000000000	27 Main St	(CB) Central Business	(DT-C) Downtown Core
584070000000000	120 Emerald St	(CB) Central Business	(DT-G) Downtown Growth
584069000000000	104 Emerald St	(CB) Central Business	(DT-G) Downtown Growth
584068000000000	80 Emerald St	(CB) Central Business	(DT-G) Downtown Growth
575017000000000	0 School St	(CB) Central Business	(DT-G) Downtown Growth
575016000000000	0 Gilbo Ave	(CB) Central Business	(DT-G) Downtown Growth
584072000000000	85 Emerald St	(CB) Central Business	(DT-G) Downtown Growth
575001000000000	5 Wilson St	(CB) Central Business	(DT-G) Downtown Growth
584073000000000	59 Emerald St	(CB) Central Business	(DT-G) Downtown Growth
575002000000000	6 Wilson St	(CB) Central Business	(DT-G) Downtown Growth
575003000000000	12 Wilson St	(CB) Central Business	(DT-G) Downtown Growth
584074000000000	43 Emerald St	(CB) Central Business	(DT-G) Downtown Growth
575009000000000	20 Commercial St	(CB) Central Business	(DT-G) Downtown Growth
575004000000000	31 Emerald St	(CB) Central Business	(DT-G) Downtown Growth
584075000000000	37 Emerald St	(CB) Central Business	(DT-G) Downtown Growth
575005000000000	7 Emerald St	(CB) Central Business	(DT-G) Downtown Growth
575010000000000	0 Commercial St	(CB) Central Business	(DT-G) Downtown Growth
575015000000000	0 Gilbo Ave	(CB) Central Business	(DT-G) Downtown Growth
575021000000000	0 Gilbo Ave	(CB) Central Business	(DT-G) Downtown Growth
575020000000000	0 Gilbo Ave	(CB) Central Business	(DT-G) Downtown Growth
575019000000000	0 Gilbo Ave	(CB) Central Business	(DT-G) Downtown Growth
575040000000000	100 West St	(CB) Central Business	(DT-G) Downtown Growth
575039000000000	86 West St	(CB) Central Business	(DT-G) Downtown Growth
575041000000000	104 West St	(CB) Central Business	(DT-G) Downtown Growth
574038000000000	158 Water St	(CB) Central Business	(DT-G) Downtown Growth
574039000000000	0 Water St	(CB) Central Business	(DT-G) Downtown Growth
585029000000000	152 Water St	(CB) Central Business	(DT-G) Downtown Growth
585026000000000	0 Water St	(CB) Central Business	(DT-G) Downtown Growth
567001000000000	0 Ashuelot St	(CBL) Central Business Ltd.	(HD) High Density
576014000000000	30 Ashuelot St	(CBL) Central Business Ltd.	(COM) Commerce
576016000000000	29 Ashuelot St	(CBL) Central Business Ltd.	(COM) Commerce

<b>Tax Map Parcel #</b>	<b>Street Address</b>	<b>Current Zoning District</b>	<b>Proposed Zoning District</b>
576017000000000	9 Ashuelot St	(CBL) Central Business Ltd.	(COM) Commerce
576018000000000	189 West St	(CBL) Central Business Ltd.	(COM) Commerce
569059000000000	88 Roxbury St	(CBL) Central Business Ltd.	(DT-T) Downtown Transition
569058000000000	80 Roxbury St	(CBL) Central Business Ltd.	(DT-T) Downtown Transition
584060000000000	147 Main St	(CBL) Central Business Ltd.	(DT-C) Downtown Core
584059000000000	0 Davis St	(CBL) Central Business Ltd.	(DT-C) Downtown Core
584058000000000	21 Davis St	(CBL) Central Business Ltd.	(DT-C) Downtown Core
584061000000000	143 Main St	(CBL) Central Business Ltd.	(DT-C) Downtown Core
584062000000000	133 Main St	(CBL) Central Business Ltd.	(DT-C) Downtown Core
584063000000000	125 Main St	(CBL) Central Business Ltd.	(DT-C) Downtown Core
584064000000000	12 Emerald St	(CBL) Central Business Ltd.	(DT-C) Downtown Core
569065000000000	98 Roxbury St	(CBL) Central Business Ltd.	(DT-E) Downtown Edge
569066000000000	106 Roxbury St	(CBL) Central Business Ltd.	(DT-E) Downtown Edge
569107000000000	103 Roxbury St	(CBL) Central Business Ltd.	(DT-E) Downtown Edge
569108000000000	93 Roxbury St	(CBL) Central Business Ltd.	(DT-E) Downtown Edge
569109000000000	81 Roxbury St	(CBL) Central Business Ltd.	(DT-E) Downtown Edge
574015000000000	100 Church St	(CBL) Central Business Ltd.	(DT-E) Downtown Edge
574016000000000	110 Church St	(CBL) Central Business Ltd.	(DT-E) Downtown Edge
574017000000000	116 Church St	(CBL) Central Business Ltd.	(DT-E) Downtown Edge
574033000000000	115 Church St	(CBL) Central Business Ltd.	(DT-E) Downtown Edge
574036000002000	110 Railroad St	(CBL) Central Business Ltd.	(DT-E) Downtown Edge
574036000000000	0 Railroad St	(CBL) Central Business Ltd.	(DT-E) Downtown Edge
584067000000000	48 Emerald St	(CBL) Central Business Ltd.	(DT-G) Downtown Growth
584066000000000	38 Emerald St	(CBL) Central Business Ltd.	(DT-G) Downtown Growth
584065000000000	32 Emerald St	(CBL) Central Business Ltd.	(DT-G) Downtown Growth
576001000000000	122 West St	(CBL) Central Business Ltd.	(DT-G) Downtown Growth
576002000000000	166 West St	(CBL) Central Business Ltd.	(DT-G) Downtown Growth
576003000000000	172 West St	(CBL) Central Business Ltd.	(DT-G) Downtown Growth
576005000000000	0 Gilbo Ave	(CBL) Central Business Ltd.	(DT-G) Downtown Growth
576004000000000	194 West St	(CBL) Central Business Ltd.	(DT-G) Downtown Growth
574036000000000	0 Railroad St	(CBL) Central Business Ltd.	(DT-G) Downtown Growth
584001000000000	122 Main St	(CBL) Central Business Ltd.	(DT-G) Downtown Growth
585003000000000	10 Dunbar St	(CBL) Central Business Ltd.	(DT-G) Downtown Growth
585002000000000	11 Eagle Ct	(CBL) Central Business Ltd.	(DT-G) Downtown Growth
585004000000000	16 Dunbar St	(CBL) Central Business Ltd.	(DT-G) Downtown Growth
585001000000000	24 Dunbar St	(CBL) Central Business Ltd.	(DT-G) Downtown Growth
585083000000000	36 Marlboro St	(COM) Commerce	(DT-E) Downtown Edge
585084000000000	50 Marlboro St	(COM) Commerce	(DT-E) Downtown Edge
585085000000000	56 Marlboro St	(COM) Commerce	(DT-E) Downtown Edge
585045000000000	84 Marlboro St	(COM) Commerce	(DT-E) Downtown Edge
590086000000000	91 Marlboro St	(COM) Commerce	(DT-E) Downtown Edge
590087000000000	89 Marlboro St	(COM) Commerce	(DT-E) Downtown Edge

<b>Tax Map Parcel #</b>	<b>Street Address</b>	<b>Current Zoning District</b>	<b>Proposed Zoning District</b>
590088000000000	83 Marlboro St	(COM) Commerce	(DT-E) Downtown Edge
590089000000000	71 Marlboro St	(COM) Commerce	(DT-E) Downtown Edge
590090000000000	67 Marlboro St	(COM) Commerce	(DT-E) Downtown Edge
590094000000000	59 Marlboro St	(COM) Commerce	(DT-E) Downtown Edge
590093000000000	57 Marlboro St	(COM) Commerce	(DT-E) Downtown Edge
590095000000000	53 Marlboro St	(COM) Commerce	(DT-E) Downtown Edge
590096000000000	47 Marlboro St	(COM) Commerce	(DT-E) Downtown Edge
585086000000000	33 Marlboro St	(COM) Commerce	(DT-E) Downtown Edge
583027000000000	60 Foundry St	(COM) Commerce	(DT-E) Downtown Edge
583033000000000	0 Emerald St	(COM) Commerce	(DT-E) Downtown Edge
583028000000000	152 Davis St	(COM) Commerce	(DT-E) Downtown Edge
583030000000000	55 Ralston St	(COM) Commerce	(DT-E) Downtown Edge
584042000000000	134 Davis St	(COM) Commerce	(DT-E) Downtown Edge
584043000000000	56 Ralston St	(COM) Commerce	(DT-E) Downtown Edge
584044000000000	66 Ralston St	(COM) Commerce	(DT-E) Downtown Edge
591007000000000	131 Winchester St	(COM) Commerce	(DT-E) Downtown Edge
592037000000000	141 Winchester St	(COM) Commerce	(DT-E) Downtown Edge
592036000000000	147 Winchester St	(COM) Commerce	(DT-E) Downtown Edge
592035000000000	165 Winchester St	(COM) Commerce	(DT-E) Downtown Edge
583029000000000	81 Ralston St	(COM) Commerce	(DT-E) Downtown Edge
592033000000000	185 Winchester St	(COM) Commerce	(DT-E) Downtown Edge
592034000000000	0 Foundry St	(COM) Commerce	(DT-E) Downtown Edge
583026000000000	38 Foundry St	(COM) Commerce	(DT-E) Downtown Edge
592032000000000	195 Winchester St	(COM) Commerce	(DT-E) Downtown Edge
592031000000000	223 Winchester St	(COM) Commerce	(DT-E) Downtown Edge
583034000000000	160 Emerald St	(COM) Commerce	(DT-G) Downtown Growth
583033001001000	0 Emerald St	(COM) Commerce	(DT-G) Downtown Growth
583033001000000	0 Emerald St	(COM) Commerce	(DT-G) Downtown Growth
583032000000000	1 Ralston St	(COM) Commerce	(DT-G) Downtown Growth
583031000000000	19 Ralston St	(COM) Commerce	(DT-G) Downtown Growth
583039000000000	0 Emerald St	(COM) Commerce	(DT-G) Downtown Growth
576007000000000	149 Emerald St	(COM) Commerce	(DT-G) Downtown Growth
575018000000000	0 School St	(COM) Commerce	(DT-G) Downtown Growth
584071000000000	0 Emerald St	(COM) Commerce	(DT-G) Downtown Growth
576006000000000	0 Gilbo Ave	(COM) Commerce	(DT-G) Downtown Growth
585082000000000	196 Main St	(COM) Commerce	(DT-G) Downtown Growth
584003000000000	174 Main St	(COM) Commerce	(DT-G) Downtown Growth
584002000000000	162 Main St	(COM) Commerce	(DT-G) Downtown Growth
585014000000000	17 Dunbar St	(COM) Commerce	(DT-G) Downtown Growth
569015000000000	18 Spring St	(HD) High Density	(DT-T) Downtown Transition
569016000000000	20 Spring St	(HD) High Density	(DT-T) Downtown Transition
569017000000000	30 Spring St	(HD) High Density	(DT-T) Downtown Transition

<b>Tax Map Parcel #</b>	<b>Street Address</b>	<b>Current Zoning District</b>	<b>Proposed Zoning District</b>
569018000000000	38 Spring St	(HD) High Density	(DT-T) Downtown Transition
569019000000000	52 Spring St	(HD) High Density	(DT-T) Downtown Transition
569020000000000	58 Spring St	(HD) High Density	(DT-T) Downtown Transition
569054000000000	47 Spring St	(HD) High Density	(DT-T) Downtown Transition
569053000000000	57 Spring St	(HD) High Density	(DT-T) Downtown Transition
569062000000000	28 Roxbury Ct	(HD) High Density	(DT-T) Downtown Transition
569061000000000	22 Roxbury Ct	(HD) High Density	(DT-T) Downtown Transition
569060000000000	16 Roxbury Ct	(HD) High Density	(DT-T) Downtown Transition
585013000000000	19 Dunbar St	(HD) High Density	(DT-T) Downtown Transition
585012000000000	31 Dunbar St	(HD) High Density	(DT-T) Downtown Transition
585011000000000	41 Dunbar St	(HD) High Density	(DT-T) Downtown Transition
585010000000000	57 Dunbar St	(HD) High Density	(DT-T) Downtown Transition
585009000000000	65 Dunbar St	(HD) High Density	(DT-T) Downtown Transition
585022000000000	74 Water St	(HD) High Density	(DT-T) Downtown Transition
585021000000000	68 Water St	(HD) High Density	(DT-T) Downtown Transition
585020000000000	60 Water St	(HD) High Density	(DT-T) Downtown Transition
585019000000000	54 Water St	(HD) High Density	(DT-T) Downtown Transition
585018000000000	48 Water St	(HD) High Density	(DT-T) Downtown Transition
585017000000000	42 Water St	(HD) High Density	(DT-T) Downtown Transition
585016000000000	32 Water St	(HD) High Density	(DT-T) Downtown Transition
585015000000000	26 Water St	(HD) High Density	(DT-T) Downtown Transition
584057000000000	29 Davis St	(HD) High Density	(DT-T) Downtown Transition
584056000000000	37 Davis St	(HD) High Density	(DT-T) Downtown Transition
584055000000000	47 Davis St	(HD) High Density	(DT-T) Downtown Transition
584052000000000	59 Davis St	(HD) High Density	(DT-T) Downtown Transition
584053000000000	47 Wilson St	(HD) High Density	(DT-T) Downtown Transition
584054000000000	43 Wilson St	(HD) High Density	(DT-T) Downtown Transition
584051000000000	71 Davis St	(HD) High Density	(DT-T) Downtown Transition
584050000000000	75 Davis St	(HD) High Density	(DT-T) Downtown Transition
584049000000000	87 Davis St	(HD) High Density	(DT-T) Downtown Transition
584048000000000	97 Davis St	(HD) High Density	(DT-T) Downtown Transition
584047000000000	107 Davis St	(HD) High Density	(DT-T) Downtown Transition
584046000000000	121 Davis St	(HD) High Density	(DT-T) Downtown Transition
584045000000000	125 Davis St	(HD) High Density	(DT-T) Downtown Transition
591001000000000	283 Main St	(HD) High Density	(DT-I) Downtown Institutional Campus
584006000000000	161 Main St	(HD) High Density	(DT-G) Downtown Growth
584004000000000	27 Winchester St	(HD) High Density	(DT-G) Downtown Growth
584005000000000	199 Main St	(HD) High Density	(DT-G) Downtown Growth
574037000000000	93 Railroad St	(I) Industrial	(DT-G) Downtown Growth
576019000000000	171 West St	(O) Office	(DT-T) Downtown Transition
576024000000000	17 Wilder St	(O) Office	(DT-T) Downtown Transition
576025000000000	151 West St	(O) Office	(DT-T) Downtown Transition

<b>Tax Map Parcel #</b>	<b>Street Address</b>	<b>Current Zoning District</b>	<b>Proposed Zoning District</b>
576026000000000	143 West St	(O) Office	(DT-T) Downtown Transition
576030000000000	129 West St	(O) Office	(DT-T) Downtown Transition
575042000000000	117 West St	(O) Office	(DT-T) Downtown Transition
575045000000000	105 West St	(O) Office	(DT-T) Downtown Transition
575044000000000	86 Winter St	(O) Office	(DT-T) Downtown Transition
568006000000000	41 School St	(O) Office	(DT-T) Downtown Transition
568007000000000	75 Winter St	(O) Office	(DT-T) Downtown Transition
568008000000000	67 Winter St	(O) Office	(DT-T) Downtown Transition
568009000000000	61 Winter St	(O) Office	(DT-T) Downtown Transition
568010000000000	8 Middle St	(O) Office	(DT-T) Downtown Transition
568011000000000	16 Middle St	(O) Office	(DT-T) Downtown Transition
568012000000000	22 Middle St	(O) Office	(DT-T) Downtown Transition
568013000000000	28 Middle St	(O) Office	(DT-T) Downtown Transition
568026000000000	38 Middle St	(O) Office	(DT-T) Downtown Transition
568034000000000	61 Summer St	(O) Office	(DT-T) Downtown Transition
568035000000000	53 Summer St	(O) Office	(DT-T) Downtown Transition
568036000000000	45 Summer St	(O) Office	(DT-T) Downtown Transition
568037000000000	39 Summer St	(O) Office	(DT-T) Downtown Transition
568038000000000	31 Summer St	(O) Office	(DT-T) Downtown Transition
568039000000000	21 Summer St	(O) Office	(DT-T) Downtown Transition
568040000000000	56 Court St	(O) Office	(DT-T) Downtown Transition
568041000000000	70 Court St	(O) Office	(DT-T) Downtown Transition
568042000000000	82 Court St	(O) Office	(DT-T) Downtown Transition
568023000000000	42 Court St	(O) Office	(DT-T) Downtown Transition
568024000000000	18 Summer St	(O) Office	(DT-T) Downtown Transition
568025000000000	37 Middle St	(O) Office	(DT-T) Downtown Transition
568014000000000	29 Middle St	(O) Office	(DT-T) Downtown Transition
568015000000000	33 Center St	(O) Office	(DT-T) Downtown Transition
568016000000000	27 Center St	(O) Office	(DT-T) Downtown Transition
568017000000000	23 Center St	(O) Office	(DT-T) Downtown Transition
568018000000000	17 Center St	(O) Office	(DT-T) Downtown Transition
568048000000000	55 Court St	(O) Office	(DT-T) Downtown Transition
568047000000000	61 Court St	(O) Office	(DT-T) Downtown Transition
568045000000000	73 Court St	(O) Office	(DT-T) Downtown Transition
568044000000000	81 Court St	(O) Office	(DT-T) Downtown Transition
554107000000000	83 Court St	(O) Office	(DT-T) Downtown Transition
554106000000000	91 Court St	(O) Office	(DT-T) Downtown Transition
554085000000000	112 Washington St	(O) Office	(DT-T) Downtown Transition
554084000000000	106 Washington St	(O) Office	(DT-T) Downtown Transition
554083000000000	100 Washington St	(O) Office	(DT-T) Downtown Transition
569001000000000	85 Washington St	(O) Office	(DT-T) Downtown Transition
569013000000000	69 Washington St	(O) Office	(DT-T) Downtown Transition
569014000000000	57 Washington St	(O) Office	(DT-T) Downtown Transition

Tax Map Parcel #	Street Address	Current Zoning District	Proposed Zoning District
590097000000000	222 Main St	(O) Office	(DT-T) Downtown Transition
590098000000000	226 Main St	(O) Office	(DT-T) Downtown Transition
590099000000000	232 Main St	(O) Office	(DT-T) Downtown Transition
590101000000000	238 Main St	(O) Office	(DT-T) Downtown Transition
590100000000000	246 Main St	(O) Office	(DT-T) Downtown Transition
590109000000000	266 Main St	(O) Office	(DT-T) Downtown Transition
590110000000000	272 Main St	(O) Office	(DT-T) Downtown Transition

3. The Gilbo Avenue Design Overlay District and the Downtown Railroad Property Redevelopment Overlay District shall be removed from the Zoning Map.

4. The following parcels shall be removed from the Sustainable Energy Efficient Development (SEED) Overlay District.

- 575010000000000 (0 Commercial St)
- 575009000000000 (20 Commercial St)
- 585008000000000 (4 Crossfield St)
- 574041000000000 (0 Cypress St)
- 584059000000000 (0 Davis St)
- 584058000000000 (21 Davis St)
- 584057000000000 (29 Davis St)
- 584056000000000 (37 Davis St)
- 584055000000000 (47 Davis St)
- 584052000000000 (59 Davis St)
- 584051000000000 (71 Davis St)
- 584050000000000 (75 Davis St)
- 584049000000000 (87 Davis St)
- 584048000000000 (97 Davis St)
- 584047000000000 (107 Davis St)
- 584046000000000 (121 Davis St)
- 584045000000000 (125 Davis St)
- 584042000000000 (134 Davis St)
- 583028000000000 (152 Davis St)
- 585003000000000 (10 Dunbar St)
- 585004000000000 (16 Dunbar St)
- 585014000000000 (17 Dunbar St)
- 585013000000000 (19 Dunbar St)
- 585001000000000 (24 Dunbar St)
- 585012000000000 (31 Dunbar St)
- 585011000000000 (41 Dunbar St)
- 585010000000000 (57 Dunbar St)
- 585009000000000 (65 Dunbar St)
- 585005000000000 (78 Dunbar St)
- 585006000000000 (88 Dunbar St)
- 585007000000000 (96 Dunbar St)
- 585002000000000 (11 Eagle Ct)
- 574043000000000 (12 Eagle Ct)
- 583033000000000 (0 Emerald St)
- 583033001001000 (0 Emerald St)
- 575005000000000 (7 Emerald St)
- 584064000000000 (12 Emerald St)
- 575004000000000 (31 Emerald St)
- 584065000000000 (32 Emerald St)
- 584075000000000 (37 Emerald St)
- 584066000000000 (38 Emerald St)
- 584074000000000 (43 Emerald St)
- 584067000000000 (48 Emerald St)
- 584073000000000 (59 Emerald St)
- 584068000000000 (80 Emerald St)
- 584072000000000 (85 Emerald St)
- 584069000000000 (104 Emerald St)
- 584070000000000 (120 Emerald St)
- 583034000000000 (160 Emerald St)
- 583035000000000 (220 Emerald St)
- 583026000000000 (38 Foundry St)
- 583027000000000 (60 Foundry St)
- 592034000000000 (0 Foundry St)
- 575013000000000 (2 Gilbo Ave)
- 575014000000000 (12 Gilbo Ave)
- 575015000000000 (0 Gilbo Ave)
- 575016000000000 (0 Gilbo Ave)
- 575012000000000 (81 Main St)
- 575057000000000 (82 Main St)
- 575011000000000 (87 Main St)
- 575058000000000 (88 Main St)
- 575008000000000 (89 Main St)
- 575059000000000 (100 Main St)
- 575007000000000 (101 Main St)
- 575060000000000 (102 Main St)
- 575061000000000 (106 Main St)
- 575062000000000 (110 Main St)
- 575006000000000 (115 Main St)
- 584001000000000 (122 Main St)
- 584063000000000 (125 Main St)

- 584062000000000 (133 Main St)
- 584061000000000 (143 Main St)
- 584060000000000 (147 Main St)
- 584006000000000 (161 Main St)
- 584002000000000 (162 Main St)
- 584003000000000 (174 Main St)
- 585082000000000 (196 Main St)
- 584005000000000 (199 Main St)
- 574035000000000 (0 Railroad St)
- 574036000000000 (0 Railroad St)
- 574037000000000 (93 Railroad St)
- 574040000000000 (75 Railroad St)
- 574041000000000 (51 Railroad St)
- 574042000000000 (0 Railroad St)
- 574036000003000 (0 Railroad St)
- 583029000000000 (81 Ralston St)
- 583030000000000 (55 Ralston St)
- 583031000000000 (19 Ralston St)
- 583032000000000 (1 Ralston St)
- 584043000000000 (56 Ralston St)
- 584044000000000 (66 Ralston St)
- 575017000000000 (0 School St)
- 574039000000000 (0 Water St)
- 585026000000000 (0 Water St)
- 585015000000000 (26 Water St)
- 585016000000000 (32 Water St)
- 585017000000000 (42 Water St)
- 585018000000000 (48 Water St)
- 585019000000000 (54 Water St)
- 585020000000000 (60 Water St)
- 585021000000000 (68 Water St)
- 585022000000000 (74 Water St)
- 585023000000000 (84 Water St)
- 585024000000000 (88 Water St)
- 585025000000000 (92 Water St)
- 585027000000000 (122 Water St)
- 585028000000000 (124 Water St)
- 585029000000000 (152 Water St)
- 574038000000000 (158 Water St)
- 575001000000000 (5 Wilson St)
- 575002000000000 (6 Wilson St)
- 575003000000000 (12 Wilson St)
- 584053000000000 (47 Wilson St)
- 584054000000000 (43 Wilson St)
- 591007000000000 (131 Winchester St)
- 592031000000000 (223 Winchester St)
- 592032000000000 (195 Winchester St)
- 592033000000000 (185 Winchester St)
- 592035000000000 (165 Winchester St)
- 592036000000000 (147 Winchester St)
- 592037000000000 (141 Winchester St)
- 584004000000000 (27 Winchester St)

Effective Date of this Ordinance: September 1, 2021

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George Hansel, Mayor



City of Keene, N.H.  
*Transmittal Form*

March 24, 2021

**TO:** Mayor and Keene City Council

**FROM:** Mayor George S. Hansel

**ITEM:** B.1.

**SUBJECT:** Confirmation

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**COUNCIL ACTION:**

In City Council April 1, 2021.

Tabled the nominations to the next regular meeting.

**RECOMMENDATION:**

I hereby nominate the following individual to serve on the designated Board or Commission:

Energy & Climate Committee

Bryan Lake

68 Timberlane Drive

Term to expire Dec. 31, 2021

**ATTACHMENTS:**

Description

Background\_Lake

## **Patty Little**

---

**From:** helpdesk@ci.keene.nh.us on behalf of City of Keene <helpdesk@ci.keene.nh.us>  
**Sent:** Wednesday, December 16, 2020 3:31 PM  
**To:** HMattson@ci.keene.nh.us  
**Cc:** PLittle@ci.keene.nh.us; THood@ci.keene.nh.us  
**Subject:** Interested in serving on a City Board or Commission

<p>Submitted on Wed, 12/16/2020 - 15:31</p>

<p>Submitted values are:</p>

**First Name:**

Bryan

**Last Name:**

Lake

**Address**

68 Timberlane Dr, Keene NH

**Email:**

**Cell Phone:**

6033136774

**Home Phone:**

6033136774

**Please select the Boards or Commissions you would be interested in serving on:**

Ashuelot River Park Advisory Board, Energy and Climate Committee, College City Commission, Heritage Commission, Historic District Commission

**Employer:**

C&S Wholesale Grocers

**Occupation:**

Analyst, Procurement Decision Science

**Education:**

Bachelor of Science, Chemistry - KSC

**Have you ever served on a public body before?**

No

**Other Information/Relevant Experience:**

As a Keene native & 30 year resident, I have a desire to see the best for my hometown. This would be my first foray into the city government but I think that this could be a good opportunity to provide my time to the community and explore public service.

Below are comments for each board or commission I selected:

In regards to the CCC, I received my BS-Chemistry in December of 2014. While attending, for at least one year each I roomed on campus, rented an apartment on Roxbury St, and commuted from my parent's home on Gunn Rd.

In regards to the HD & Heritage Commissions , my father and grandfather owned the auto parts store at 43 Emerald St from the 1960's through the mid 2000's. I grew up in what was S&J and NAPA in that location. I'm also a member of the Amalgamated Squash Chowder & Development Corp, so a sense of this town's history is something that I'm often reminded of when I go to play at the historic squash court currently located near the Markem building.

In regards to the ARPA Board, although it has been many years I did partake in a summer camp that spent much of it's time in the RMOLL, arboretum, and canoeing on the river itself. I also took AP Environmental Science at KHS. I haven't been through the park in quite some time, but look forward to going for a walk there again soon.

In regards to the ECC, as a new homeowner in Keene and a proponent of clean, renewable, and sustainable energy, I have an interest in supporting Keene's energy future.

I will follow the above statements by saying that these are not necessarily provided as claims of expertise, but rather examples of the potentially relevant experiences I have had in relation to the general topics at hand. Also, I have selected a few boards & commissions that initially interested me but would be open to others if my service would be better utilized elsewhere. Having read a number of the minutes from each of these, if I were to pick only one for which to apply, it would likely be the HDC.

I appreciate your consideration for my potential addition to these boards & commissions.

**Please provide some references:**

Briana Hennigar

[bhenniga@cswg.com](mailto:bhenniga@cswg.com)

603-354-5372

**References #2:**

Matt Bartley

[Mbartley@unfi.com](mailto:Mbartley@unfi.com)

603-903-3669

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City of Keene, N.H.  
*Transmittal Form*

April 12, 2021

**TO:** Mayor and Keene City Council

**FROM:** Mayor George S. Hansel

**ITEM:** B.2.

**SUBJECT:** Nomination

---

**RECOMMENDATION:**

I hereby nominate the following individual to serve on the designated board or commission:

Assessor's Board

Jason Frost, slot 3  
61 Hilltop Drive

Term to expire Dec. 31, 2023

**ATTACHMENTS:**

Description

Background\_Frost

## Patty Little

---

**From:** helpdesk@ci.keene.nh.us on behalf of City of Keene <helpdesk@ci.keene.nh.us>  
**Sent:** Wednesday, March 24, 2021 2:35 PM  
**To:** Helen Mattson  
**Cc:** Patty Little; Terri Hood  
**Subject:** Interested in serving on a City Board or Commission

<p>Submitted on Wed, 03/24/2021 - 14:35</p>

<p>Submitted values are:</p>

**First Name:**

Jason

**Last Name:**

Frost

**Address**

61 Hilltop Drive

**Email:**

**Cell Phone:**

5083415931

**Please select the Boards or Commissions you would be interested in serving on:**

Assessor's Board, Planning Board, Zoning Board Adjustment

**Employer:**

Cheshire Home Inspections LLC

**Occupation:**

Home Inspector

**Education:**

BA from Nichols College

**Have you ever served on a public body before?**

No

**Please provide some references:**



City of Keene, N.H.  
*Transmittal Form*

April 8, 2021

**TO:** Mayor and Keene City Council

**FROM:** Jeff Murphy

**THROUGH:** Patricia A. Little, City Clerk

**ITEM:** C.1.

**SUBJECT:** Brewbakers Cafe - Request to Serve Alcohol on City Property - Sidewalk Cafe

---

**ATTACHMENTS:**

Description

Communication\_Brewbakers

**BACKGROUND:**

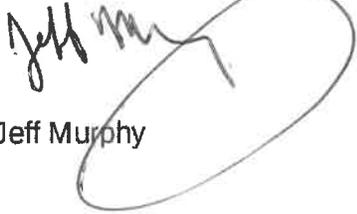
Mr. Murphy is requesting permission to serve alcohol on City property associated with the administratively issued Sidewalk Café License for his location on Emerald Street.

April 6th, 2021

To Mayor Hansel and the Keene City Council,

I am writing in request for approval to serve alcohol on property adjacent to the city sidewalk on the corner of Emerald and Wilson Streets. My business, Brewbakers Cafe, has outdoor seating with frontage on both streets. Seating is mostly on the building property, however, part of the pathway extends onto city property. We hold a NH beverage license with approval to serve outdoors. We have 8 tables outside and clear delineation by rope and stanchions for the patio area.

Thank you,

A handwritten signature in black ink, appearing to read "Jeff Murphy". The signature is stylized and includes a large, sweeping flourish that loops back under the name.

Jeff Murphy



City of Keene, N.H.  
*Transmittal Form*

April 9, 2021

**TO:** Mayor and Keene City Council

**FROM:** Kevin Leary

**THROUGH:** Patricia A. Little, City Clerk

**ITEM:** C.2.

**SUBJECT:** Kevin Leary - Request for Access to Property - Old Gilsum Road

---

**ATTACHMENTS:**

Description

Communication\_Leary

**BACKGROUND:**

Mr. Leary has submitted a new request for access to the Fontaine property through the Old Gilsum Road.

4/9/2021

City of Keene

Formal request for property access:

Dear City Council,

I am writing you in regards to a formal request to access parcel# 218-009-000-000 owned by the Fontaine family trust and now under the control of Mark Fontaine. I have obtained a legal lease which has been signed by both parties granting me direct access to the property. I am asking for formal approval to access the property using the original right of way access which is Old Gilsum Road. I would request to enter the property using a small tracked motorized machine strictly for utility purposes. With the help and guidance of a licensed forester we will be conducting property maintenance and improvements. This will be a one-time entrance with work done over a set amount of time and a one-time exit of the property using Old Gilsum Road. This would be schedule and planned with the appropriate departments of the Keene Parks and Recreations and Public Works. We would like to have this approved for this year and would only happen every 2-3 years with the guidance and coordination of said Keene departments to appropriately schedule the entrance and exit of equipment.

Thank You for your time

Sincerely,

Kevin Leary

Handwritten signature of Kevin Leary and the date 4/9/21.

27 Meetinghouse Rd,

Keene, NH, 03431



City of Keene, N.H.  
*Transmittal Form*

April 13, 2021

**TO:** Mayor and Keene City Council

**FROM:** Johanna Laurie, John-Michael Dumais, & Rebecca Montrone

**THROUGH:** Patricia A. Little, City Clerk

**ITEM:** C.3.

**SUBJECT:** Concerned Citizens of Cheshire County - Efficacy of Face Coverings

---

**ATTACHMENTS:**

Description

Communication

**BACKGROUND:**

This communication is from three individuals who have identified themselves as "Concerned Citizens of Cheshire County." They are requesting an opportunity to present to the City Council the "often ignored" Science of the efficacy of face coverings.

Concerned Citizens of Cheshire County

Mayor Hansel and Keene City Council  
Keene NH USA

April 12, 2021

It has been over a year since pandemic restrictions began, and is now going on 9 months or more of local and state restrictions, including mask-wearing.

Many other states and localities have suspended such restrictions, recognizing that the pandemic projections as well as the efficacy of restrictions were both wildly overstated and the dangers of such measures were overlooked.

As Keene City Council reconsiders its policies regarding the pandemic, we would like the opportunity to present before the Council for about 15 minutes, preferably in a public forum, to discuss the often-ignored science and the city's policy going forward.

Kindly respond to Johanna at 603-354-3475 or [joc.laurie@gmail.com](mailto:joc.laurie@gmail.com).

Thank you,

Johanna Laurie  
John-Michael Dumais  
Rebecca Montrone

Handwritten signatures of Johanna Laurie, John-Michael Dumais, and Rebecca Montrone. The signature for Johanna Laurie is at the top, John-Michael Dumais is in the middle, and Rebecca Montrone is at the bottom.



City of Keene, N.H.  
*Transmittal Form*

April 13, 2021

**TO:** Mayor and Keene City Council

**FROM:** Mindy Cambiar, Executive Director of Hundred Nights

**THROUGH:** Patricia A. Little, City Clerk

**ITEM:** C.4.

**SUBJECT:** Mindy Cambiar/Hundred Nights Shelter - Request to Use City Property - Parking of Coach Bus

---

**ATTACHMENTS:**

Description

Communication\_Cambiar

**BACKGROUND:**

Mindy Cambiar is requesting permission to use City property located at 350 Marlboro Street for the storage of their coach bus.



# HUNDRED NIGHTS INC.

*Reaching for the Warmth of Home*  
Emergency Shelter & Open Doors Resource Center

P.O. Box 833

17 Lamson Street

Keene, NH 03431

(603) 352-5197

[www.hundrednightsinc.org](http://www.hundrednightsinc.org)

Tax ID: 45-2798171

Keene City Council  
3 Washington St  
Keene, NH 03431

April 13, 2021

Dear City Council Members,

I am writing to ask you if Hundred Nights could park its converted coach bus in the parking lot or somewhere on the property where the Keene Police Dept and Keene Ice are located. We are looking for parking from approximately May 1 to Nov 1, 2021. I say approximately May 1 because there is going to be some work done on the windows, and it is possible that that would happen the first week of May.

The bus would be covered while it was parked. We would need to "visit" it at least once a week to start the motor and the generator, to keep everything in working order.

Please let me know if this is a possibility. I would be happy to meet with you or come to a meeting via zoom.

Thank you for your time and consideration,

Best Regards,

Mindy Cambiar  
Hundred Nights Inc  
17 Lamson St  
Keene, NH 03431



*The mission of Hundred Nights, Inc. is to provide shelter and crisis related services to the displaced or homeless. Our goal is to collaborate with and enable the community to see, hear and support those among us who are equally deserving of dignity but who currently lack the means to live independently. Our vision is a community whose members, regardless of means, are equally valued and supported.*



City of Keene, N.H.  
*Transmittal Form*

April 13, 2021

**TO:** Mayor and Keene City Council

**FROM:** Edward Coppola/The Stonewall Farm Board

**THROUGH:** Patricia A. Little, City Clerk

**ITEM:** C.5.

**SUBJECT:** Edward Coppola/The Stonewall Farm Board - Solar Restrictions in the Agricultural Zoning District as Contemplated in the Land Development Code

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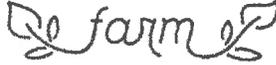
**ATTACHMENTS:**

Description

Communication\_Coppola

**BACKGROUND:**

On behalf of the Stonewall Farm Board, Edward Coppola is writing of their concern over the prohibition of ground mounted solar arrays over 2,000 square feet in size within the Agricultural Zone as contemplated by the proposed Land Development Code.

STONEWALL  
The logo for Stonewall Farm features the word "farm" in a cursive, handwritten-style font. The letters are connected, and there are decorative flourishes at the beginning and end of the word, resembling stylized leaves or branches.

March 22, 2021

Address To: Mayor and City Council, City of Keene, NH

Subject: Proposed New City of Keene, NH Land Development Code & Upcoming Public Hearing

Dear Mayor & Council,

It has come to our attention that the City is considering a new Land Development Code or Ordinance that would **prohibit ground mounted solar arrays over 2,000 square feet in size** within the Agricultural Zoning District.

In recent electronic correspondence with Mr. John Rogers, Building and Health Official within the Community Development Department, we have been informed the City Council is tentatively considering scheduling this new land development code for public hearing on or about April 15, 2021.

We as Board members are concerned this new code will have a **negative impact** on the ability of Stonewall Farm to address our very high electrical costs which are currently in the order of over \$5,000 a month. We as a Board cannot continue to absorb these high utility costs and sustain Stonewall Farm as a successful agricultural/educational center and resource within the community.

Over the past several months, we have been seeking solar solutions for Stonewall Farm's high electrical costs. We have obtained several promising proposals which involve either roof and/or ground mounted solar arrays. We currently use about 3,000 kwhs per month or 36,000 kwhs per year. To directly offset this current electric use and adjust for future use at the farm, we may need over 100 panels to be placed either on the dairy barn roof or on the ground. Unfortunately, the dairy barn roof is not located in the proper direction to obtain the best solar efficiency although it may support higher efficiency panels. Only the roof for the horse barn is properly oriented, but this roof cannot support the extra load. As a result we are going to need greater flexibility in order to meet our current and future needs.

The City's solar restrictions in the Agricultural Zoning District as we understand e.g. restricting ground mount solar arrays to 2,000 square feet or less would limit our flexibility in achieving a solar solution for Stonewall Farm.

Mr. Rogers has also conveyed to us that City staff believes the public rationale for not allowing ground mounted solar arrays in excess of 2,000 square feet in the Agricultural (A) District is twofold: (1) the use does not meet the intent statement of the district; and (2) the city has very limited land area in the A district.

In our view this rationale is very narrowly conceived as the new zoning code is proposing that various sized ground mounted solar arrays be Permitted by Right or as a Conditional Use Permit in many of the other zoning districts in the city. Further, Stonewall Farm is roughly 74 acres in size and most of our property is currently wooded with several tracts placed in conservation easements. Several of our solar proposals have identified two sites on our land which are out of the way adequately protected and large enough in size to support all our power needs.

STONEWALL  
*farm*

We understand that it is a goal of the City of Keene to support renewable energy and achieve close to or net zero emissions in the coming future. This new zoning code in our view does the reverse. Plus, what if we find we are going to need more panels than would be allowed under the City's Accessory Use limitation of 2,000 square feet; are we going to need a Variance to add a few more panels? This does not make good sense.

We therefore respectfully request that the proposed new development code be adjusted to increase the current 2,000 square foot limitation to at least 5,000 square feet or less and/or allow small-scale solar energy systems as currently defined by the proposed new land development code to be allowed as a Conditional Use in the A District. Either one of these two approaches would grant us the flexibility we need to design a proper solar system for the farm.

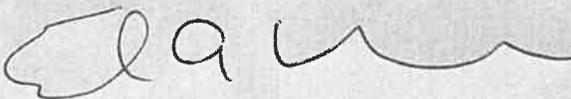
We are generally in support of the Conditional Use Permit process in the A District as such a Permit would provide the ability for the Planning Board to attach conditions to the proposed use and land as well adequately mitigate for any on or off site impacts such a use may have within the immediate or surrounding area. We are not in support of the current regulations which could require that we would need to obtain a Variance for a few more panels which exceeds the 2,000 square foot cap as this would be costly and require a quasi-judicial land use process.

As the City of Keene is strongly committed to a sustainable and renewable energy future, we would like to bring the Mayor and City Council's attention to a new and growing science known as "Agrivoltaics" or "Agrophotovoltaics". This science is commonly defined as working to co-develop the same land for both solar photovoltaic power as well as agriculture. The coexistence of solar panels and agriculture implies a sharing of light between these two types of production. Therefore, there is a public rational for both solar and agriculture and this should be considered in the Agricultural District's intent statement.

In conclusion, we believe our request is within the spirit and intent of the City's existing and proposed new zoning laws and can be easily addressed before this new land development code is adopted.

Sincerely,

*Edward A. Coppola*



The Stonewall Farm Board

Voted by Unanimous Consent, March 22, 2021

Ed Coppola, Board Chair Karen Munn, Treasurer, Jenna Spear-O'Mara, Secretary, Megan Burke-Kidder, Maria Oberlander, Dan Smith, Kimberley Diamond, Julie Snorek



City of Keene, N.H.  
*Transmittal Form*

April 13, 2021

**TO:** Mayor and Keene City Council

**FROM:** Peter Espiefs

**THROUGH:** Patricia A. Little, City Clerk

**ITEM:** C.6.

**SUBJECT:** Peter Espiefs - Regarding the Congregate Care and Social Service License - Ordinance O-2021-04

---

**ATTACHMENTS:**

Description

Communication\_Espiefs

**BACKGROUND:**

Peter Espiefs is writing the City Council with his concerns over the proposed Congregate Care and Social Service Licensing Ordinance.

RECEIVED APR 02 2021

April 2 ,2021  
29 Middle St.  
Keene,N.H.

Mr. W.Rhett Lamb,,Community Development Director  
City Hall  
Keene, New Hampshire 03431

Dear Mr. Lamb:

Thank you for your recent call. I have given some thought to the ongoing revision and changes the City Planning Department is proposing and will try to express some of my views on what is happening, and some considerations that might be helpful to the City Administration and our local citizens and property owners. I am no authority on this subject, but will do my best.

At this time, the City is proposing the following Uses be allowed in areas peripheral to the Downton.In the March 25 edition of the Keene Sentinel (front page) they were listed,and the article declared they would all be Licensed:

- Drug treatment center
- Residential drug treatment center
- REsidential care facility
- Large group home (up to 16 residents)
- Small group home (up to 8 residents)
- Group resource center
- LOdging house
- Homeless shelter
- Fraternity/Sorority house

Licensing will authorize the City to require control of these uses so that they do not become nuisances or affect the public health and safety. This will require manpower,inspections,policing,hearings and appeals.Each entity will also submit its credentials and plan to City administrators.to obtain the license.

While these requirements may make these uses tolerable- an imposition not shared by other taxpayers in Keene-it certainly will affect the property values of their neighbors.It may create the appearnce of " vibrancy" in the Downtown area,but ultimately the denizens of these projects are likely to create a"negative vibrancy", as experienced in other cities.Möreoöer,it appears this plan is favored by developers and investors as opportunitites to profit.

Finally, the above Uses will produce a mix and density of occupants that could well present Keene with a major public health crisis while we are experiencing the Pandemic, and any future iterations of it. I am not aware of any City inquiries or evidence concernin this issue. Clearly, density and mixed uses -which we are promoting-have become serious enablers of the Virus, as demonstrated by its relentless spread in every compact and crowded setting across the United States. Density and mixed uses are no longer solutions for" downtown vibrancy"; they are public health problems.The CDC of the United States has so commented about this matter, and it has forecast the likelihood of further pandemic activity.

Although, the City calls its program "Building Better" -which it is in some respects- I question its continuing adherence to the present course, especially about rescuing the "Downtown".

It must be aware that the expansion of local shopping malls with plenty of parking and every conceivable line of consumer goods is attracting the public, and that the internet has created another shopping world, it seems to be floundering with strategies that are not good for anyone.

First, I believe we need to concentrate on providing safe permanent housing, ~~with its~~ own outdoor grounds- for the workforce and the needy and afflicted. As a community, we have a common responsibility to do this. Is the City considering this as a possibility? There have been Federal and State programs that provide the resources, and our President has introduced an Infrastructure Bill that contains funds for housing. We should not be supporting random, superficial, and inhumane packing of citizens in any local setting. Although we are an "economy" we are first, a "society."

Second, we can compete, through the President's Infrastructure bill, for the extension of the East-West Highway through Keene. We have Keene State, Antioch, and Franklin Pierce colleges here as well as considerable industry, and we are in the center of New England. Also, we have the world's most climbed mountain-Mt. Monadnock. Keene has a lot going for itself, and we have to consider all our developmental and attractive options.

Thank you for your courtesy, and the opportunity to present some thoughts on matters that affect us all. Please feel free to distribute.

Respectfully,

  
Peter S. Espie



City of Keene, N.H.  
*Transmittal Form*

April 7, 2021

**TO:** Mayor and Keene City Council

**FROM:** Municipal Services, Facilities & Infrastructure Committee

**ITEM:** D.1.

**SUBJECT:** Request for Exception from the Public Improvement Standards – City Engineer

---

**RECOMMENDATION:**

On a roll call vote of 5-0, the Municipal Services, Facilities & Infrastructure Committee recommended that the City Council accept the oral report as informational.

**BACKGROUND:**

Councilor Manwaring asked to hear from the City Engineer. She continued that the MSFI Committee heard this issue last week.

City Engineer Don Lussier stated that earlier this week the City received a letter from Liberty Utilities indicating that they would like to withdraw their request for a waiver. He continued that they have found an alternative for the routing for the gas main and thus will not have to disturb any significant portions of the sidewalk. At this point, they are recommending that the MSFI Committee accept the oral report as informational and consider the matter resolved.

Councilor Manwaring asked if committee members had questions or comments.

Councilor Williams stated that he wants to express his disappointment. He continued that he was hoping to get a sidewalk there. He was happy to have a utility pay for it. He feels like many times when it comes to the public right-of-way, utilities are not really pulling their weight, but maybe having them do things like build sidewalks for the city can provide some of the compensation that he feels the public should be getting. He thinks this is a shame that this is happening. He saw there is already work happening on Roxbury Street. They appear to be digging at the very edge of the road. He expects that is how they will proceed. This is too bad.

Councilor Manwaring replied yes, she expects Roxbury Street will look like Marlboro Street.

Vice Chair Giacomo made a motion to recommend that the City Council accept this as informational. Councilor Filiault seconded the motion.

Councilor Greenwald stated that regarding the previous agenda item, it was his hope that the Police Chief could use his emergency powers to empower the petitioner to utilize that space before they go through the whole process of amending an Ordinance.

Councilor Greenwald stated that he is very upset that Liberty Utilities is not being a good corporate neighbor. He continued that they found the easiest way out to work this project. It was his hope that the city would end up with a quality sidewalk. To put it down a grass strip between the sidewalk and the road is bad. He wants the

record to reflect that he is very disappointed. He has been a supporter of the gas company's work to improve the gas lines and believes it is important, but it was going to be more expensive to go down the middle of the road and less expensive to go down the sidewalk and now they found a no expense option to just rip up the grass. He hopes that at least the City Engineer will make sure Liberty Utilities replaces the trees that are ripped up in the course of their construction. When he saw it this morning he thought it was a mistake, but it is not a mistake. He called the City Manager. Liberty Utilities found the lowest cost alternative and he is disappointed in the City and Liberty Utilities for the solution. Not only do they not get an improved sidewalk, they get no sidewalk. The gas company just puts their pipe down the road and that is it. A good portion of Roxbury Street does have a cement sidewalk. It is not a quality sidewalk, but it is something. Now they have nothing. He was contacted by more than a few people encouraging him to push this forward.

On a roll call vote of 5-0, the Municipal Services, Facilities & Infrastructure Committee recommended that the City Council accept the oral report as informational.



City of Keene, N.H.  
*Transmittal Form*

April 7, 2021

**TO:** Mayor and Keene City Council

**FROM:** Municipal Services, Facilities & Infrastructure Committee

**ITEM:** D.2.

**SUBJECT:** Denise Meadows – Request to Convert Loading Zone Space on Railroad Street to a Mobile Vendor Space

---

**RECOMMENDATION:**

On a roll call vote of 5-0, the Municipal Services, Facilities & Infrastructure Committee recommended staff draft an amendment to the City Code to create the mobile vending spot.

**BACKGROUND:**

Councilor Manwaring asked to hear from Denise Meadows.

Denise Meadows [representing CC&D's Kitchen Market] stated that the space they are looking at was once a vendor space. She continued that the unit that [CC&D's Kitchen Market] is not a food truck or trailer; it is a little bigger than a hot dog cart. It would not fit on any of the sidewalk spots and thus it would be in the way of pedestrians. They were looking at the space that was once a spot for mobile vending, and at some point was switched to a loading zone. They are looking for it to be converted back to what it was.

Councilor Manwaring asked if there were any questions from the committee. Hearing none, she asked to hear from Med Kopczynski, Economic Development Director.

Mr. Kopczynski stated that regarding loading zones and parking, there is a lot to talk about. He continued that loading zones historically have been used for deliveries. However, very few of the loading zones today are used for deliveries. Most are being used for curbside pickup. The City has established 14 temporary loading zones to accomplish that. That is not just for restaurants; it is for all businesses. All of the businesses on Main Street have requested that access for their customers. This particular spot was, as Ms. Meadows relayed, originally a vending spot for this type of use. In 2014 it was changed into a loading zone. What staff knows at the moment is that it is rarely used for trucks. There are a few that do use it in the morning, but the City is creating a temporary loading zone across the street, which is probably more appropriate. Most of the loading and unloading of trucks in the Downtown and Central Business District are of 55-foot tractor trailers, which do not fit into these spots at all. He reiterated that most loading zones are now being used for curbside pickup. Thus, staff thinks that by converting this back to this type of vendor space it will actually add activity to this area and to Railroad Square, and be good for all businesses, not just Ms. Meadow's business. It will be good for downtown intensity and activity and bring more people back to the downtown area.

Councilor Manwaring asked if there were any questions for Mr. Kopczynski. Hearing none, she asked for public comment.

Councilor Greenwald stated that he wants to support the petitioner. He continued that he thinks this is wonderful and they should let CC&D's Kitchen Market do this.

Jeff Igneri from Local Burger, 82 Main Street, stated that he is all for new business and supporting new business. He continued that he thinks this will have a negative effect on Local Burger. Local Burger uses that spot often for curbside delivery, as mentioned, and a delivery of local potatoes comes there. There are many trucks that go there for deliveries. Curbside deliveries are where it will really hurt Local Burger. With the high rent Local Burger pays for that spot, to have yet something else eat into their business is tough to handle. They have been trying to get outdoor seating in Railroad Square for years and cannot get it. They also have a food truck. Does this mean they can bring out theirs as well? If so, who will handle the scheduling? Local Burger has many questions that need to be answered. He supports new business, but to have someone come in and not pay rent like Local Burger is paying for an equal spot is tough.

Councilor Manwaring asked what hours Local Burger is open. Mr. Igneri replied 11:30 AM to 9:00 PM, seven days a week.

Councilor Manwaring asked Ms. Meadows what she plans to have CC&D's Kitchen Market's hours be. Ms. Meadows replied that they are considering 11:00 AM to 3:00 PM, Monday to Friday.

Councilor Manwaring asked if members of the public had any questions. Hearing none, she asked to hear what the committee members think about this.

Councilor Filiault stated that with all due respect to Local Burger, he appreciates their concern, and as someone who used to lease a spot in that building, he remembers when that spot they are talking about was meant for food trucks. He continued that there would be a food truck parked out front, sometimes from breakfast through the day and past dinner. It certainly did not have an effect on anyone else's business, and as Mr. Kopczynski pointed out, as far as delivery trucks go, that can easily be worked out. That was never a problem when he leased a spot there. He is all in favor of as many food trucks as they get downtown; they and the brick-and-mortar businesses can work well together as they did in the past. He is all in favor of this and thinks that with a little help from the City, regarding the delivery trucks, they can all get along and survive downtown fine.

Councilor Williams asked how these spots are managed, in terms of who can use the spot at which times. He asked what the scheduling process is. City Manager Elizabeth Dragon replied that her understanding is that it is first come, first serve for the mobile vending spots throughout the city.

Councilor Giacomo stated that his question for Mr. Kopczynski, Mr. Igneri, or someone else who has a business there: if there is a concern with loading trucks back and forth, what time of day do those deliveries usually occur? He continued that his understanding is that they usually do not want to come in the middle of the day for deliveries. How much will there actually be a conflict with that narrow of an hour range being open, with loading trucks?

Mr. Kopczynski stated that the experience he has with the loading and unloading of trucks is peripheral from the standpoint of his constant attention and walking around in the downtown. He continued that he is usually in the downtown three to six times a day. This is something to take into consideration. When he sees loading zones being used by trucks, it is rare. This particular one he sees used occasionally by a beer truck and occasionally by People's Laundry. What he understands anecdotally is that is about once a week. The size of that particular loading zone can be accommodated in another loading zone across the street where they do not have this same potential for there being a site for a food vendor. Most of the loading and unloading that he sees in the downtown, during the day, is UPS trucks, and trucks delivering oil. Trucks delivering meat and produce for the restaurants tend to be 55-foot tractor trailers. When he sees those it tends to be early in the morning, around 8:00 or 9:00 AM. Occasionally he sees them coming to places like the Monadnock Food Co op a little later.

Councilor Manwaring stated that the big trucks would not fit in this space anyway.

Councilor Madison asked if this is a trailer that would stay there for a few days on end, or if it would be there permanently, or if it would be removed at day's end and then brought back the next day. Ms. Meadows replied that it would come and go each day.

Mr. Kopczynski replied that this loading zone right now, per Ordinance, has been created. To allow use by a food truck they have to re-do the Ordinance. He continued that staff's role is to craft changes to the Ordinance, and it would go through the City Council to make that happen. The actual utilization of the space by Ms. Meadows or any other vendor is a conversation that takes place in the normal way that they handle scheduling those spaces out. As the City Manager said, those are pretty much first come, first serve. They are not reserved. It is not like Ms. Meadows could reserve this spot and have ownership of it. It would be first come, first serve for the timeframes that she sets up.

Ms. Meadows stated that she is wondering if that space could possibly be treated like the sidewalk spots, in that it would be a spot that CC&D's Kitchen Market would pay the fee for the season for that space, rather than a first come, first serve basis. Mr. Kopczynski replied that for clarity, the reservation is first come, first serve – it is not who shows up first in the morning. Councilor Manwaring replied yes, if Ms. Meadows is the first one, she gets it for the season.

Councilor Giacomo made the following motion, which Councilor Filiault seconded.

On a roll call vote of 5-0, the Municipal Services, Facilities & Infrastructure Committee recommended staff draft an amendment to the City Code to create the mobile vending spot.

Councilor Manwaring stated that the recommendation for staff to draft an amendment to the City Code goes to the City Council next week and this item will come back to the MSFI Committee in 2 weeks.



City of Keene, N.H.  
*Transmittal Form*

April 8, 2021

**TO:** Mayor and Keene City Council  
**FROM:** Finance, Organization and Personnel Committee  
**ITEM:** D.3.

**SUBJECT:** Dave Kirkpatrick/Cheshire TV - Requesting an Opportunity to Address City Councilors  
Regarding the Current Situation with Cheshire TV

---

**RECOMMENDATION:**

On 5-0 roll call vote, the Finance, Organization and Personnel Committee recommends that the City Council accept Mr. Kirkpatrick's Cheshire TV presentation as informational.

**BACKGROUND:**

Mr. Dave Kirkpatrick stated he is before the Committee to discuss the issue regarding Cheshire TV and the termination of its contract with the City. Mr. Kirkpatrick stated he was not before the Committee to negotiate the contract, but would like to discuss Cheshire TV and his relationship to that organization. He indicated Cheshire TV has been faithfully serving the community for over 15 years and he has been a member of Cheshire TV since 2008 and he has background in production. He talked about how he started his work with Cheshire TV as a volunteer. He stated his mission today is to save Cheshire TV; to preserve and protect the bylaws that guarantee serving people. He added the bylaws are slightly flawed and are in need of revision and he understands there are some disagreements between the bylaws and the articles of incorporation and this is something they plan to work on.

Mr. Kirkpatrick stated this is not something he was planning on doing, but he was approached by a City Councilor in late July inquiring as to what was going on with Cheshire TV. Lee Perkins was also contacted by members, including City Councilors to rescue Cheshire TV. He indicated he would like not to dig up the past, but to resolve things through open discussion.

He explained what transpired - the volunteer board members who are all members of Cheshire TV were replaced by new volunteers; there was not an election that happened. The owners of Cheshire TV noticed a problem and took the appropriate action. The action was democratic as provided in the bylaws for exactly this purpose. He added Cheshire TV had been without an executive director for a period of six months, which resulted in some serious problems and the Board felt it was critical to reestablish leadership. A meeting was held and the most qualified candidate was placed into the job.

Mr. Kirkpatrick stated he is here regarding the intent of the City to cancel the contract, which was presented as non-negotiable and he is asking for the opportunity to negotiate the intent to cancel.

He went on to say he would like to speak briefly to the uniqueness of Cheshire TV. He agreed their bylaws are a little interesting and their system of governance is not like other public access stations. However, this is what makes them what they are – all members are equal and have an equal voice and have not had an issue with this system for 15 years. This also gives them the opportunity to focus on the community and defend the rights and

provide opportunity for those who would otherwise not be heard. He added keeping the doors open for the underserved is a big part of their mission.

He felt Cheshire TV runs the risk of any new administration not seeing the value in Cheshire TV. He felt they have a bright future ahead of them and can get past the current situation they are in.

Mr. Kirkpatrick stated he would like to talk about some of his accomplishments. When he joined Cheshire TV they were not in compliance with the contract with the City, nor were they in compliance with State and Federal laws. They have been without qualified leadership for quite some time and in fact, the Cheshire TV corporation status had been dissolved by the State of New Hampshire. All of these issues have been resolved.

Mr. Kirkpatrick noted staff training is a lingering piece and there's not a lot to train these days. In the meantime, he indicated he has managed to reduce spending considerably; software costs were way too high, same with licenses and unnecessary hardware and software costs as well as payroll. He has decreased the cable bill through negotiations. He indicated he has established remote production using zoom to be able to function in this environment. He identified and purchased the additional equipment that will enhance remote capabilities. He completed the installation and currently training on the full use of the tri-caster system, which again incorporates zoom sessions without having to come into the studio. Cheshire TV is also working on live streaming similar to what people are doing with their phones. Cheshire TV has been living in the TV bubble for too long.

Looking towards the future, Cheshire TV is going to have more local TV shows because of the live capability. Cheshire TV now has a lighting and field production kit to be able to easily set up in any room anywhere and be able to stream as long as there is good internet connection. If somebody wants to use a phone for a hotspot, streaming, it can be done from any place in town with multi camera live production. He felt Cheshire TV is going to be faster and more available going forward. Mr. Kirkpatrick indicated they were going to take a look at their policies that were getting in the way of being able to get out and conduct events in the community.

In closing, Mr. Kirkpatrick stated he wanted to talk about the danger they are seeing in what is being proposed. He felt this is a way for the government to take away or control people's access to public media, a tool with which they can exercise their constitutionally protected First Amendment right. He noted public access stations are being taken away everywhere. Cheshire TV is unique and making them compliant is not a healthy thing.

He agreed during budget time there are always proposed cuts being made, but those cuts always seem to affect the services that common folks really need and depend on and any administration can make it difficult for people to participate. Mr. Kirkpatrick stated what he is requesting of the FOP Committee is to recommend to the Council this action be suspended so that a proper dialogue can be undertaken with the City. He indicated Cheshire TV is also requesting a public hearing where the public can be heard. He felt a decision to cancel an organization like theirs should be made by the City Council after public discussion.

Councilor Ormerod asked whether Mr. Kirkpatrick has any viewership survey to share. He stated he was looking for public feedback from the viewership as he has not received anything by email or by phone. Mr. Kirkpatrick felt people mostly get in touch when they have a complaint and noted he would like to do more with the public and more with the membership to see how they can better serve the community. Councilor Ormerod stated he was asking about viewership surveys not membership surveys. Mr. Kirkpatrick stated about two years ago a phone survey was conducted and about 200 people were contacted to ask about public access. He felt most people are not too interested in learning about video production and felt cable keeps a tight rein on numbers.

Councilor Remy stated he too was equally surprised that he had not received any emails from viewers who are not related to the organization about the proposed contract cancellation. He asked whether the members within the organization contribute financially to the organization to be members.

Mr. Kirkpatrick stated membership is free for anyone from the participating municipalities. He indicated through

the franchise agreement, they do their own fundraising. Members from outside the municipalities, pay a \$50 yearly membership fee, which he felt is a bargain for all the equipment and access they receive.

Jody Newell of 30 Leverett Street, Keene addressed the Committee next. Ms. Newell stated she was one of the new board members and serves as the treasurer. She indicated she joined Cheshire TV because of what was going on. She noted as of late they have made many improvements and things seemed to be going in the right direction. As to viewership, she did not feel this issue has necessarily been made public. She indicated what Cheshire TV is trying to do at this point is try to negotiate and she did not feel there was an opportunity to do so. She felt this conversation should be made public as she did not feel the viewership knows what exactly is happening at this time. Ms. Newell stated her request is for a public hearing to find out what people think is the right way to move forward with this issue.

City Manager, Elizabeth Dragon addressed the Committee and noted she wanted to clarify a few things. She indicated there was an ad in the paper today from Cheshire TV about tonight's meeting. There also has been several announcements at previous Council meetings, which have received quite a lot of attention in the newspaper. The Manager stated this item is being presented as an effort to cancel Cheshire TV; however, there is an opportunity for Cheshire TV to work with the City to address their articles of incorporation. The Manager stated they did have one meeting and in reading their minutes, it is stated Cheshire TV is not interested in negotiating. That meeting was held on March 4. On March 5 there was an email from their attorney Brad Cook suggesting compromised language, which the City then circulated and responded to. The City responded to that email but has yet to receive a response back. The Manager stated there has been an opportunity to come to the table and talk about compromise on language and this opportunity still exists.

Assistant City Manager/ IT Director Rebecca Landry addressed the Committee next and stated the Manager had requested she do some research as to how certain things work in other communities in New Hampshire. She indicated there are communities where the municipality is the sole member and where they nominate and approve all board members as well as approve the budget and any changes to the bylaws while the organization can operate as a successful community access television operation. In some communities, the community access television operation is a department of the municipality as well.

In response to Councilor Remy's question, the City Manager related Cheshire TV's budget is made up of three revenues - \$181,000 comes from the City of Keene, \$46,389 was coming from the Town of Swanzey (until they canceled their contract) and Cheshire TV raised \$9,506.

Councilor Chadbourne stated she received a communication regarding Cheshire TV and suggested that the citizen contact the City Manager. Ms. Dragon stated the question was how the revenue comes to the City of Keene and then how it goes to Cheshire TV. She explained the Cable TV franchising law, which is governed by Federal law which talks about the franchising authority, which is the City. In this case the City is collecting a fee for use of the public right-of-way and in this case the City is collecting three and a half percent which the cable company chooses to bill to the subscribers. This money comes to the City and is able to be used for any purpose. Keene has always chosen to invest this money in public access.

This year the City received \$206,000 and \$181,000 of that went to Cheshire TV through an operating agreement and a monthly payment. The question is what happens if Cheshire TV is no longer in operation - the money will still come to the City and the City will decide how it wishes to spend that money. The City can do a combination of things with those funds. The Manager stated it is her hope the City will come to agreement with Cheshire TV and work with them on an amendment to the articles of incorporation and then there would be very little operational changes in terms of running Cheshire TV, which was important to understand. The Manager noted the money would still come to the City but if the contract were in fact cancelled, Cheshire TV would not get those funds.

Chair Powers stated he was under the impression Marlborough was involved at some point in this agreement

with Cheshire TV. Ms. Landry agreed Marlborough was originally part of a four-way agreement with Swanze, Marlborough, Keene and Cheshire TV, but when the franchise fee was increased to cover expenses for Cheshire TV the Town of Marlborough decided to part ways.

Mr. Kirkpatrick stated they would very much like to negotiate this item and noted he is new at this job and new at dealing with attorneys. He indicated he has seen different versions of the same agreement – he noted what is problematic to them is placing City appointees in control and removing their board. He indicated he will get in touch with the Manager.

Mr. Kirkpatrick with respect to fundraising, he agreed they could be doing a better job at it but always felt they had enough to do what they needed to do without being out in the community competing with organizations who really needed funding like the 100 Nights or the Community Kitchen. He indicated they now have a brand new board with involved community members who can do a better job fundraising.

Councilor Hooper made the following motion, which was seconded by Councilor Ormerod.

On 5-0 roll call vote, the Finance, Organization and Personnel Committee recommends that the City Council accept Mr. Kirkpatrick's Cheshire TV presentation as informational.



City of Keene, N.H.  
*Transmittal Form*

April 8, 2021

**TO:** Mayor and Keene City Council  
**FROM:** Finance, Organization and Personnel Committee  
**ITEM:** D.4.

**SUBJECT:** Report - Ad Hoc Racial Justice and Community Safety Committee

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**RECOMMENDATION:**

On 5-0 roll call vote, the Finance, Organization and Personnel Committee recommends that the City Council accept the Ad Hoc Racial Justice and Community Safety Committee Report as informational.

**BACKGROUND:**

As the staff support for the ad hoc Racial Justice and Community Safety Committee, Ms. Landry stated the Committee started meeting during the July - August timeframe until March of 2021.

They met from a weekly basis to every three weeks and had three public input forums. Ms. Landry identified the members on the Committee as Councilor Workman, Julia Atkins, Tia Hockett, Pierre Morton, Sheriff Eli Rivera, Gail Sommers and Police Lieutenant Maxfield.

Ms. Landry stated their final report has been posted on the City website. She noted a few of the key observations: Racism does exist in Keene even though thankfully some of the violent events witnessed in other parts of the nation have not happened in Keene. She noted the members did a deep dive into police reports, practices, and manuals. The Committee also thoroughly reviewed how our Police Department functioned in various situations. Ms. Landry continued the Police Department website provides a lot of information on this. But racism does exist and referred to this first sentence "Based on the lived experiences spoken by people of color in Keene, the Committee concludes that racism exists in Keene. The public is calling for community leaders to immediately take a clear anti-racism position by addressing systemic, cultural and individual manifestation of racism."

That is one of the key observations that the Committee came to. It was also noticed that there is implicit bias and that this is one of the keys to moving forward is to identify implicit bias.

Ms. Landry stated she finds herself being much more cognizant of her own implicit bias. This should not be something that is negative, but it needs to be identified and changed. The Committee recognizes open dialog as important as well. It is not only about scheduling and holding opportunities for dialogue, but also making people feel safe to participate in the dialogue. Finally, community education is going to be essential to making progress. There are a number of recommendations regarding community education in the report.

Ms. Landry stated the Committee understands that this is a report to the City Council and the City Council can only make motions that affect City government. However, the hope is that the community as a whole will engage in some of these recommendations because it is going to take the entire community to make a difference.

Dottie Morris Co-Chair of this Committee addressed the Finance Committee. She stated she appreciates all the input that was given in order to come up with the report. Dr. Morris extended her appreciation to Ms. Landry

for supporting the Committee. She noted she sees this report as a start of something great. She indicated the Committee is willing to help the City government in any way it can.

Councilor Hooper thanked the Committee for coming up with these recommendations and felt it was extremely important to start having an open dialogue on this matter.

Councilor Ormerod asked if Dr. Morris has a plan to train people on how to constructively deal with things like racist language and implicit bias training. Dr. Morris stated part of their recommendations is to engage in that type of training. Many members of the Committee spoke to their desire to continue to work and she knows of at least two other members who have experienced that type of training. She indicated there are also people within the City of Keene who are very good at doing this type of work and could do it in a way that could add some richness to the community.

Mayor George Hansel thanked the co-chairs for leading this Committee and indicated this is exactly what this community needed. He also extended his appreciation to Rebecca Landry. The Mayor noted there so many angles to this process. There are things the City of Keene needs to look at and make adjustments, there are things the greater community needs to take on, and there are things that the school district needs to take on. This implementation plan is something that needs to be done together and this is a start of a conversation. In closing, he stated this report has his wholehearted endorsement.

The City Manager extended her appreciation to the Committee and echoed the Mayor's comments and added she is looking forward to engaging the broader public. She hoped Keene could do some things to lead the way for others in our region.

Councilor Hooper made the following motion, which was seconded by Councilor Chadbourne.

On 5-0 roll call vote, the Finance, Organization and Personnel Committee recommends that the City Council accept the Ad Hoc Racial Justice and Community Safety Committee Report as informational.

Chair Powers stated just because this motion from the Committee is to accept the report as informational; this is an action plan and he felt the Finance Committee is going to vote unanimously to move it forward and so will the City Council. He felt that after next Thursday somebody is going to get some assignments because there is a lot of good work within the report needing implementation.



City of Keene, N.H.  
*Transmittal Form*

April 8, 2021

**TO:** Mayor and Keene City Council

**FROM:** Finance, Organization and Personnel Committee

**ITEM:** D.5.

**SUBJECT:** Acceptance of Donations - Parks, Recreation and Facilities Director

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**RECOMMENDATION:**

On 5-0 roll call vote, the Finance, Organization and Personnel Committee recommends that the City Manager be authorized to do all things necessary to accept a donation of \$200 and that the money be used by the Parks, Recreation and Facilities Department.

**BACKGROUND:**

Chair Powers stated the Parks and Recreation Department received a \$200 anonymous donation after the Easter egg hunt this year. The donation will be used to purchase supplies and prizes given out during that Easter egg hunt. The person who gave the money was very appreciative of what the Parks and Recreation Department does and they wanted to reward them for their good work.

Councilor Hooper made the following motion, which was seconded by Councilor Remy.

On 5-0 roll call vote, the Finance, Organization and Personnel Committee recommends that the City Manager be authorized to do all things necessary to accept a donation of \$200 and that the money be used by the Parks, Recreation and Facilities Department.



City of Keene, N.H.  
*Transmittal Form*

April 8, 2021

**TO:** Mayor and Keene City Council

**FROM:** Finance, Organization and Personnel Committee

**ITEM:** D.6.

**SUBJECT:** Acceptance of the 2017 Homeland Security Grand Award - HazMat Allocation - Fire Chief

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**RECOMMENDATION:**

On 4-0 roll call vote, the Finance, Organization and Personnel Committee recommends that the City Manager be authorized to do all things necessary to accept a grant in the amount of \$16,738 from the 2017 State of New Hampshire Homeland Security Program (SHSP) - HazMat allocation.

**BACKGROUND:**

Deputy Chief Jeff Chickering stated that the Fire Department is requesting approval to accept funding to purchase a FLIR identifier which is a 25 radiation isotope identifier. This unit will provide the Fire Department hazardous materials response team with the capability to locate a radiation source and identify any isotopes. He indicated that the hazmat team continues to work as a member of the New Hampshire Hazardous Materials Collaborative Council. This grant is part of a statewide equipment purchase that outfits each team with the same equipment. The cost of the floor identifier is \$13,185.40, a day of training for \$3,522.60 and the cost of shipping is \$30.

Councilor Hooper made the following motion, which was seconded by Councilor Ormerod.

On 4-0 roll call vote, the Finance, Organization and Personnel Committee recommends that the City Manager be authorized to do all things necessary to accept a grant in the amount of \$16,738 from the 2017 State of New Hampshire Homeland Security Program (SHSP) - HazMat allocation.



City of Keene, N.H.  
*Transmittal Form*

April 8, 2021

**TO:** Mayor and Keene City Council

**FROM:** Finance, Organization and Personnel Committee

**ITEM:** D.7.

**SUBJECT:** PANJANDRUM Foundation Grant - Police Chief

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**RECOMMENDATION:**

On 4-0 roll call vote, the Finance, Organization and Personnel Committee recommends that the City Manager be authorized to do all things necessary to accept a grant from the PANJANDRUM Foundation in the amount of \$5,000 to fund Ethics and Implicit Bias training for the Department.

**BACKGROUND:**

Police Chief Steve Russo stated this item is in reference to a \$5,000 grant from the PANJANDRUM Foundation to fund Ethics and Implicit Bias training for the department.

The Chief indicated this came out of a discussion where it was decided the need for the Department to update its ethics and bias based patrol and training. The Department worked with the Cohen Center for Holocaust studies, and they developed a very unique training program. The training program they built has been approved by Police Training and Standards Council to meet those standards and requirements. The increased requirements come with a cost and this grant helps mitigate those costs. The training is scheduled for May 11. The Chief noted he hopes this will be the first step to increasing collaboration with the Cohen Center.

The City Manager recognized the Police Chief who has worked on reaching out to the Cohen Center and others to find a way to meet the need for the ethics training in the Department and she felt this was a creative solution. The Manager felt this was a much better solution compared to what the State offered. Ms. Dragon stated this is just an example of the work that is being done here in the City of Keene and the work the Chief has been doing with the Police Department; in identifying very innovative, creative solutions, and partnerships for the future.

Councilor Hooper reiterated what the City Manager said, and noted speaking from the perspective of a photo journalist for the last 25 years, a lot of times the good news does not get out to the public and he hoped that the public becomes aware of all the good work the City is doing in the Police Department is doing in trying to get these grants and trying to improve training.

Councilor Hooper made the following motion, which was seconded by Councilor Chadbourne.

On 4-0 roll call vote, the Finance, Organization and Personnel Committee recommends that the City Manager be authorized to do all things necessary to accept a grant from the PANJANDRUM Foundation in the amount of \$5,000 to fund Ethics and Implicit Bias training for the Department.



City of Keene, N.H.  
*Transmittal Form*

April 8, 2021

**TO:** Mayor and Keene City Council  
**FROM:** Finance, Organization and Personnel Committee  
**ITEM:** D.8.

**SUBJECT:** FAA Coronavirus Response and Relief Supplemental Appropriation Act (CRRSAA) Grant for Airport - Airport Director

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**RECOMMENDATION:**

On 5-0 roll call vote, the Finance, Organization and Personnel Committee recommends that City Manager be authorized to do all things necessary to accept and execute a grant for the amount of \$23,000 from the Federal Aviation Administration as part of the FAA Coronavirus Response and Relief Supplemental Appropriation Act.

**BACKGROUND:**

Airport Director David Hickling was the next speaker. Mr. Hickling stated this item is the Coronavirus Response Relief Supplemental Appropriation Act, which has funds available for economic relief for eligible airports. As a public use airport, the Keene Dillant Hopkins airport is eligible for this funding. The airport applied for and received a grant offer for \$23,000. Mr. Hickling noted much like the Cares Act, the airport grant received last year as well as the funds from this grant can be used for many different operational expenses. There is no local match and the grant does not have the obligations that is usually seen under the grant assurance of the FAA IP program, which gives the airport a lot of flexibility.

Councilor Chadbourne asked what this money is going to be used for. Mr. Hickling stated he would defer to the City Manager and Finance Director to come up with the best use for these monies. The Manager stated there are a couple of different grants that are coming to the airport through this funding source of this grant opportunity. Some are tied to personnel expenses, in order to utilize the grants fully and the opportunity to utilize those additional dollars, staff will be coming back before Finance Committee. There are some purchases the City needs to accomplish and this will provide that opportunity to do so. She noted details of those purchases will be forth coming.

Councilor Hooper made the following motion, which was seconded by Councilor Chadbourne.

On 5-0 roll call vote, the Finance, Organization and Personnel Committee recommends that City Manager be authorized to do all things necessary to accept and execute a grant for the amount of \$23,000 from the Federal Aviation Administration as part of the FAA Coronavirus Response and Relief Supplemental Appropriation Act.



City of Keene, N.H.  
*Transmittal Form*

April 8, 2021

**TO:** Mayor and Keene City Council

**FROM:** Finance, Organization and Personnel Committee

**ITEM:** D.9.

**SUBJECT:** Airport Restaurant Lease - Airport Director

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**RECOMMENDATION:**

On 5-0 roll call vote, the Finance, Organization and Personnel Committee recommends that City Manager be authorized to do all things necessary to negotiate and execute a lease with Mama McDonough's Irish Pub to operate a restaurant in the airport terminal.

**BACKGROUND:**

The Airport Director reported that last month the restaurant space at the airport expired and City was not able to successfully negotiate a lease renewal with the Flight Deck Restaurant.

As a result, an RFP was sent out last month to solicit proposals for a new tenant to fill that space. The City sent the RFP to several stakeholders that have an interest in the airport together with questionnaire that was developed from the selection criteria. The City received two proposals. The stakeholders unanimously approved Mama McDonough's Irish Pub as the best choice for the airport. That proposal mentioned being part of the airport which was not mentioned by the other proposal. The other positive item from this proposal is the multiple revenue streams that will come from this lease. This applicant plans on running a catering business and a food truck that will also support the success of his business. Additionally, he is initially looking to be open six days a week for lunch and dinner and also three meals a day on the weekends. The other proposal was a subs venue, which is great, but felt the pub would be more attractive to bring people in.

Councilor Chadbourne asked whether this owner has operated a business prior to this; either as a restaurant, a food truck or a catering business. Mr. Hickling stated they currently have a restaurant in Hillsboro and they are looking to relocate and they also own a food truck.

Chair Powers commended this option and asked when they plan to open. Mr. Hickling stated they would like to open as soon as possible.

Councilor Hooper made the following motion, which was seconded by Councilor Ormerod.

On 5-0 roll call vote, the Finance, Organization and Personnel Committee recommends that City Manager be authorized to do all things necessary to negotiate and execute a lease with Mama McDonough's Irish Pub to operate a restaurant in the airport terminal.



City of Keene, N.H.  
*Transmittal Form*

April 8, 2021

**TO:** Mayor and Keene City Council  
**FROM:** Finance, Organization and Personnel Committee  
**ITEM:** D.10.

**SUBJECT:** Continued Discussion: Water and Sewer Methodology and Rates

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**RECOMMENDATION:**

On a vote of 4-1, the Finance, Organization and Personnel Committee recommends that the City Council adopted the proposed sewer and water rate and charge structure for the users of the City's sewer and water systems and directs the City Manager to do all things necessary to implement them. Councilor Ormerod voted opposed.

**BACKGROUND:**

Public Works Director Kurt Blomquist stated this is a follow up from the presentation the council had last week regarding the work completed in early 2020 on water and sewer rates. Mr. Blomquist thanked everyone who participated in this work; Chair Powers, Finance staff and the City's consultant. This evening the proposed rate structure will be discussed again and the potential impacts on several of the customer types described in further details. The new rate structure will go into effect in July, 2021.

The City Manager noted this was a two-step process for the City. Tonight, staff is looking for the Committee's recommendation for the adoption of the actual rate structure. However, the Committee is not setting the rates for water and sewer, this will happen later when the budget is discussed, and when the Council makes decisions based on revenues and expenditures.

Mr. David Fox, Consultant was the next speaker. Mr. Fox stated this study started at the end of 2019. He indicated there was a lot of participation from City staff on this study. Mr. Fox reiterated what had been presented last week; this is a multi-stage process of developing revenue requirements understanding how much revenue needs to be generated on an annual basis for both the water and sewer funds, for things like operating expenses, existing debt service, capital infrastructure, new debt service and then determining how much money needs to be generated.

Mr. Fox stated what was discovered is that water costs are increasing significantly in the short term to deal with critical necessary capital improvements, things like well field upgrades, storage tank repairs, and distribution improvements. Mr. Fox noted Keene is not alone in such a process, any municipality in the northeast with aging infrastructure has similar issues. Sewer costs are also increasing, albeit not in the rapid pace as seen on the water side, but there is obviously some capital infrastructure necessary on the sewer side as well.

He noted the City has some negative financial pressures working against it; the vast majority of the City's revenue comes from user charges and the vast majority of those users charges come from the amount of water consumption that customers use. Similar to the rest of the industry, the City has seen a declining consumption over the past number of years that translates directly into declining revenues. Mr. Fox noted these additional

cost pressures are due to increase regulations and compliance costs that the City does not have much control over.

In order to establish a financial plan, the consultants have developed a comprehensive financial plan, the correct model for the City's use which has been delivered to finance staff (10 year window) focusing on the first five years. Making sure the City is mitigating any sharp fluctuations and changes to its customers.

The most important thing is to establish a financial plan that ensures there is sufficient revenue for both the water and sewer funds in order to make sure bills are paid and make sure the City is doing what it needs to do in terms of capital reinvestment. In addition, the financial plan needs to make certain the both the water and sewer funds remain financially viable by maintaining appropriate cash reserves. However, as the City sees a decline in consumption whether it be due to the pandemic or whether it is because of a cool, wet spring and summer or whether people curve their consumption, the City revenues will decline and it is prudent to have a reserve fund to be able to mitigate such volatility. In doing so it is important to maintain the idea of supporting affordability for customers and make sure not to overburden customers. Mr. Fox stated their focus right now is the impact for fiscal year 2022 for implementation this July 1.

What the City is looking at for fiscal year 2022 is approximately a 20% increase in the water fund and about 6% more revenue on the sewer fund. He referred to a chart which explained that in 2021 the revenues were below cost and the revenue needs to be increased. On the sewer side, the City is at a better cash position in terms of how much cash it has on hand in reserve fund and hence the recommendation for a 6% increase on sewer. In terms of what this means for rates and then ultimately what does that mean for customers; Mr. Fox continued at the present time, customers are assessed on their water and sewer bills on a quarterly basis. The vast majority of customers use 5/8th inch meters and they are assessed a quarterly fixed charge of \$7.29. Those charges increase based on the size of the meter for the customers which is in line with industry best practices. This also coincides with cost of service and there's a strong rationale for doing that. There is then the volumetric piece and this completely depends on the amount of water consumption a customer uses – which is \$4.78 cents per CCF, which stands for 100 cubic feet. 100 cubic feet is approximately 748 gallons so for every 748 gallons a customer uses they pay \$4.78. This price is regardless of whether they are smallest customer in the system or the largest customer in the system.

The City also has fire protection charges which are there to recover the necessary infrastructure in the unfortunate case of a fire event. These are handled on a fixed quarterly basis as well.

The sewer rates are essentially set up exactly like the water rates - quarterly fixed charge with the volumetric charge based on water consumption. The vast majority of the source of revenue for water and sewer come from user charges. There are some miscellaneous revenue sources on the water side for things like fire fees, which are incredibly important as well as on the sewer side.

Mr. Fox stated the biggest deviation they are recommending from the existing rate structure is a “lifeline” rate for residential customers; providing all residential customers an essential level of water consumption on a quarterly basis, at a lower rate. As mentioned before, 100 cubic feet is about 748 gallons. What is being proposed is to allow for the first 4,500 or so 6 CCF - 600 cubic feet at a lower price per gallon, and once a residential customer gets above that threshold then they pay a little bit more. This helps with affordability, and it helps drive conservation while ensuring the City that its customers are using its resources efficiently. It also helps provide affordability for all residential customers, giving them the essential level of consumption at a lower volumetric rate.

Mr. Fox cautioned the Committee that these are no actual numbers, these are draft and preliminary fiscal year 2022 budget numbers. He noted the final rates may differ slightly from this, even though it might not be too much of a deviation.

He went on to say what is being recommended is that the water fixed charge be increased to \$23 per quarter for the 5/8 inch residential customer, which is the vast majority of the customers.

The biggest deviation is for residential usage. Customers currently are paying \$4.78 per 100 cubic feet. What is being assumed is for the lifeline rate for the first 600 cubic feet, residential customers would be assessed \$3.38 and for 100 cubic feet above that 600 cubic feet customers would then be assessed \$5.07. This applies to only residential customers. Non-residential customers are going to maintain a uniform rate. He noted it is difficult to establish what the lifeline rate or what that tier would look like for non-residential customers. Non-residential customers are such a non-homogenous group in terms of the types of customers and the amount of water consumption that they use across the board. It is industry best practice to have a uniform non-residential rate.

On the sewer side the recommendation is about a \$34 fixed charge for 5/8 inch customers.

All customers will be paying \$7.19 and will have no lifeline rate on the sewer side, it is just a uniform rate.

Mr. Fox then referred to residential customer impacts. For a median usage residential customer using about 9,000 gallons per quarter at the 50th percentile, this group represents 30% of customers. This customer is currently paying about \$182 per quarter for water and sewer service combined. If the structure was to be left alone and not make any structural changes and not implement the "lifeline" rate that is being recommended and rates are increased for financial sufficiency that median and customer's bill would go up by about \$20 to \$202 per quarter. However, if the City was to increase revenues for revenue sufficiency while at the same time, restructuring rates by having the "lifeline" rate, that customer's bill would only go up by a little over \$11 to \$194 or so.

These options are revenue neutral in both of these scenarios. The City is getting the exact same amount of revenue for both water and the sewer funds for financial sufficiency purposes and it is being done in a way that it is not impacting the residential customers by much. The "lifeline" provides the essential amount of usage at a lower volumetric rate. However the lower usage customer, the one who use about 4500 gallons per quarter which makes up about 20% of customers, they are currently paying about \$122 per quarter. If there was an across the board increase; no structural changes just for financial sufficiency their bill would increase by little over \$12 to \$134. But at the same time if the "lifeline" rate was implemented, this customer's bill would actually decline under this scenario by \$1.42. For the very high usage residential customers they would actually pay more under this scenario even with the "lifeline" rate but this is a minority group of customers.

Hence, for the median residential customer which is 30% of the customer base for water and sewer service, 24 hours a day 365 days a year, good clean safe service, will be about for \$775 per year, on a quarterly basis \$194 and on a monthly basis it will be \$65 a month for water and sewer service, or about \$2.15 cents per day.

Mr. Fox noted most customers receive water and sewer service for about two cents a gallon compared to what that would cost in a grocery store which would be over dollar for a gallon of water. Non-residential customers are the minority in terms of the total customer grouping. However, you still see the same kind of magnitude of impacts or directional shifts under these different scenarios.

In terms of an implementation plan, tonight's discussion with the Committee and educating the Committee on the rate process is an important part of the implementation plan. Another part of the plan is to provide outreach to customers. Customers are more likely to accept those changes if they can understand why they are occurring. He referred to a handout the consultant can help the City put together and circulate to customers. This concluded Mr. Fox's presentation.

Mr. Blomquist thanked the consultant's on their outstanding work. Mr. Blomquist reiterated the value of water and sewer - .02 cents a gallon as was stated and compared that to what that would cost in a grocery store.

Councilor Hooper asked if water conservation would still be the big picture. Mr. Blomquist stated for the "lifeline" customers the less water they use certainly the more they will save.

The customers that would see from a conservation standpoint are going to be those that are in that higher tier; the ones who have pools and are watering their lawns. Over the long term, conserving resources is a positive thing and this rate structure does provide an incentive for conservation but it is not an aggressive conservation rate. For example, if they install a rain barrel and utilize rain water on their gardens, they will see a drop in their average water and sewer bill compared to when they used a sprinkler system.

Councilor Remy asked for the percentage of revenue for residential versus commercial.

Mr. Blomquist stated it was about what 80%. Councilor Remy clarified across the board, everyone was paying less under this plan than they would under a meet the minimum requirements plan. Mr. Fox stated there are some customers that are in that high usage category and are going to be paying more under the system as well. As for fire protection, this cost is going to be increased to coincide with cost of service. There is additional revenue and a significant amount more from fire protection to coincide with that cost of service which directly impacts all customers.

Councilor Remy inquired whether there is a way to encourage people to drink City water - as people continue to conserve the more we're going to charge. Mr. Blomquist stated they are going to be looking at what it would take for the City to potentially have a bottle water operation to potentially get in on that market. Water consumption is about 106 gallons per day per person; most of that is not in consumption - most of that is in flushing toilets, doing dishes, watering etc. We want people to start thinking about how they are using water for non-drinking purposes.

Mr. Aaron Costa added consumption is a very small piece of what people use water for and things like showering dishwashing are what people are using water for.

Councilor Ormerod noted he heard mention many time about the cost of two cents per gallon versus going into the store to buy water - he noted that was drinking water. He felt this is never a valid comparison. He indicated he liked Councilor Remy's suggestion about selling this drinking water. He stated he was also concerned about how we look at the number of households. For instance, half the town is renting, there are many multifamily dwellings and in many cases there is a single meter going into these households. This is not a town of single family town and multi families are going to automatically be higher consumption. Mr. Blomquist stated with multi families - they start getting into the larger meter sizes. The way the City's data is maintained is based on meter size.

Councilor Ormerod stated multi-tiered rate is good intention, but he did not feel it would work well in our community. He stated he likes the fact that the City is going to balance the budget and water rates need to go up, but he did not feel it would hold unless analysis on the multi families have been done.

Councilor Chadbourne stated in the last several years, particularly during the summer months, citizens have been advised by City officials to reduce the amount of water we use for extra activities such as gardening because there was a drought and asked if it was accurate why there has been less consumption. She stated she agrees with Councilor Ormerod regarding using the drinking water analogy and felt this was a loaded issue because Keene is focused very much on recycling and there has been discussions amongst Councilors in the past about even bringing water bottles with us and she did not feel that issues helps the presentation.

The Councilor asked how much water an average person uses for a shower. Mr. Costa stated the latest data he found was 17 gallons for an eight minute shower.

Mr. Blomquist stated the drop in consumptions has been going on for over eight years. These declines are also related to low flow fixtures that have now become part of the industry. Consumption has been going down and a lot of that is related to appliances getting more efficient or for instance Markem used to flood their roof for cooling - they don't do that anymore. The City has not seen any kind of large user come in from the commercial side. Hence, the majority of consumers are residential.

Councilor Chadbourne asked shower versus a bath how the usage compares. Mr. Costa stated a bath could use close to 40 gallons.

The City Manager addressed the “lifeline” rate and noted she understands the question related to a multi-family and having one meter and many families living in that house, such a household might not potentially benefit as much from a “lifetime” rate, but they still benefit because the first tier of water is at that lower rate. However, a single family home, a single individual or an elderly person trying to conserve water will benefit the most because they can work to only use what is absolutely necessary. She felt this strikes a good balance between affordability, and making sure the City was providing for the future of the system.

The numbers being used for this analysis are actually the City Manager’s budget numbers. So this is a real analysis of what the rate would look like without the change and then with the change in structure. She indicated she looked at each of those categories to see what would happen with the increases in the sewer and water budget under the structure and then comparing it to the current system. What she saw was a very small increase and then those users who are not using much water at all, a slight decrease in the quarterly cost for water and sewer. The Manager stated she was pleased with this analysis and felt this was a good way for the City to be able to shift to this new rate structure and still be able to afford the costs that are in the budget.

The other aspect with the new rate study is to have the ability to forecast into the future; to look at the future costs and mitigate for increases in the sewer and water rates in the future.

Councilor Ormerod stated he agreed this is particularly important for fixed income, elderly and single family and those with empty nesters and agreed he rather raise revenue through services than through taxes. However, he would like to see some education and incentives for these people to get the lower rates. He wasn’t sure how the City could handle multi-family dwellings but perhaps to make it clear to the landlords regarding water usage. He added he would like to get more commercial customers into town. If this is the first time the City has done this in 17 years, he felt it was a pretty good first step, but would like to see more data.

In response to Councilor Ormerod’s comment, Mr. Costa stated the analogy for the price of water what staff is trying to show here is the value of the service. Every drop of water that the City produces and delivers to your house has to be fit for drinking, but only a small part of that is actually consumed but what is delivered is drinking water quality. What staff is trying to highlight is the value of the City’s service.

Councilor Hooper made the following motion, which was seconded by Councilor Chadbourne.

That the Finance, Organization and Personnel Committee recommends that the City Council adopted the proposed sewer and water rate and charge structure for the users of the City’s sewer and water systems and directs the City Manager to do all things necessary to implement them.

Councilor Ormerod stated he was not ready to support this item as he does not have sufficient information and stated he would like to have some added information.

The motion made by Councilor Hooper carried on a 4-1 vote with Councilor Ormerod voting in opposition.



City of Keene, N.H.  
*Transmittal Form*

April 8, 2021

**TO:** Mayor and Keene City Council  
**FROM:** Finance, Organization and Personnel Committee  
**ITEM:** D.11.

**SUBJECT:** Authorization to Provide Testimony - HB 111 - City Attorney

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**RECOMMENDATION:**

On 4-0 roll call vote, the Finance, Organization and Personnel Committee recommends that a letter of opposition to HB 111 relative to Establishing a Cause of Action Against the State to Protect Individual Rights be sent to the Keene Legislative Delegation and the Governor and that the City Attorney be authorized to speak and testify on the City Council's behalf.

**BACKGROUND:**

City Attorney Mullins stated he is required by ordinance to get authorization from the City Council to testify on any legislative actions. There is a request for him to represent the City and the City Council in opposition to House Bill 111. He explained what House Bill 111 does is to abrogate a doctrine called qualified immunity for employees of state, the state and local government. Qualified immunity is a little bit esoteric; it was a doctrine adopted by the US Supreme Court of Appeals back in the late 60's and modified again in 1982. What it means is that government officials performing discretionary functions generally are shielded from liability for civil damages insofar as their conduct does not violate clearly established statutory or constitutional rights, of which a reasonable person would have known. Essentially, the courts rationale for adopting the defense of qualified immunity was because as things become more complex in the world, especially as legal issues become more complex in the world – it is a little unreasonable to expect that governmental actors, especially in the law enforcement community where this doctrine came from remember what does and doesn't apply and how the statutes apply and how the constitution may apply in any situation. The doctrine was developed to take a retrospective look at actions of governmental actors to determine whether or not their actions were reasonable or not.

There is justification for this, otherwise, if you make the wrong choice in the moment - you may be subject to personal liability under federal law or for civil damages and it's important to remember this relates to civil damages not criminal law though there may be a criminal component associated with whatever the action was.

In the recent years, there has been a movement in the context of police departments and police action and the law enforcement community. There is a high profile case running right now. There is a movement in place around the country and even in New Hampshire to abrogate that doctrine to eliminate the doctrine, and the proposed State law being referenced HB111 does that.

A common misconception is, the attorney noted he is not picking on the Police Department, but this issue did arise in the context of police activity. A lot of people, even in the State Legislature mistakenly believe that this only applies in the law enforcement context, but this statute applies to any state or local municipal employee in what they do.

The Attorney noted this applies to everybody that is a state or local municipal actor and it basically says is that it does not matter whether or not you thought you were acting reasonably or lawfully within the constitutional structure. He indicated it places everybody who works for the government to potential action under the Statute. It does not impose financial liability on those actors – on the individual employee – instead that liability is going to be imposed on the state or on the local municipality. However, if this individual gets tagged with a civil complaint and a civil lawsuit, taxpayers are going to have to pay for that. Also, the individual who is alleged to have committed that act still can be sued individually and personally. If it is determined this individual violated somebody's rights, even though they might have been acting reasonably they could be fired.

Attorney Mullins stated the solution is not to just throw out the doctrine, but to look at a reasonable basis for how you may satisfy the rights of an individual, while also not subjecting actors and employees to strict liability if they make a mistake.

The other legislation that the Council has taken a position on, referred to as sanctuary cities -requires our Police Department to enter into an agreement with the Federal Immigration and Customs Enforcement to detain people, where the Police Department doesn't otherwise have a lawful right to hold somebody, which is basically an arrest. That subjects that individual police officer in the Police Department and the City to work damages claims under something called section 1983 of the US Code.

This statute being discussed tonight raises this question if we're going to abrogate qualified immunity within the State, then we are also abrogating qualified immunity with respect to the State, our Police Department, when they are otherwise being told by our State Legislature to hold somebody unlawfully.

Attorney Mullins felt both of these items need to be read together and felt quite reasonably could dissuade people from wanting to work for government.

Councilor Hooper made the following motion, which was seconded by Councilor Chadbourne.

On 4-0 roll call vote, the Finance, Organization and Personnel Committee recommends that a letter of opposition to HB 111 relative to Establishing a Cause of Action Against the State to Protect Individual Rights be sent to the Keene Legislative Delegation and the Governor and that the City Attorney be authorized to speak and testify on the City Council's behalf.



City of Keene, N.H.  
*Transmittal Form*

April 12, 2021

**TO:** Mayor and Keene City Council

**FROM:** Mari Brunner, on behalf of the Community Power Committee

**THROUGH:** Elizabeth A. Dragon, City Manager

**ITEM:** G.1.

**SUBJECT:** City of Keene Community Power Plan

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**RECOMMENDATION:**

Ann Shedd made a motion to approve the City of Keene Community Power Plan as amended and recommend adoption to the City Council. Paul Roth seconded the motion, which passed unanimously.

**ATTACHMENTS:**

**Description**

Draft City of Keene Community Power Plan

March 30 CPC Minutes - 12:00 pm

March 30 CPC Minutes - 6:30 pm

**BACKGROUND:**

The ad-hoc Community Power Committee (CPC) has been working with the City's Community Power Consultants and staff from the Community Development Department to develop a Community Power plan for the City of Keene. As part of this effort, four public information sessions were held in December 2020 and January 2021 and a Community Power Survey was conducted to gather feedback from the public prior to developing a draft plan. A draft City of Keene Community Power Plan dated February 2, 2021 was released to the public on February 5, 2021.

On March 30, 2021 the CPC held two public hearings on the draft Community Power Plan. Following these public hearings, the CPC met on April 2, 2021 to discuss the draft plan and review further public comments that were submitted in writing. At this meeting, the CPC decided to revise the plan in order to address comments received from the public. Then, at the April 8, 2021 CPC meeting, the committee reviewed a revised draft of the Community Power Plan dated April 5, 2021 and voted to approve the plan and recommend adoption to the City Council.

The full text of the draft City of Keene Community Power Plan is attached to this memo along with the minutes from the March 30, 2021 public hearings. The draft plan, which is dated April 8, 2021, has been updated to include information on the March public hearings and the approval of the plan by the Community Power Committee.

Included below is an excerpt from the draft minutes of the April 8 CPC meeting where this item was discussed.

"3) **Draft City of Keene Community Power Plan**

a. **Discussion and Additional Comments** – Chair Hansel encouraged the committee to discuss the comments they had received during and after the public hearings, and started by mentioning a comment from Scott Maslansky. He had forewarned the committee that displaying rates with specific dollar amounts for the 50% and 100% products was likely going to cause negative feedback, which turned out to be right. Chair Hansel wondered if they should discuss that issue or not. Daria Mark and Patrick Roche stated that it would be great to bring this up in messaging to the public. Ms. Mark went on to state that it is important to explain that the program's goal is to provide savings and options, which is why there are four different product choices, including the default that aims to be very competitive with the services people are already receiving from Eversource. Ms. Mark added that it's also important to address that the 50% and 100% options, and accompanying rates, are for those who are looking to take climate action immediately and are willing to invest a little bit more for renewable energy. She reiterated that the goal of the program is not to raise rates, it is to provide a good balance and a lot of options so members of the community can choose whichever option suits them the best.

Councilor Mike Giacomo added that there seems to be comments from both sides, some stating that they aren't doing enough and some stating that they're doing too much. He stated that this push back from both directions is something they expected and one of the reasons why the plan has options for people on both sides. He felt the comments were a good sign that they went about the plan in the right way, with options for all levels.

Chair Hansel let the committee know that he submitted a letter to the editor, which was published on April 2, 2021, and will hopefully help clarify concerns.

Dr. Shedd stated that there will be two opportunities where public messaging around the aforementioned points will be significant. First, as the plan moves to City Council there will likely be press coverage and having the messaging clear and preemptive during that process will be helpful. Additionally, when the plan is ready to launch the messaging about the levels will again need to be very clear. She added that the calculator on the website will aid in supporting the messaging and allow people to get an idea of average numbers they might expect to see on their electricity bills.

Chair Hansel added that Mr. Maslansky also raised concern that the 50% and 100% products might not be as clear as they could be. Chair Hansel agreed with the concern and wondered if a footnote in the plan could explain those products in more detail. Mr. Roche stated that on the website and within the messaging they can show the total of both of those products to make sure the math is very clear. He added that in the plan they could do a quick footnote or example to help clarify, or they could leave the plan as is and make sure they do a better job of explaining it in their messaging to the public. Chair Hansel replied that focusing on messaging to the public should be adequate.

Ms. Mark added that the 50% is calculated based on what you're using in a month. She gave the example of 100 kilowatt hours, stating that 50 of those would be matched with renewable energy. She reiterated that all products meet state standards, but the 50% also adds on top of the state standards. In other words, half of the electricity used in a month will be matched with 50% renewable energy to support the push to move towards more new renewable energy in Keene. The same idea applies to the 100% product.

Paul Roth stated since the numbers were already presented they will likely remain a focus of the public, and suggested they continue to move forward and address concerns as needed.

Dan Belluscio suggested they start their messaging by clearly stating that there are options that will not cost more money and highlighting that anyone can opt out at any time. From there they can go into details such as pricing. He added that if they provide those two major points up front, it will get the public's attention and help put them at ease.

Councilor Giacomo stated when the plan goes to City Council there will be another public hearing and having Council craft the narrative could be helpful.

Bob Hayden stated that a simple piece of language stating that it's an additional 50% or 100% of local renewable energy is a good direction to go in with messaging to the public. He suggested pointing out that the greenness is local.

Chair Hansel suggested they address Bob King's comments next.

Mr. Roche spoke to the comment about kilowatt hours versus Renewable Energy Certificates (RECs), stating the important thing to note is that at the end of the day all the electrons purchased are present on their grid and can be drawn from. He added that they did look at the plan language and made some tweaks so that it's clear that they have the option to do bundled contracts. He mentioned that in past programs they have done unbundled, but this plan will now allow for the flexibility to do bundled.

Mr. Roche then went over the clarification of what local means. They want to distinguish renewable energy sources that are on the New England electricity grid from those that are not, noting that the New England grid is the furthest they will include under the definition of local. Within that framework, Keene wants to try and source things as close to Keene as possible. Mr. Roche stated that they added the definition of local in the plan language to reflect the aforementioned points.

With regards to competitive suppliers, Mr. Roche stated past programs have used one supplier that has been able to serve all of the different rate classes. However, the option to use multiple suppliers was added into the plan language.

Lastly, Mr. Roche stated as they move towards 100% renewable energy it will be important, as Bob King suggested, to line up the needs of the city with the intermittency of renewable energy.

Chair Hansel mentioned that they had arbitrarily selected the Monadnock Region as the definition of local and asked the committee if that seemed sufficient. Mr. Roche replied that they adjusted the language to say Class 1 RECs for the greater Monadnock Region, with the biggest boundary in the plan being electrons on the New England grid. The option to go outside of the Monadnock region is allowable but the language states the city would like to focus as close to Keene as possible.

Mr. Belluscio stated he doesn't feel they should limit to the Monadnock region and suggested they could put a distance within a certain amount of miles from Keene.

Ms. Brunner reiterated that this language is for the initial contract to state their intent and it shouldn't limit them in any way. She also noted that the language states "greater Monadnock Region," so it could include renewable energy generated just over the border in Vermont or Massachusetts, for example. She said this language could be changed if the committee feels it should be more specific.

Mr. Hayden stated, with regards to the market scale, that the market for RECs is an annual market

and the power is defined by the contract associated with it, which could be anywhere from 2 to 20 years long. He further explained that in this decoupled scenario, the RECs will be available but the green power may or may not be available. With regards to scale, the wastewater treatment plant in Keene may have up to a megawatt in solar and could make about 1.2 million kilowatt hours, which is less than 2% of the residential load in Keene. To have a great impact on the load and kilowatt hours with solar only, it will require a huge amount of space, so scale becomes very important. He went on to state that when looking across the greater Monadnock area they might be quite limited in the amount of local RECs available. He noted that across the borders in Massachusetts and Vermont the programs they have for renewable energy are much more luxurious than the ones in NH, which means they may be competing with a better value.

There were no further comments from the committee with regards to community questions and concerns.

Bob King thanked everyone for addressing the comments he sent in. He stated he is not quite clear on the bundling and unbundling and asked if the City could simply buy green energy without buying the RECs associated with it. Mr. Roche replied that they need the RECs because if they want to make the claim of using renewable energy it is required that they purchase the RECs and retire them from the facility. If they don't claim them, the facility owner could sell the RECs to someone else. He further explained that RECs are the legal instrument used to track environmental claims.

Mr. Hayden stated there's a difference between perspective and definitions. People don't always understand that they can support a local project by purchasing power through a group net metering program, but they can't say they are green because of it without the RECs.

Chair Hansel added that the Monadnock Food Co-op is an example of this. They host a solar facility and a separate group of investors own it. Which means the investors can take the RECs and sell them on the market and the food co-op is limited in claims they make because the RECs from their facility have been sold elsewhere.

Mr. King asked if this concept is written in law somewhere. Mr. Roche suggested referring to the Environmental Protection Agency which is a good resource and goes through RECs as the legally accepted instrument to track all environmental benefits. He also mentioned the NEPOOL GIS rules as well, stating that for every megawatt hour of electricity that gets created, in their grid or imported into their grid, it gets a certificate from NEPOOL GIS that has all the attributes about it.

Mr. King stated he has customers who buy the small scale hydro energy and don't buy the RECs, and they simply say, "We buy small scale green hydro power." He stated he is unsure if that is breaking a rule but also recognized that they are stating a fact.

Lastly, Mr. King asked if the public gets to see the revised plan before it goes to council. Ms. Brunner replied that the plan is publicly available now in the committee packet and they will also post on the Community Power website once it's adopted. When the plan goes to City Council it will be included in their packet as well and any changes will be publicly posted on the website. Ms. Brunner put the link to the agenda packet for the meeting in the zoom chat for everyone.

Mr. Roth asked if they contract for a supplier, does that constrain them to exclusively that supplier, or would they be allowed to procure power from other people? Mr. Hayden stated it depends on the supplier; most are already willing to include in the power stack any power that they bring to them, at a premium. He stated that each thing you add to a contract increases its costs, so there will be the dilemma of not wanting to add too much cost so they can keep a low market rate

option. Sometimes cost of flexibility can be expensive but as they move into the future suppliers will likely adjust.

b. **Board Deliberation** – Ann Shedd made a motion to approve the City of Keene Community Power Plan as amended and recommend adoption to the City Council. Paul Roth seconded the motion, which passed unanimously."

**CITY OF KEENE**  
**DRAFT**  
**COMMUNITY POWER PLAN**



**April 8, 2021**

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## TABLE OF CONTENTS

<b>I. Community Power Goals and Vision</b>	1
<b>II. Process to Develop and Approve Plan</b>	3
<b>III. Customer Participation</b>	4
III.a. Applicable classes of customers	4
III.b. Universal access	4
III.c. Equitable treatment	4
III.d. Reliability	5
<b>IV. Organizational Structure</b>	6
<b>V. Electricity Supply Product Options</b>	7
V.a. Default and Optional Electricity Supply Products	7
V.b. Green & Local Definitions	9
V.c. NH Class I Renewable Energy	9
<b>VI. Operation</b>	10
VI.a. Issue an RFP for power supply and select a competitive supplier	10
VI.b. Implement public information program including an opt-out notice	12
VI.c. Enroll customers and provide service	13
VI.d. Plan for program evolution	14
<b>VII. Funding</b>	14
<b>VIII. Rate Setting and Other Costs to Participants</b>	15
<b>IX. Net Metering Compensation</b>	16
<b>X. Electric Assistance Program and other discounts</b>	16
<b>XI. Aggregating Municipalities &amp; Buying Group</b>	17
<b>XII. Promoting Energy Efficiency</b>	17
<b>XIII. Method of Entering and Terminating Agreements with Other Entities</b>	18
<b>XIV. Rights and Responsibilities of Program Participants</b>	18
<b>XV. Extensions or Termination of Program</b>	19
<b>XVI. Planned Schedule</b>	19
<b>XVII. Conclusion</b>	20
<b>Exhibit I - Historical Overview</b>	21
<b>Exhibit II - Education &amp; Outreach Plan</b>	27

## I. Community Power Goals and Vision

The City of Keene will develop and implement its Community Power Program (“Program”) as described in this Community Power Plan (“Plan”).

Community Power creates new electricity supply choices for Keene residents and businesses with the potential for cost and environmental benefits beyond that of the Default Service supply from the utility, Eversource. Instead of simply utilizing Eversource’s electricity supply, Keene will bundle together the electricity needs of its residents and small businesses and put out a bid for an electricity supplier to provide the necessary electricity at competitive prices. With Community Power, the City is able to make strategic decisions about when to solicit bids, lock in fixed pricing for multiple years, and increase the amount of renewable energy above the existing statewide minimum. Eversource will continue to manage billing and maintain wires and poles.

Community Power is part of the City’s comprehensive climate and energy planning process. One of the primary goals of Keene’s process, embodied in the City Council’s 2018 Resolution R 2018-36, is to achieve 100% renewable electricity use:

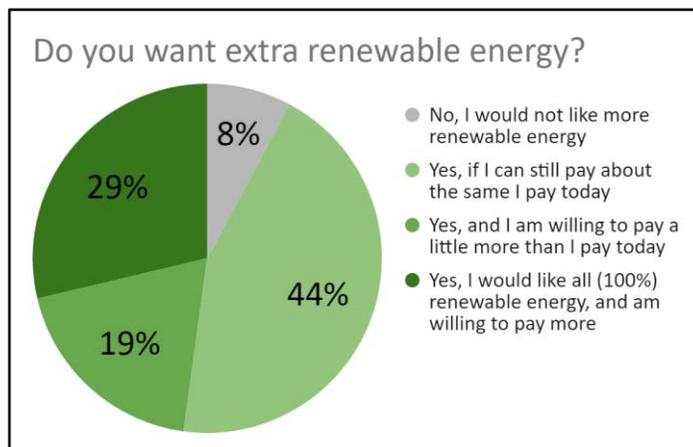
*“It is the goal of the City of Keene that all electricity consumed in the City will come from renewable energy sources by the year 2030 and that 100% of all thermal energy and energy used for transportation come from renewable energy sources by the year 2050. This goal will apply to the entire Keene community, not just municipal government operations.”*

Keene’s climate and energy planning process also seeks to support equity, energy efficiency, job creation, and climate resilience and preparedness.

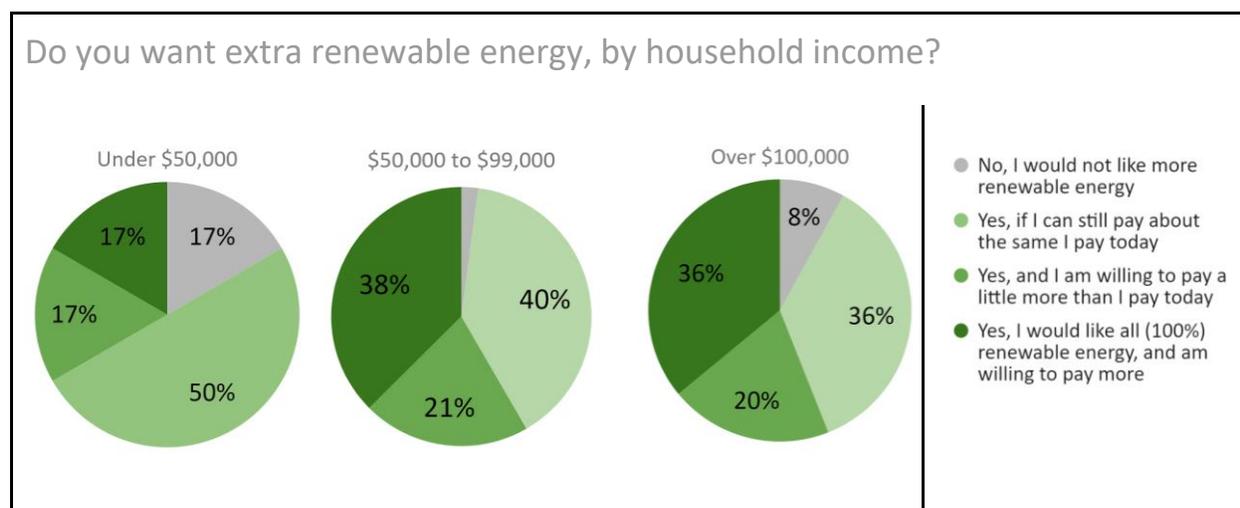
To establish specific goals and a vision for the Program, the City held information sessions and surveyed community members to ask about their priorities and preferences. While individual opinions differed, there was strong support from the majority of survey respondents from all income classes and age groups for five community priorities related to electricity supply:

- Choice for electricity options
- Control of electricity costs
- Competitive rates and lower bills
- Increased local renewable energy
- Local jobs

Particularly strong among respondents was support for renewable energy. As shown at right, over 90% of all respondents indicated a desire for extra renewables, and almost half indicated a willingness to pay more for extra renewables.



The desire for extra renewable energy generally held across age and household income brackets, with the strongest support overall in the middle income bracket, as shown below.



Detailed survey results can be found in **Exhibit I**.

The Keene community goals translate into the following goals for Keene’s Community Power Program:

1. Establish a standard (or default) electricity supply product that delivers economic value via competitive rates, uses more renewable energy, and supports the growth of local renewable energy as defined in Section V.b.
2. Increase the contribution of renewables toward 100% renewable electricity *for the entire program* by 2030, using optional products, tools and incentives that include:
  - Provide optional electricity supply products with alternative renewable electricity amounts (for example, 100%). Options afford individual participants the opportunity to meet higher renewable goals immediately and increase the overall

- 
- renewable energy impact of the Program;
- Catalyze the development of distributed energy resources within Keene, such as rooftop solar, by providing enhanced net metering and other incentives;
  - Explore opportunities to support the development of and utilize new renewable energy supply at utility scale within our region; and
  - Support energy efficiency initiatives to reduce total Program electricity demand and costs for participants;
  - Explore, and implement when possible, other tools and incentives successfully established elsewhere in New Hampshire, in other states or around the world (for example, time-of-use rate structures).
3. Engage the community to bring new ideas and resources into the Program, through every means possible, over the life of the program. Also engage the community to assess how benefits of the program can be allocated equitably.
  4. Work with regulators, utilities and suppliers to craft solutions and remove barriers to harnessing all cost-effective solutions, especially recognizing that increased electrification will be part of the solution toward 100% transportation and thermal renewable energy by 2050.
  5. Expand the Program’s impact by empowering other communities with similar goals. This includes sharing information and materials to help launch other programs as well as evaluating regional buying groups as to whether they provide greater cost savings to all participants through economies of scale.

The vision for Keene Community Power is to launch a timely Community Power Program that provides community members with attractive choices and substantially enhanced renewable energy options at competitive prices, and opens a new promising community path to 100% renewable electricity in 2030.

Community Power is emerging as a leading strategy to reach multiple community goals efficiently and equitably. The City of Keene looks forward to refining this vision for meeting our 100% renewable energy goals and all of Keene’s goals that are impacted by energy choices.

## **II. Process to Develop and Approve Plan**

Before implementation, the Plan must be reviewed and approved by the Community Power Committee (“Committee”) and adopted by the Keene City Council. The Committee will ensure that the Program satisfies all of the statutory requirements, including that the Plan provides universal access, reliability and equitable treatment for all classes of customers. This Plan was developed to demonstrate that the Program of the City satisfies all the requirements necessary for approval by the Committee and adoption by the City Council.

This plan was developed through the following process, consistent with New Hampshire Revised Statutes Annotated (RSA) 53-E:

1. Creation of Community Power Committee
2. Creation of a Draft Plan with public hearings,
3. Approval of Plan by Community Power Committee,
4. Adoption of Plan by City Council, and
5. Submission of Final Plan to Public Utilities Commission.

Please see **Exhibit I** for detail on these steps.

### **III. Customer Participation**

#### **III.a. Applicable classes of customers**

The Community Power Program will be available for the residential, commercial and industrial classes of electricity customers as defined by City's electric distribution company, Eversource ("Applicable Classes"). See Eversource for current classes: <https://www.eversource.com/content/nh/residential/my-account/billing-payments/about-your-bill/rates-tariffs>

#### **III.b. Universal access**

The Plan provides for universal access for all customers by guaranteeing that all customer classes will be included in the Program under equitable terms.

All retail electric customers will have access to the Program. All customers receiving Default Service supply will be eligible for automatic enrollment in the Program, and they will be automatically enrolled in the Program unless they choose to opt out.

All customers will have the right to opt-out of the Program at any time with no charge.

As required by the statute, there shall be equitable treatment of Applicable Classes within the Program.

#### **III.c. Equitable treatment**

The community power statute requires equitable treatment of all classes of customers subject to any differences arising from varying opportunities, tariffs and arrangements between different electric distribution utilities in their respective franchise territories. This does not mean that all classes of customers must be treated "equally," but rather that similarly situated classes of customers be treated "equitably."

Among applicable classes of customers, the Plan makes three distinctions.

First, the Program will distinguish among customer classes by soliciting separate pricing for each of the same customer classes the electric distribution utility uses for the distribution service.

Second, the Program will distinguish between customers receiving the default product and customers that affirmatively choose an optional product. Customers selecting an optional product will be charged the price associated with that product.

Third, the Program will distinguish between customers that join the program through an automatic enrollment process (i.e. customers who do not choose to opt-out) and customers that affirmatively elect to join the program.

- Customers that join through an automatic enrollment process include a) the initial customers at the start of the program and b) new customers that move into the City after the program start-date. All initial customers will receive the standard program pricing for their rate class. Among new customers, the Program will distinguish between new residential and small commercial customers, who will receive the standard program pricing, and all other commercial and industrial customers, who may receive pricing based on market prices at the time the customer joins the Program.
- Finally, customers that affirmatively elect to join include two types of customers: a) customers that did not become part of the Program initially because they were being served by a Competitive Supplier but then later join the Program; and b) customers re-joining the Program after having previously opted out. Those customers that were being served by a Competitive Supplier at program initiation but who later join the Program will be treated the same as new customers – residential and small commercial customers will receive the standard program pricing and all other commercial and industrial customers may be offered a price based on the then-current market rates. All customers that join the Program after having previously opted out may be offered a price based on then-current market rates rather than the standard contract price. This distinction is designed to limit any incentive for frequent switching back and forth between the Program and Default Service of the electric distribution utility.

### **III.d. Reliability**

Reliability has both physical and financial components. The Program will address both through the Electricity Supply Agreement (“ESA”) with the Competitive Supplier. From a physical perspective, the ESA commits the Competitive Supplier to provide all-

requirements power supply and to use proper standards of management and operations. All-requirements power supply includes all of the electrical energy, capacity, reserves, ancillary services, transmission services, transmission and distribution losses, congestion management, and other such services or products necessary to provide firm power supply to Program participants and meet the state's Renewable Portfolio Standard and any additional renewable energy requirements of the default or optional products. The electric distribution utility will continue to remain responsible for delivery service, including the physical delivery of power to the customer, maintenance of the delivery system, and restoration of power in the event of an outage. From a financial perspective, the ESA requires the Competitive Supplier to pay actual damages for any failure to provide supply at the contracted rate (i.e., to pay the difference between the contract rate and the utility supply rate). The ESA requires the Competitive Supplier to maintain insurance and the Request for Proposals for a Competitive Supplier will require that an investment-grade entity either execute or guarantee the ESA. Accordingly, the Program satisfies the reliability requirement of the statute.

## IV. Organizational Structure

Community Power Committee (CPC): The Finance, Organization and Personnel Committee, a standing committee of the City Council, voted to request that the Mayor constitute an ad-hoc Community Power Committee, as the designee of the Mayor and as established under RSA 53-E:6, to develop and approve a Community Power Plan for submission to and adoption by the City Council, as the legislative body of the City. The Committee will develop a draft plan, hold public hearings on the plan to solicit public input, revise the draft plan based on that input, and ultimately submit an approved Plan to the City Council. See **Exhibit I** for detail on the public input process.

City Council: In accordance with RSA 53-E:7, the City Council, as the legislative body of the municipality, will be the body to adopt the Community Power Plan after it has been approved by the Community Power Committee. The City Council will review and approve any proposed amendments to the Plan.

City Manager: The City Manager is designated by the City Council to provide direct management and oversight of the Plan on behalf of the City. The City Manager, or their designee(s), shall regularly meet with the Community Power Consultant for the purpose of providing oversight of the Plan and shall make recommendations to the City Council on Plan amendments. The City Manager shall authorize the issuance of bids for power supply and shall negotiate and execute a Electric Service Agreements ("ESA") consistent with the products and goals described in this Plan.

Community Power Consultant: The Community Power Consultant will manage certain Program activities under the direction of the City Manager. Their responsibilities will

include managing the supply procurement, developing and implementing the public education plan, interacting with the electric distribution utility and monitoring the supply contract. Through a competitive procurement process the City has selected the partnership of Good Energy, L.P. and Standard Power (“GE/SP”) to provide these services.

Competitive Supplier: The Competitive Supplier will provide power for the Program, provide customer support including staffing a toll-free number for customer questions, and fulfill other responsibilities as detailed in the ESA. The Competitive Supplier shall be required to enter into an individual ESA with the City under terms deemed reasonable and appropriate for the retail electric customers by the City Manager.

Buying Group: The City may elect to join with other municipal aggregators in combining its load for purposes of soliciting bids from Competitive Suppliers. The purpose of the Buying Group is to allow municipal aggregators to capture the benefits of collective purchasing power while retaining full municipal autonomy. The City shall be represented by the City Manager, or their designee, on the executive committee of the Buying Group. The City, through the City Manager or their designee, shall select a Competitive Supplier based on the needs of the City and shall not be required to select the same terms or Competitive Supplier as other members of the Buying Group.

Retail electric customers: Retail electric customers shall include all electric customers taking distribution service of electricity located within the geographic boundaries of the City of Keene.

## V. Electricity Supply Product Options

### V.a. Default and Optional Electricity Supply Products

The Program intends to offer the following electricity supply products. Any retail electric customer that joins through an automatic enrollment process, shall be enrolled into the Program’s default product, unless they affirmatively choose to enroll in any of the optional products.

	<b>Default Product (Automatic enrollment)</b>	<b>Optional Products</b>		
<b>Product Name</b>	<b>Keene Local Green</b>	<b>Keene Basic</b>	<b>Keene 50% Local Green</b>	<b>Keene 100% Local Green</b>
<b>Product Goals</b>	Increase renewable energy use while maintaining competitive rates	Most competitive rate (no increase in renewable energy use)	Significant increase in renewable energy use (e.g. 50%)	Largest increase in renewable energy use (e.g. 100%)

- **Default Product**
  - **Keene Local Green:** The Program intends to offer Keene Local Green as its default product. The Keene Local Green product has a goal of maintaining rough cost parity with Eversource’s Default Service supply while including extra renewable electricity above the Renewable Portfolio Standard (“RPS”) required in New Hampshire. The exact amount of extra renewable electricity will be determined after the receipt of bids from competitive suppliers. It is expected to include 5-10% extra renewable energy in the initial ESA. It is the City's goal to increase this amount in subsequent ESAs, while maintaining cost parity with Eversource’s Default Service. This product is intended to include as much local renewable energy as possible, as defined in Section V.b. Including additional renewable energy in this product enables customers to have a meaningful impact on the reduction of greenhouse gas emissions through the support of local renewable energy sources.
  
- **Optional Products**
  - **Keene Basic:** Some customers may feel that the amount of new, renewable energy required by the RPS in New Hampshire is sufficient to fulfill their renewable energy objectives. This product offers the same amount of renewable energy as Default Service from Eversource as required by the RPS of New Hampshire. Keene Basic will be the lowest cost option in the Program.
  - **Keene 50% Local Green:** For customers that want more renewable electricity than is offered by Keene Local Green, this product offers up to 50% local renewable energy above the RPS. The City reserves the right to adjust the amount of renewable energy to be included with this product and that amount will be the same for all customers choosing this option. This product enables customers who chose this option to have a more meaningful impact on the reduction of greenhouse gas emissions through the support of local renewable energy sources.
  - **Keene 100% Local Green:** For customers that want more renewable electricity than is offered by Keene Local Green, this product offers up to 100% local renewable energy above the RPS. City reserves the right to adjust the amount of renewable energy to be included with this product and that amount will be the same for all customers choosing this option. This product enables customers who chose this option to have a more meaningful impact on the reduction of greenhouse gas emissions through

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the support of local renewable energy sources.

The Program reserves the right to adjust product names as needed.

The Program notes that it cannot guarantee savings for any of its products compared to the utility Default Service rates, because utility Default Service rates may not be known for the entirety of any Program supply contract.

Any charge for the additional renewable energy would be included in the rate submitted to the electric distribution utility or be purchased separately as Renewable Energy Certificates (“RECs”) from a third party. RECs are the accepted legal instrument used to track renewable energy generation and to substantiate claims of renewable energy use. For every one megawatt-hour (MWh) of renewable electricity that is generated and fed onto our electricity grid, one REC is created. In order to claim the use of a certain quantity of renewable energy, one must hold and retire an equivalent quantity of RECs. Retiring a REC ensures that there can be no double counting of renewable energy (i.e. no one else may claim to use the same REC one it has been retired).

### **V.b. Green & Local Definitions**

The term “Green” means that the product contains additional renewable energy, substantiated through REC retirement, above that required by state law.

“Local” means that the additional RECs come from renewable energy sources that are part of our ISO-New England electricity grid. This means the sources are located in New England or the energy is imported as allowed by ISO-New England from locations such as New York or eastern Canada. This stands in contrast to some electricity supplies that obtain RECs from national sources (e.g. Texas) in which the electricity is not part of our ISO-New England electricity grid.

In its procurement, as described in Section VI.a, Keene seeks to support renewable energy generation located within Keene or as close to Keene in New Hampshire as possible. Keene also seeks to support the growth of renewable energy, thereby displacing fossil fuels and reducing greenhouse gas (GHG) emissions.

### **V.c. NH Class I Renewable Energy**

New Hampshire Class I renewable energy is known as “new renewable energy”. The State requires all electricity supplies to include a minimum quantity of Class I renewable energy, and that amount increases annually (currently plateauing after 2025). This increasing requirement, along with similar requirements in other New England states, has been a major driver of the growth of renewable energy in our region. If the Program voluntarily purchases additional Class I renewable energy at significant scale, Keene will augment this growth even further.

Class I renewable energy can come from wind, solar, small hydroelectric, biomass, methane, as well as hydrogen and ocean thermal, tidal or wave energy. These categories align with the Keene Energy Plan's support for "Green Power" as defined by the US Environmental Protection Agency (EPA). All Class I renewable energy must have started operation after January 1, 2006 and must be physically delivered to our regional electricity grid, which means it can come from New England, New York or eastern Canada.

- Additional detail on NH Class I renewable energy, as well as the other classifications of renewable energy covered by the New Hampshire Renewable Portfolio Standard, may be found at [https://www.puc.nh.gov/Sustainable%20Energy/Renewable\\_Portfolio\\_Standard\\_Program.htm](https://www.puc.nh.gov/Sustainable%20Energy/Renewable_Portfolio_Standard_Program.htm)
- Additional detail on EPA's Green Power definition can be found at <https://www.epa.gov/greenpower/what-green-power>.

As described above, the City intends to purchase a portion of the RECs from renewable energy generators and include these RECs in a renewable energy product. If RECs are obtained through the Competitive Supplier, any charge for these RECs would be included in the same rate submitted to the electric distribution utility.

## **VI. Operation**

The implementation of the Community Power Program requires extensive interaction between the City, the Competitive Supplier, and the electric distribution utility.

Following adoption of the Plan by the City Council, the key operational steps will be:

- a. Issue a Request for Proposals (RFP) for power supply and select a Competitive Supplier
- b. Implement a public information program, including an opt-out notice
- c. Enroll customers and provide service, including quarterly notifications and annual reporting
- d. Plan for program evolution

These steps are described in the sections below.

### **VI.a. Issue an RFP for power supply and select a competitive supplier**

The City, under direction of the City Manager or its designee, will solicit bids from leading competitive suppliers, including those currently supplying community power programs in New England and other states. In seeking bids from competitive suppliers, the City may solicit bids for its load individually or as part of a Buying Group with other

municipal aggregators. The RFP will require that the supplier satisfy key threshold criteria, including:

- Registration with the New Hampshire Public Utilities Commission (NHPUC)
- Strong financial background
- Experience serving the New England competitive market or community power programs (also known as municipal aggregations) in other states
- Demonstrated ability, supported by references, to provide strong customer service.

In addition, suppliers will be required to agree to the substantive terms and conditions of the ESA, including, for example, the requirement to:

- Provide all-requirements power supply at a fixed price
- Allow customers to exit the program at any time with no charge
- Agree to specified customer service standards
- Comply with all requirements of the NHPUC and the electric distribution utility

The City will solicit price bids from suppliers that meet the threshold criteria and agree to the terms and conditions of the ESA. The City will request bids for a variety of term lengths (e.g. 12, 24, 36 or 48 months) and for power from different sources. The City Manager, or their designee(s), will determine the appropriate level of renewable energy to be included with the default product and the optional products based upon their assessment of market conditions and what would be in the best interest of retail electric customers at the time of the solicitation. As noted in **Section V.a.**, all claims of renewable energy use will be substantiated by the supplier obtaining and retiring the appropriate quantity of RECs. The City will require bidders to identify the technology, vintage, and location of the renewable energy generators that are the sources of the RECs. It will also require that the RECs be created and recorded in the New England Power Pool Generation Information System. The City may seek RECs from a variety of renewable energy sources; may elect to procure from those sources RECs, power or both; and will choose the best combination of environmental benefits and price. All additional RECs, above those required by the RPS, are initially expected to be New Hampshire Class I eligible RECs or RECs from sources located within the greater Monadnock region.

The City may provide customers with renewable energy generation source information through a variety of vehicles including the program web site, content disclosure labels and the customer notification letter.

In consultation with its Community Power Consultant, the City Manager, or its designee, will evaluate the bid results including price, term and source. Whether the City conducts an individual solicitation or participates in a solicitation with a Buying Group, at the conclusion of the bidding process it will select a price, term and supplier appropriate for

its retail electric customers. Participation in the Buying Group shall not require the City to select the same price, terms or supplier as other members of the Buying Group. If a bid is satisfactory, the City Manager, or its designee, shall execute an Electric Service Agreement (“ESA”) with the selected supplier(s). The City reserves the right to select supplier(s) per customer class (as distinguished in Section III.c. to ensure equitable treatment). If none of the bids is satisfactory, the City will reject all bids and repeat the solicitation for bids as often as needed until market conditions yield a price that is acceptable. The City will only accept a bid that enables it to launch the Program with a price, terms and characteristics that meet the criteria set by their municipal officials.

## **VI.b. Implement public information program including an opt-out notice**

An Education and Outreach Plan is required to fully inform and educate potential customers and participants in advance of automatic enrollment in the Community Power Program. Customers, including customers with limited English language proficiency and disabilities, must be informed that they would be automatically enrolled in the Program and that they would have the right to opt-out of the Program without penalty. The purpose of the Education and Outreach Plan is to raise awareness and provide retail electric customers with information concerning their opportunities, options and rights for participation in the Program.

The Education and Outreach Plan (**See Exhibit II**) consists of five components:

**i. Initial Outreach and Education:** This will be conducted after the selection of a Competitive Supplier and prior to arrival of the customer notification letter. It is intended to promote general awareness of the upcoming program, minimize any questions generated by the arrival of the customer notification letter and maximize recipients’ ability to make an informed choice about their participation in the Program. This effort will include information about the goals of the Program, the basic terms and conditions including renewable energy components, and the opt-out process.

**ii. Customer Notification Letter:** In addition to the initial outreach and education initiatives, a customer notification letter (also known as an opt-out notice) will be mailed to every retail electric customer on Default Service with the electric distribution utility. This letter will contain all details on the products offered by the Program; explain that the customer will be automatically enrolled in the default product unless they choose otherwise; have instructions for how to not participate (opt out) via web, phone or a pre-addressed envelope included with the letter; and instruction for how to enroll in an optional Program product.

**iii. Opt-Out Period Education & Outreach:** The opt-out period will last a minimum of 30 days from the date of mailing of the customer notification letter.

After the customer notification letter has been sent, the City will continue its education and outreach to afford residents and businesses the opportunity to learn more and find answers to key questions relating to their decision to opt out or enroll in one of the optional products of the program. This will include, at a minimum, a public information meeting within 15 days of the mailing of the customer notification letter.

**iv. Timeline and Preliminary Marketing Plan for Launch:** This component identifies the steps the City intends to take in marketing the Program including identification of media and other community resources, examples of education and outreach documents, and an expected timeframe for the outreach effort.

**v. Ongoing Outreach & Education:** This component describes the expected outreach and education activities following Program launch. Key elements include:

- Program goals and performance, particularly as they relate to progress towards the City’s ambitious short- and long- term goals for renewable energy, particularly for 2030 and 2050.
- On-going campaigns to recruit participation into its optional product(s) that contain more renewable energy than required by law (“Opt up campaigns”). Increasing participation in these products will serve the City’s goals to expand new renewable energy and increase overall renewable energy use; AND
- Promotion and support of the NHSaves energy efficiency program, and future energy efficiency and weatherization programs

The attached Education and Outreach Plan (**Exhibit II**) describes in detail the City’s anticipated outreach efforts, including a timeline.

### **VI.c. Enroll customers and provide service**

**i. Enroll Customers:** After the conclusion of the opt-out period (i.e. no sooner than 37 days from the date of the postmark of the opt-out notice), the Competitive Supplier will enroll into the Program all retail electric customers on Default Service with the electric distribution utility who did not opt out. All enrollments and other transactions between the Competitive Supplier and the electric distribution utility will be conducted in compliance with the relevant provisions of New Hampshire Public Utilities Commission regulations, Terms and Conditions for Competitive Suppliers, and the protocols of the New Hampshire Electronic Business Transaction (EBT) standards.

**ii. Provide Service:** Once customers are enrolled, the Program will provide all-

requirements power supply service. The Program will also provide ongoing customer service, maintain the Program web site, and process customer enrollments, ongoing opt outs, and customer selections of optional products. The Program will provide Energy Source Disclosure labels to participants as required by RSA 378:49.

Prior to the expiration of the initial ESA, the City intends to solicit a new power supply agreement, as described in **Section XIII. Method of Terminating and Entering Agreements with Other Entities**. If the City elects not to enter into a new power supply agreement, participating customers would return to Default Service as described in **Section XV. Extensions or Termination of Program**.

When new customers move into the City, they will receive a customer notification letter detailing the Plan and an opt-out card. At the end of the opt-out period they will be enrolled in the Program unless they elect to opt-out. New customers may proactively enroll by contacting the Program directly.

**iii. Annual Report:** On an annual basis, the City Manager, or its designee(s) will report to the City Council on the status of the Community Power Program, including the number of customers enrolled and opting-out, kilowatt-hour usage, customer savings, participation in renewable energy products, and such other information as the City may request. The information for this report will be prepared by the Community Power Consultant, and the Community Power Consultant will assist or lead in presenting to the City Council as desired by the City Manager.

**iv. Data Portal:** The Community Power Consultant will make available to the City Manager and its designee(s) a secure, password-protected cloud-based data portal that provides the ability to run reports on key program metrics and performance.

#### **VI.d. Plan for program evolution**

City seeks to continually improve the program and progress towards its long-term goals. To this end, the Community Power Consultant and City will regularly assess new opportunities such as technologies, services, regulatory policy changes, and more for their applicability to the program. Community Power Consultant will develop appropriate strategies to integrate these opportunities into the Program. Community Power Consultant will support the City to present new opportunities to the City Council for their consideration and approval, if amendments to the Plan are needed.

### **VII. Funding**

All of the costs of the Program will be funded through the ESA.

The primary cost will be the charges of the Competitive Supplier for the power supply. These charges will be established through the competitive solicitation for a supplier.

The administrative costs of the Program will be funded through a per kilowatt-hour implementation fee that will be paid by the Competitive Supplier to the Community Power Consultant, as specified in the ESA. This implementation fee will cover the services of the Community Power Consultant, including developing the Community Power Plan, managing the supply procurement, developing and implementing the public education plan, providing customer support, interacting with the electric distribution utility, monitoring the supply contract, and providing ongoing reports.

## **VIII. Rate Setting and Other Costs to Participants**

The Program is offered on an opt-out basis, such that eligible customers will be automatically enrolled unless they proactively choose to opt out.

As described above, the power supply charges of the Program will be set through a competitive bidding process and will include the implementation fee and applicable taxes pursuant to the ESA. Prices, terms, and conditions may differ among customer classes, which classes will be the same as the Default Service customer classes of the electric distribution utility. The frequency of price changes will be determined through the competitive bid process. The City expects to solicit bids for a number of different contract terms. Prices may change as specified in the winning bid and customers will be notified of price changes through media releases and postings on the Community Power Program website.

Regulatory events, such as new or altered requirements for the Renewable Portfolio Standard, or new taxes may result in a direct, material increase in costs during the term of the ESA. In such cases, the City and the Competitive Supplier will negotiate a potential change in the program price. At least 30 days prior to the implementation of any such change, the City will notify customers of the change in price by issuing a media release and posting a notice in City Hall and on the program website. The City shall also notify the NHPUC Consumer Services and External Affairs Division prior to implementation of any change in the Program price related to a regulatory event or new taxes. Such notice shall be provided prior to notifying customers and will include copies of all media releases, postings on the City and Program websites and any other communications the City intends to provide to customers regarding the price change.

The Program affects only the electricity supply charges of the customers. Delivery charges will be unchanged and will continue to be charged by the electric distribution utility in accordance with tariffs approved by the NHPUC.

Participants in the Program will receive one bill from the electric distribution utility that includes both the power supply charge of the Competitive Supplier and the delivery charge of the electric distribution utility. Any applicable taxes will be billed as part of the Program's power supply charge.

## **IX. Net Metering Compensation**

In accordance with RSA 362-A:9, II, the Program may determine the terms and conditions for net metering. In order to support the development of distributed energy resources within Keene, the Program will seek to offer net metering terms and conditions - for standard, alternative and group net metering - equal to or better than that provided on Default Service. To this end, the Program will evaluate the net metering terms and conditions offered by competitive suppliers as part of the procurement and bid selection process.

To ensure net metering customers can make a fully informed decision on their participation in the Program, the Program will tailor all education and outreach materials to clearly communicate any and all differences between the net metering value and operation provided by the Program and Default Service.

Additionally, the Program will evaluate how any proposed or implemented changes to the utility metering or billing infrastructure may create new opportunities to enhance the net metering benefits.

## **X. Electric Assistance Program and other discounts**

The New Hampshire Electric Assistance Program (EAP) provides qualifying customers with a discount on their monthly electric bill. The New Hampshire Legislature authorized funding for this statewide program as part of electric utility deregulation. All electric utility ratepayers support the statewide EAP through the System Benefits Charge (SBC) portion of their electric bill.

The EAP for income-eligible customers that may qualify for a discount off their monthly electric bill would continue for participants in the Program. The level of discount depends on household income, household size and electricity usage.

The EAP discount does apply to the Supplier Services portion of an electric bill when a customer chooses an independent supplier for their electricity needs. The participants in the Program who are enrolled in the EAP will receive their discounts by the same method they presently receive their discount. Participation in the Program is independent of enrollment in the EAP and does not impact the EAP discount.

Other discount programs administered by Community Action Programs that address the needs of low-income residents would continue for participants in the Program.

## **XI. Aggregating Municipalities & Buying Group**

Participating in a buying group may offer the potential for the City to expand its buying power for greater economies of scale and to support the City's goal of acting as a regional leader, supporting other municipalities to access the benefits for Community Power. Keene will evaluate opportunities for such a buying group before issuing a bid for competitive supply. See **Section VI.a. Issue an RFP for Power Supply and Select a Competitive Supplier** for details on the implementation of a buying group.

Additionally, the City reserves its right, in accordance with RSA 53-E:6, I, to join with other municipalities or counties for its Community Power Plan and implementing its Community Power program. Any changes to the Community Power Plan must be reviewed and approved by the City Council.

## **XII. Promoting Energy Efficiency**

In addition to supporting cost-competitive and cleaner electricity, the City seeks to leverage the Community Power Program to help reduce energy use. This will initially take the form of cross-promoting awareness of efficiency programs through the Program's education and outreach. The Program will also evaluate opportunities for direct support of energy efficiency.

Promotional education will focus on existing energy efficiency and conservation programs, such as New Hampshire's Weatherization Assistance Program for low-income households and the New Hampshire Saves (NHSaves) program, which provides customers with information, incentives and support designed to save energy, reduce costs, and protect our environment statewide. NHSaves is funded by electric and natural gas ratepayers and delivered by Eversource, Liberty Utilities, New Hampshire Electric Cooperative and Unitil to make homes, businesses and towns more sustainable and more comfortable places to live and work, both now and in the future. Through NHSaves customers can receive a Home Energy Assessment. The assessment identifies energy-saving opportunities in the home and provides the customer with an energy report. The report includes information on equipment rebates and no-cost products, as well as access to 0% financing and a limited time offers, such as up to 100% off approved insulation. The assessment can also include delivery of energy-saving products recommended by the Energy Specialist, such as LED light bulbs, advanced power strips, and thermostats that can be installed right away to start saving money and energy.

If and when additional energy efficiency and conservation programs or initiatives become

available, the Program will evaluate how to incorporate them into its promotional outreach and education.

### **XIII. Method of Entering and Terminating Agreements with Other Entities**

The process for entering, modifying, enforcing, and terminating all agreements associated with the Plan will comply with the municipal charter, federal and state law and regulations, and the provisions of the relevant agreement.

The City plans to use the same process described in **Section IV.a.** of this Plan to solicit bids and enter into any subsequent ESAs with the assistance of its then-current Community Power Consultant. Customers will be notified of subsequent ESAs through press releases and public notices. The transfer of customers from the existing supplier to the new supplier will be coordinated with the electric distribution utility using established Electronic Data Interchange (EDI) protocols.

If the City determines that it requires the services of a Community Power Consultant after expiration of the existing agreement with GE/SP, it will evaluate opportunities to solicit a Community Power Consultant individually or as part of a group of municipalities aggregating the electric load of their respective customers. The City will solicit proposals for, and evaluate, potential Community Power Consultants using a competitive procurement process or alternative procedure which the City determines to be in the best interest of its customers and consistent with all applicable local, state and federal laws and regulations.

### **XIV. Rights and Responsibilities of Program Participants**

All participants will have the right to opt out of the Program at any time without charge. They may exercise this right by any of the following: 1) calling the toll-free number of the Competitive Supplier; 2) contacting the electric distribution utility and asking to be returned to Default Service; or 3) enrolling with another competitive supplier.

All participants will have available to them the customer protection provisions of the law and regulations of New Hampshire, including the right to question billing and service quality practices. Customers will be able to ask questions of and register complaints with the City, the Community Power Consultant, the Competitive Supplier, the electric distribution utility and the NHPUC. As appropriate, the City and the Community Power Consultant will direct customer complaints to the Competitive Supplier, the electric distribution utility or the NHPUC.

Participants will continue to be responsible for paying their bills and for providing access to metering and other equipment necessary to carry out utility operations. Participants

are responsible for requesting any exemption from the collection of any applicable taxes and must provide appropriate documentation of such exemption to the Competitive Supplier.

## **XV. Extensions or Termination of Program**

At least 90 days prior to the end of the term of the initial ESA, the City will solicit bids for a new supply agreement and plans to continue the program with the same or new competitive supplier.

Although the City is not contemplating a termination date, the program could be terminated upon the termination or expiration of the ESA without any extension, renewal, or negotiation of a subsequent supply contract, or upon the decision of the City to dissolve the program effective on the end date of the existing ESA. In the event of termination, customers would return to the Default Service of the electric distribution utility, unless they choose an alternative competitive supplier. The City will notify customers of a planned termination of the program through media releases and postings on the Program website.

The City will notify the electric distribution utility of the planned termination or extension of the Program. In particular, the City will provide the electric distribution utility notice: (1) 90 days prior to a planned termination of the program; (2) 90 days prior to the end of the anticipated term of the ESA; and (3) four business-days after the successful negotiation of a new electric service agreement. The City will also provide notice to the NHPUC 90 days prior to a planned termination, which notice shall include copies of all media releases, City Hall and website postings and other communications the City intends to provide customers regarding the termination of the Program and the return of participants to Default Service.

In the event of the termination of the Program, it is the responsibility and requirement of the Competitive Supplier to return the customers to Default Service of the electric distribution utility in accordance with the then applicable EDI rules and procedures.

## **XVI. Planned Schedule**

The planned schedule below is presented for illustrative purposes. The final schedule will be established once the Program has received all necessary approvals.

Day	Action or Event
1	Issue RFP for Competitive Supplier
31	ESA executed between City and Competitive Supplier

32	Competitive Supplier notifies electric distribution utility to prepare retail electric customer data of the City; broad-based educational campaign begins
33	Competitive Supplier begins EDI testing with electric distribution utility.
44	Competitive Supplier receives retail electric customer data from electric distribution utility
48	Competitive Supplier, at its expense, mails opt-out notice and reply cards with pre-paid envelopes to all retail electric customers, identifying the return date by which the reply card envelopes must be mailed and postmarked
51	Retail electric customers receive opt-out notice in the mail
63	Competitive Supplier completes EDI testing with electric distribution utility.
81	Return date by which customers deciding to opt-out must mail a reply card in pre-paid envelope to Competitive Supplier.
85	Competitive Supplier removes all retail electric customers who opt out from the eligible list
85	Competitive Supplier sends “supplier enrolls customer” EDI for all participating customers.
90	Service begins as of each customer's next meter read date

## **XVII. Conclusion**

Keene’s Community Power Program meets all of the requirements of the Community Power law, including providing universal access, a reliable power supply and treating all customer classes equitably. The City looks forward to launching the Program and pursuing the benefits of a competitive power supply, renewable energy, and electricity choice for its retail electric customers.

## Exhibit I - Historical Overview

### 1. Creation of Community Power Committee

On June 18, 2020 the Keene City Council approved the formation of an Ad-Hoc Community Power Committee (CPC). From City Council Minutes June 18, 2020:

**FOP REPORT - COMMUNITY POWER PROGRAM & AD HOC COMMUNITY POWER COMMITTEE – ASSISTANT CITY MANAGER/COMMUNITY DEVELOPMENT DIRECTOR**

The Mayor brought forward the Finance, Organization and Personnel Committee report recommending that the Mayor be requested to constitute an ad-hoc Community Power Committee to develop a Community Power Plan for submission to the City Council in accordance with RSA 53-E. A motion by Councilor Powers to carry out the intent of the report was duly seconded by Councilor Hooper. The motion passed on a roll call vote with 15 Councilors present and voting in favor.

**APPOINTMENT OF AN AD HOC COMMUNITY POWER COMMITTEE**

The Mayor appointed an ad hoc Community Power Committee that would be charged with developing a community power plan for the citizens of Keene. The appointments from the Mayor included: Dr. Ann Shedd, Peter Hansel, Paul Roth, Jeffrey Titus, Michael Giacomo and Daniel Belluscio. A motion by Councilor Powers to confirm the appointments was duly seconded by Councilor Bosley. On roll call vote, 15 Councilors were present and voting in favor. The appointments were confirmed.

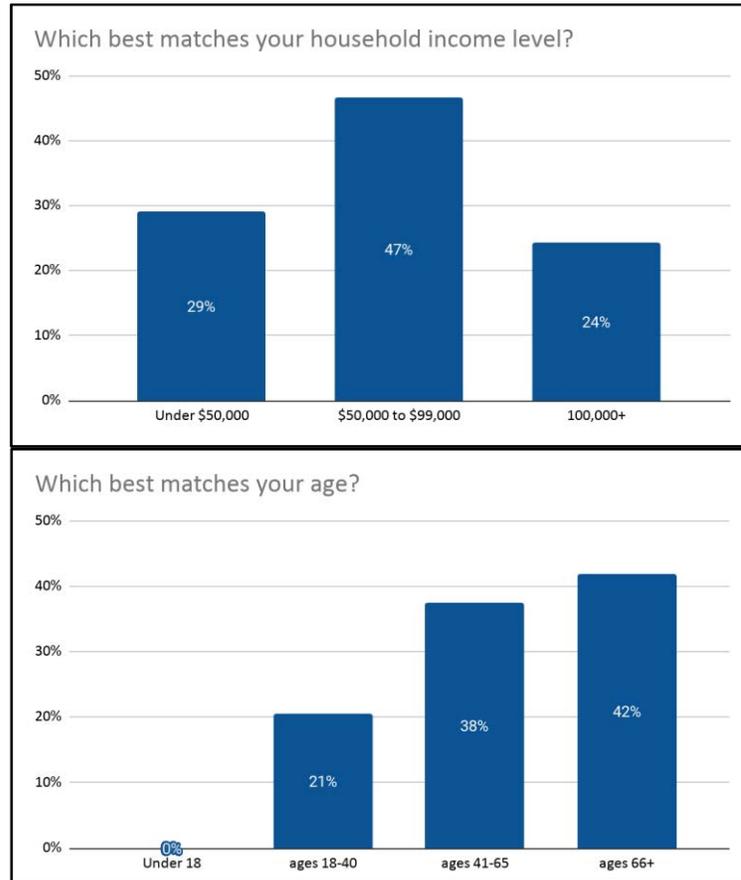
### 2. Creation of a Draft Plan with public hearings

The Committee, supported by City Staff and the Community Power Consultant, held two public information sessions on December 8, 2020 to promote awareness of the development of a Community Power Plan and to begin gathering input. Also on December 8, 2020, the Committee released a community survey open for approximately one month through January 7, 2021. The survey was available online and via paper in the Monadnock Shopper News. The online survey and the City's website, KeeneEnergyPlan.com also hosted two educational videos about Community Power. KeeneEnergyPlan.com has hosted additional educational resources about Community Power, including an FAQ page, podcast and interviews with municipal leaders from active community power (also known as municipal aggregation) programs, such as Medford, Massachusetts.

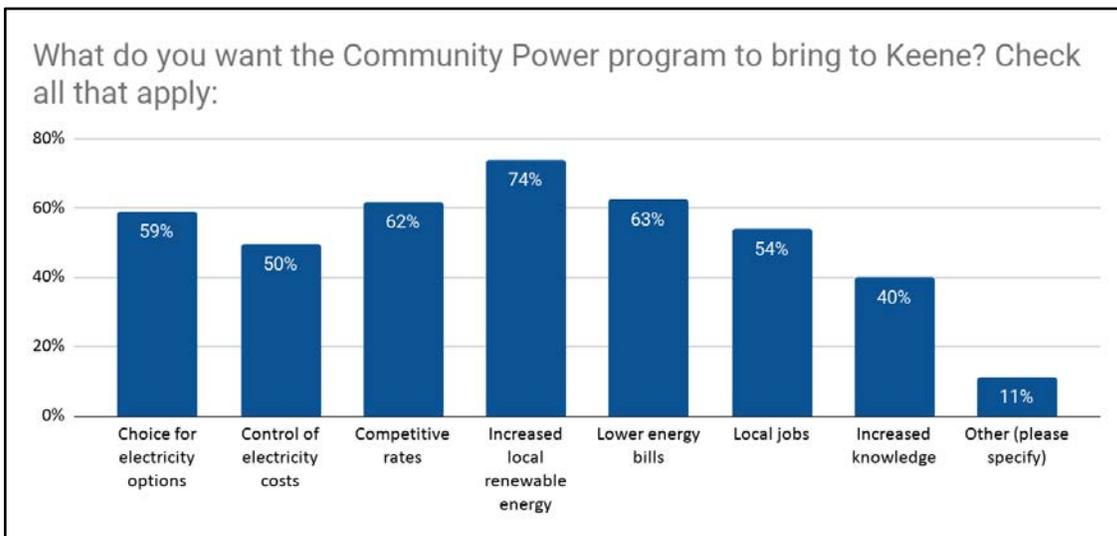
The survey received 126 responses, 97 online and 29 in paper via the Monadnock Shopper News. Key survey findings:

- 86% of respondents currently receive supply from Eversource Default Service. Such customers would be eligible for automatic enrollment in the program.

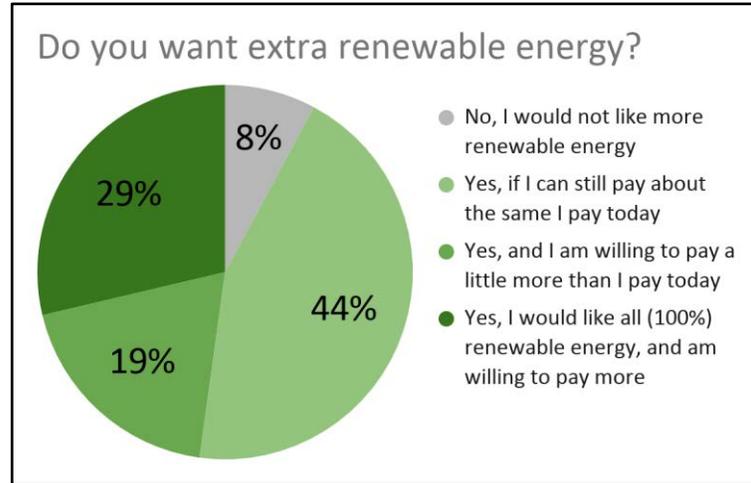
- The survey had a well-distributed diversity of household income groups and age, as shown below:



- Respondents identified a range of benefits they are interested in with Community Power:

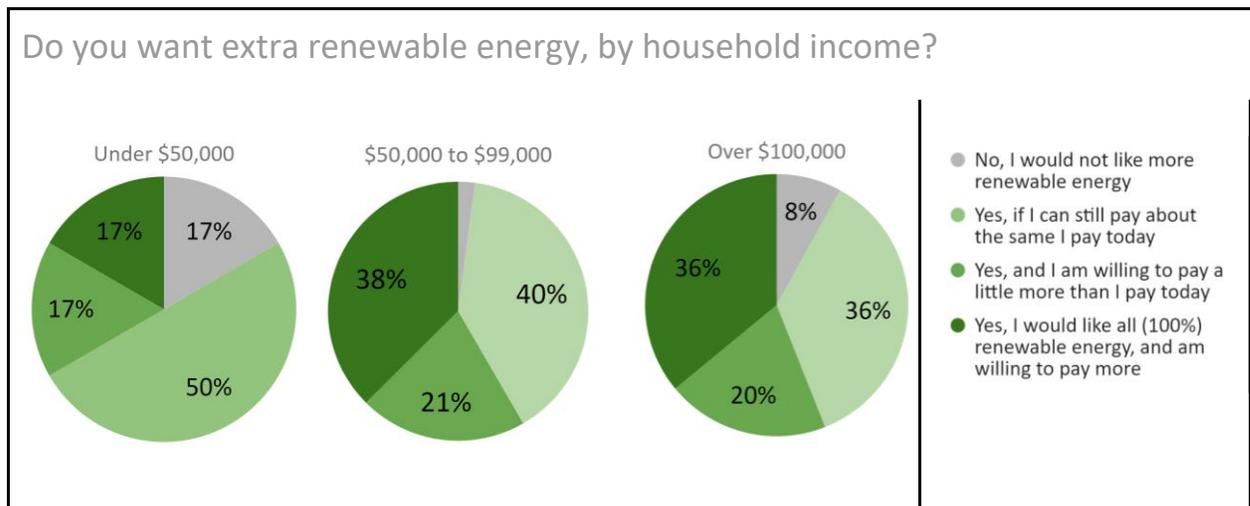


- 92% of respondents were interested in including more renewable energy in their electricity. Of those interested, roughly half (45%) sought extra renewable energy if they could pay about the same they pay today. The other half (55%) was willing to pay a little or a lot more for extra renewable energy.

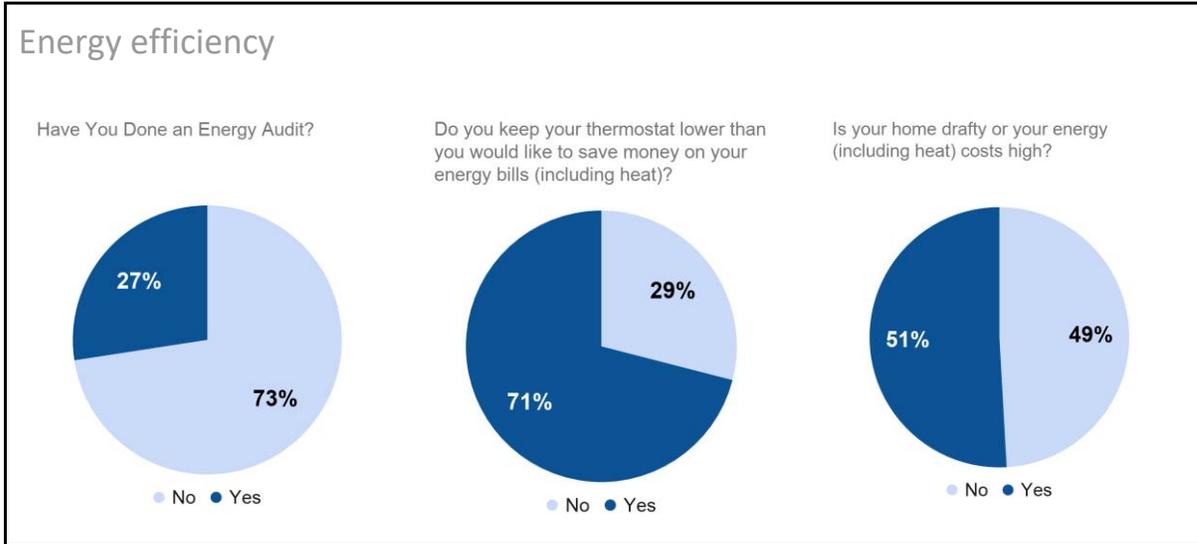


- When analyzing preferences for renewable energy and cost by household income, a similar pattern remains for each income group.

Those households under \$50k were more likely than other income groups to want no extra renewable energy; however, 83% of the income group was still interested in more renewable energy. Of those interested, 50% sought extra renewable energy if they could pay about the same they pay today. The other 33% was willing to pay a little or a lot more for extra renewable energy.



- Nearly three-quarters (73%) of participants had not performed an energy audit, and the percentages were nearly identical across household income groups. There appears to be widespread opportunity for energy efficiency improvements, with nearly three-quarters (71%) reporting that they keep their thermostat lower than they would like in winter and over half (51%) reporting their home is drafty or heating costs are too high.



**Survey Conclusions:**

The majority of participants in Community Power programs typically remain in the default product rather than choosing any of the program optional products. Given the strong support for both renewable energy and cost parity demonstrated in the survey responses, it suggests that Keene would be well-served by a default product designed with the goals of 1) achieving cost parity or savings compared to Eversource Default Service and 2) including some extra renewable energy.

Additionally, the survey highlighted that, for those that can afford it, the program should offer options with substantially more renewable energy for a price premium.

Although less than 8% of survey responses were not interested in extra renewable energy, it could be beneficial to have an optional product that would meet their needs by providing a lower-cost option with no extra renewable energy, particularly for those households in the lowest income bracket.

There is substantial opportunity for energy audits and efficiency improvements, suggesting support for energy efficiency by the Program would be valuable.

Respondents also cited an interest in local jobs, which the Program can support through demand for additional local renewable energy and by promotion greater

participation in energy efficiency programs. Regional cooperation, particularly with neighboring municipalities, would amplify this impact as well.

### **Draft Plan: Public Hearings & Comments**

The Committee held two additional public meetings on January 26, 2021 (12:00 pm and 6:30 pm) to present the survey findings, discuss how the results would be incorporated into the draft Community Power Plan, and provide an overview of other details to expect in the Community Power Plan.

On February 5, 2021 the draft Community Power Plan was posted publicly to the program website, KeeneCommunityPower.com. During the Committee's meeting on February 12, 2021, the Committee announced the availability of the draft Community Power Plan, invited comment and scheduled two public hearings for March 30, 2021 (12:00 pm and 6:30 pm). The Committee and the City promoted awareness of the draft Plan through diverse means including a formal hearing notice in the newspaper, press releases, postings on the City website and social media, and email outreach to the City's Community Power email list. The public was encouraged to submit comments ahead of the public hearings using the online comment form on the program's website, KeeneCommunityPower.com, and email, phone or written comment to the City's Community Development department.

The Committee received comments ahead of and during the public hearings. All public comment is available in the Committee's meeting packet for April 8, 2021.

### **3. Approval of Plan by Community Power Committee**

The Committee discussed public comments and potential changes to the Community Power Plan during their Committee meeting on April 2, 2021. Additional public comment was provided during the meeting, and the Committee determined to reconvene on April 8, 2021 (see the Committee's meeting packet for April 8, 2021 for additional comment received).

In response to some of the public comments, the Committee revised the plan as follows:

- Adjusted the language describing the likely sources of additional renewable energy in the City's first supply contract to make it clear that local renewable energy generated within the "greater Monadnock region" could also be included, in addition to NH Class I renewable energy.
- Revised the procurement language to clearly allow for the procurement of power and Renewable Energy Credits (RECs) from the same facility (also known as "bundled") or purchase only one or the other from a facility (also known as "unbundled").

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- Revised the procurement language to allow for the selection of multiple suppliers (for example, one for residential and small commercial and one for large industrial).
  - Modified language throughout the plan to clarify what is meant by the term “local” in different contexts (e.g. “renewables that are on the ISO-New England electricity grid,” or “within or as close as possible to Keene in New Hampshire”).

The revised plan, including a red-line and clean version dated April 5, 2021, was included in the Committee’s meeting packet for the meeting on April 8, 2021. During the meeting, the Committee discussed the revisions. The Committee then unanimously voted to approve the plan and recommend it to the City Council for adoption.

Subsequent to the meeting, on April 8, 2021, summary detail of the public hearings, public comment, Committee’s deliberation and vote was added to the Historical Overview.

#### **4. Adoption of Plan by City Council**

[insert detail]

#### **5. Submission of Final Plan to Public Utilities Commission**

[insert detail]

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## **Exhibit II - Education & Outreach Plan**

### **1. Initial Outreach and Education**

The initial outreach and education will provide a description of the Program for eligible customers and will be conducted via traditional print and TV channels, social media, a dedicated website, public presentations and personal communications to inform eligible customers about the Program and will include a toll-free number. This effort will provide specific information about the Program and increase public awareness of the goals of the Program and the upcoming opt-out notification process.

If any Program materials were to reference cost savings for any part of the program, a notice would be included which states that the City cannot guarantee that the Program will provide customers with prices lower than the distribution utility's Default Service rate over the full term of any supply contract entered into by the City.

#### **1.1 Media Outreach**

Prior to the launch of the Program, the City will initiate media outreach that may include the use of local cable television shows, newspapers and social media to provide greater public education and to describe the Program, the opt-out process, the website, and the toll-free telephone number. Outreach may also include public service announcements (PSAs), scheduling interviews of Program spokespersons with local media outlets, and securing a positive media presence.

A news release may be distributed to help achieve the aforementioned goals. Follow-up news releases may be used to update the media on the status of the progress of the Program.

#### **1.2 Notices and Public Postings**

Brochures/flyers will be distributed in City offices describing the Program, the opt-out process and the toll-free telephone number in order to further reinforce the Program's details. Brochures/flyers may be placed in key gathering areas or buildings (e.g. library, Senior Center, etc.) which will create the necessary repetition of messages required to motivate customer action and build awareness and understanding.

#### **1.3 Customer Service Center**

The Program will maintain a toll-free telephone number to address eligible customers' questions regarding the Program, deregulation, the opt-out process, price information and other issues eligible customers may raise.

## **1.4 Website**

All information regarding the Program will be posted on the Community Power (CP) website, which is linked to the website of the City. The CP website will have links to the website of the electric distribution utility, the New Hampshire Public Utilities Commission (NHPUC), and the Competitive Supplier.

## **1.5 Public Presentations**

The Program will provide presentations to municipal officials and to interested community groups.

## **1.6 Outreach to Persons with Limited English Proficiency or Disabilities**

At the launch of the Program, the City will include in its customer notification letter a Language Access Document in the native languages of limited-English-speaking residents, which includes, but is not limited to, Spanish. This Language Access Document will inform eligible customers that the letter contains important information from the City about their electric service and they should have the notice translated. The notice will also include the toll-free customer service number. The City will also provide a translation option on its Program website that will translate any written materials on the website into over 100 different languages. The website will be designed with the goal of being compliant with the Americans with Disabilities Act (“ADA”) and will include formats that allow the content to be read out loud by computer assistive technology. Outreach efforts will be communicated in print and audio formats to provide access to both the hearing and visually impaired.

## **2. Customer Notification Letter**

The customer notification letter (also known as “opt out notice”) will be sent via standard mail to the billing address of each eligible customer on Default Service. The notification envelope will be designed to appear as an official City communication and it will be clearly marked as containing time sensitive information related to the Program. The notification will contain a letter describing the Program. The Competitive Supplier shall bear all expenses regarding the opt-out notice.

The letter will inform eligible customers:

- a) about the Program and provide information regarding participation and rights;
- b) that they have the right to opt-out of the Program without penalty;
- c) of all charges, prominently stated, with a comparison of price and primary terms of the Competitive Supplier and the current Default Service offering;
- d) that any savings under the Program compared to Default Service cannot be

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guaranteed because the Default Service rate is subject to changes

- e) about the opt-out process; and
- f) in languages other than English for appropriate customer groups (i.e. toll-free telephone number).

The customer notification letter will also contain an opt-out reply card with a simple check off and signature line for eligible customers who do not wish to participate. The envelope will be pre-stamped for return of the opt-out reply card in order to protect customer privacy.

Eligible customers will have 33 days from the date of the mailing to mail back the opt-out card in a pre-addressed postage-paid envelope and the customer notification shall identify the specific date by which the envelopes containing the opt-out card must be postmarked. Automatic enrollment of customers will not start until three days after the date specified for the postmark of the return envelopes to allow for receipt of the opt-out cards prior to the start of automatic enrollments. New eligible customers will be enrolled in the Program in accordance with applicable Local Distributor Company rules. Upon initiation of service, these new eligible customers will receive the same customer information as all other eligible customers.

A copy of the initial customer Notification Letter will be filed with the Director of the Consumer Services and External Affairs Division of the Public Utilities Commission prior to the start of the opt-out period.

### **3. Opt-Out Period Education & Outreach**

After the customer Notification Letter has been sent, City will continue its education and outreach to afford residents and businesses the opportunity to learn more and find answers to key questions relating to their decision to opt out or enroll in one of the optional products of the program. This process will include, at a minimum, a public information meeting within 15 days of the mailing of the customer notification letter. It will also include a similar range of outreach activities as enumerated in section 1.1 to 1.6.

### **4. Timeline and Preliminary Marketing Plan for Launch**

The timeline and preliminary marketing plan identifies the steps the City may take to inform the community about the Program, as described in Sections 1 through 3 of Exhibit II. The schedule is designed to work towards the estimated date when the customer Notification Letter is scheduled to arrive in customer mailboxes.

The costs and implementation will be handled by the Community Power Consultant, under the direction of the City.

From estimated date customer notification letter arrives in customer mailboxes		
Action	Days before	Days after
A. Website launch	60	Ongoing
B. Work with local media resources	60	30
C. Active social media outreach	30	30
D. Initial person presentations	30	30
E. Distribute marketing materials	30	30
F. Customer help line	30	Ongoing
G. Mail postcard to all eligible accounts	15	-
H. Customer notification letter arrives	0	0

**A. Website Launch:**

Timeframe: 60 days before the estimated date that the customer notification letter arrives in customer mailboxes, then maintained on an ongoing basis.

The Program will maintain an informational website with features that include Program details, an online savings calculator and enrollment, opt-up and opt-out forms for the convenience of participants.

**B. Work with local media resources:**

Timeframe: 60 days before to 30 days after the estimated date that the customer notification letter arrives.

Area Newspapers:

The City will work with area print and online newspapers to disseminate accurate and timely information about the Program. As part of this targeted outreach to these papers, the City may seek a meeting with the editorial board to establish a good foundation for continued dialogue over the course of the contract. Other newspaper outlets may include other local publications.

- These papers include: Keene Sentinel, Monadnock Shopper News, and the New Hampshire Union Leader

### Local Public Access Television:

The City intends to work with Cheshire TV channels for public (1301) and government (1302) access. City can record interviews about the program and PSAs for upcoming meetings.

### Other Television and Radio Stations

Develop press releases to send to other TV stations and radio stations.

- TV stations include WMUR (ABC, MANCHESTER, NH) Channel 9; WUTF (INDEPENDENT, WORCESTER, MA) Channel 27; WVTA (PBS, WINDSOR, VT) Channel 41; WWJE (INDEPENDENT, DERRY, NH) Channel 50; WEKW (PBS, KEENE, NH) Channel 52; WNEU (NBC, MERRIMACK, NH) Channel 60;
- Radio stations include WVBA (88.9 FM) Brattleboro, VT; WEVO (89.1 FM) Concord, NH; WEVN (90.7 FM) Keene, NH; WEEY (93.5 FM) Swanzey, NH; WSNI (97.7 FM) Keene, NH; WINQ (103.1 FM) Keene, NH; WKNE (103.7 FM) Keene, NH; WYRY (105.5 FM) Keene, NH; WCNL (1010 AM) Newport, NH; WKBK (1290 AM) Keene, NH; WTSA (1450 AM) Brattleboro, VT

### Municipal Staff Interviews

Develop Q&A Scripts and prepare municipal staff or volunteers for interviews.

## **C. Active Social Media Outreach**

Timeframe: 60 days before to 30 days after the estimated date that the customer notification letter arrives.

Boost all traditional media coverage on social media platforms, with the goal of driving traffic to the dedicated website of the City.

In concert with the communication leads of the City, develop a campaign of planned tweets and Facebook posts, timed to coincide with important milestones in order to keep ratepayers informed, particularly those that may not interact with traditional media on a regular basis. Draft content and graphics to accompany the posts, to be made by City staff.

- These accounts may include: City of Keene (Instagram, Facebook); City Manager (Twitter); Keene Community Development (Instagram, Facebook & Twitter) and Keene Public Library (Instagram, Facebook & Twitter).

Monitor various channels such as Facebook and Instagram for relevant conversations and questions about the Program. Draft responses to comments and questions and utilize social media as a critical tool in engaging with members of the community.

- These accounts may include: “Downtown Keene” Facebook page (@downtownkeene); the “Keene, NH” Facebook group (5.5k members); and “Keene NH Community Forum” Facebook group (1.5k members)

Identify key social media influencers in the City, including lawmakers, advocates and reporters. Develop a spreadsheet of the social media handles/accounts and reach out to them to keep them informed about the Program.

#### **D. In Person Presentations**

Timeframe: 30 days before to 30 days after the estimated date that the customer notification letter arrives. This will include, as required in RSA 53:E-7, a public information meeting within 15 days of the mailing of the customer notification letter.

#### Local Groups

Connect with local groups and associations to see if representatives of the City can participate in an upcoming meeting or offer to host a dedicated event. Seek their assistance in identifying how to best connect with customers with limited-English capabilities or disabilities that may prevent them from accessing Program information.

- Example groups include: Neighborhood associations, Social service agencies, Business Focus Group, Rotary, Kiwanis, Lions, Chamber, Clean Energy team, Keene Young Professionals, Downtown Group, Board of Realtors, Keene Senior Center, Keene Off-campus Housing (landlords and tenants), Keene State College English as a Second Language (ESL) classes, CALL Program (Cheshire Academy for Lifelong Learning).

Reaching the business community will be important. Presenting to the Chamber of Commerce can start this dialogue and lead to additional outreach to and connection with businesses.

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### Council Meetings

Present or provide materials for the Council meetings and any constituent meeting they may have.

#### **E. Distribute marketing materials**

Timeframe: 30 days before to 30 days after the estimated date that the customer Notification Letter arrives.

Many groups may have a natural interest in promoting awareness about the Program and can be provided with electronic and hard-copy materials with reference information for the Program.

Distribute to key locations such as Municipal Offices and Public Library.

#### **F. Customer Help Line**

Timeframe: 30 days before the estimated date that the customer notification letter arrives and ongoing thereafter.

Establish customer helplines with the Competitive Supplier and Community Power Consultant to answer customer inquiries.

#### **G. Mail Postcard to all eligible accounts**

Timeframe: 15 days before the estimated date that the customer notification letter arrives.

### Post Card

Send out prior to customer notification letter. Establishes that there is a community-sponsored Program and increases the likelihood that recipient engages with the more detailed opt-out letter.

#### **H. Customer Notification Letter arrives**

Sent to all retail electricity customers on Default Service. Customers will have at least 30 days from the date of mailing to elect not to participate in the Program (i.e. opt out) before the Program starts. The customer notification letter will provide all Program rates, terms and conditions, identify the deadline to opt out, and will provide instructions for how to opt out via web, phone or mail. It will also remind customers that once the Program starts, they may still opt out at any time, without penalty.

## **5. Ongoing Outreach and Education**

The City intends to continue outreach and education for customers after enrollment in the Program. The costs and implementation will be handled by the Community Power Consultant, under the direction of the City. These efforts will include:

- **Program impact:** Key metrics relating to cost performance, renewable energy purchases and program enrollment. Particularly as the program accomplishments relate to progress towards the City's ambitious short- and long- term goals for renewable energy and greenhouse gas emission reduction. This will also include the Energy Source Disclosure labels for the electricity supply;
- **Opt up campaigns:** On-going campaigns to recruit participation into its optional product(s) that contain more renewable energy than required by law ("Opt up campaigns"). Increasing participation in these products will serve the City's goals to expand new renewable energy and reduce greenhouse gas emissions;
- **Customer awareness:** Rights and procedures for Program participants; contact information for customer inquiries, responses to frequently asked questions, and details regarding the Program's electric supply and renewable attributes.
- **Public input:** As the program considers changes to further its progress toward a 100% renewable future and other goals, City will manage outreach to solicit input and feedback from the community.
- **Program changes and evolution:** Any changes in offerings and prices, which will be posted on the Program website that is linked to the website of the City.

The program will utilize similar mediums for on-going education and outreach as for the initial launch education and outreach, including but not limited to: social media, traditional media, in-person meetings and presentations, outreach to local groups, video, and mail.

Translation of all materials will be provided as necessary to reach communities with limited English proficiency.

**City of Keene**  
**New Hampshire**

**AD HOC COMMUNITY POWER COMMITTEE**  
**MEETING MINUTES**

**Tuesday, March 30, 2021**

**12:00 PM**

**Remote Meeting via Zoom**

**Members Present:**

Peter Hansel, Chair  
Councilor Mike Giacomo  
Dan Belluscio  
Paul Roth  
Ann Shedd

**Staff Present:**

Mari Brunner, Planner  
Rhett Lamb, Community Development  
Director

**Guests:**

Patrick Roche, Good Energy  
Daria Mark, Good Energy

**Members Not Present:**

Chair Hansel read a prepared statement explaining how the Emergency Order #12, pursuant to Executive Order #2020-04 issued by the Governor of New Hampshire, waives certain provisions of RSA 91-A (which regulates the operation of public body meetings) during the declared COVID-19 State of Emergency.

**1) Call to Order and Roll Call**

Chair Hansel called the meeting to order at 12:01 PM. Roll call was taken.

**2) Public Hearing: City of Keene Community Power Plan**

- a. **Consultant Presentation** – Chair Hansel introduced the Keene Community Power Committee, Keene Community Development Department staff and Community Power consultants. He provided some background behind establishing this team by mentioning that the City of Keene had an objective of becoming a 100% renewable energy community by 2030 for electricity, and by 2050 for thermal and transportation energy. As a result of this goal, the City appointed this Ad-hoc Community Power Committee and hired consultants from Good Energy and Standard Power to help with the project and creation of a Community Power Plan. Chair Hansel went on to provide a timeline overview of the committee's activity thus far. He stated that they began the process of developing the plan with public meetings in December of 2020 and shortly after launched a survey aimed at gathering information from the public and increasing awareness. In January of 2021, they finalized the survey results and used them to begin working on a draft Community Power Plan. Another series of public meetings were held later that same month and a first draft of the plan was completed and made available to the public in February of 2021. Chair Hansel stated they are currently in the

review process, which includes these public hearings and obtaining feedback from the community.

Chair Hansel then introduced Daria Mark from Good Energy to present an overview of the Community Power Plan.

Daria Mark from Good Energy started her presentation by highlighting Community Power basics. She explained that there are two parts to an electricity bill, the delivery and the supply. She informed the audience that the delivery portion will remain the same, noting that they will still receive a single bill from Eversource. What will change with the Community Power Plan is the supply portion, noting that the plan will bring about more supply options so consumers can select a choice that best suits their household.

Ms. Mark then went over outreach, which she stated included a survey asking the community what they'd want to see in the Community Power program. They did this through digital avenues such as social media and the Community Power website, as well as newspaper ads. Ms. Mark added that the Community Power website has the aforementioned presentation from January and detailed information about survey results for anyone interested. She stated that out of the 16 survey questions, the most guiding one asked how much renewable energy people want to see and how that related to price. The results of that question showed a lot of support for renewable energy and the desire for different cost options, which directly informed the draft plan. Ms. Mark reminded everyone that they can learn about the program via email updates and can easily sign up for those on the City of Keene website.

Patrick Roche from Good Energy then reviewed program implementation steps. He started off by saying they will work with the committee to review all public comments received and incorporate those into the Community Power Plan as they see fit. He went on to explain that beginning in April of 2021, the committee will need to vote to approve a final plan. They will then move into the summer and fall period when the City Council will vote to adopt the plan. This process will also include rulemaking and review from the Public Utilities Commission per the amendment of HB 315. Mr. Roche noted the amendment to HB 315 could become law sometime in the summer, and review by the Public Utilities Commission will hopefully take place by late fall. Once they have those approvals they will be looking to identify favorable market conditions to go out to bid for electricity supply, which will put them in place to launch the program in the winter of 2021 or early 2022.

Mr. Roche next reviewed key aspects of the Community Power draft plan. He reiterated that the City of Keene has a goal to get to 100% renewable electricity by 2030 and the plan is a big part of making that goal come to

fruition. The first key aspect he covered was economic and environmental value. Mr. Roche stated they want as many people as possible to participate in the program so it has to offer both affordability and meaning, something people can feel good about.

The next key aspect was flexible framework and tools. Mr. Roche stated they want to make sure there are different options available to meet different economic needs while also taking advantage of other tools. This could include supporting efficiency programs to help move the whole program forward towards its goal.

Next was harnessing community ideas and resources. Mr. Roche stated they want to have constant conversations with the community to uncover what they are valuing about the program and what could be added to further increase value.

He then discussed crafting solutions and removing barriers by stating that the City of Keene and the committee have already been engaging in conversations at the state level with regards to policy. The plan is to continue these efforts which could include fighting to increase the renewable portfolio standard and exploring new potential with grid modernizations and smart meters.

Lastly, Mr. Roche spoke to leading by example and collaboration. He stated they want to help other communities and collaborate with others to potentially increase scale and affordability.

Mr. Roche then moved on to discuss extra renewable energy products, stating that the focus of this program is on NH Class 1 which is called “new renewable energy.” He explained that this means it has to have been built after 2006 and come from New England, NY or eastern Canada, and is primarily wind, solar, incremental new small hydro, anaerobic digestion, or biomass. He noted that this aligns with the Environmental Protection Agency’s definition of green power. Mr. Roche further explained that all of the offerings in the program will meet the state’s minimum renewable portfolio standard, but some of the products will purchase extra renewable energy, which will focus on NH Class 1.

Mr. Roche then spoke about the 4 products that will be offered in the plan. He stated the program will automatically enroll eligible members into the default product unless they opt-out. The goal of this product, named Keene Local Green, is to increase renewable energy use while maintaining competitive rates. Mr. Roche then went over the three optional products in the program. The first being Keene Basic, the most competitive and lowest cost option, which will just meet the state’s minimum renewable energy requirements. For people who want to use a lot more clean energy and have

a bigger impact there will be the Keene 50% Local Green, which would add 50 percentage points on top of the state's renewable energy requirements. Then they have the Keene 100% Local Green adding 100% on top of the state's renewable energy requirements. Mr. Roche stated with the default product, Keene Local Green, they are likely looking at the extra renewable energy being 5 or 10 percentage points, and hopefully increasing that over time.

With regards to trade-offs, Mr. Roche showed a table with the Community Power program options compared to the default. He explained that if you went with the Keene Basic product you would pay about \$3 less per month as compared to the default rate. If you went with the Keene 50% Local Green you would be paying about \$10 more per month, and with the Keene 100% Local Green you'd pay around \$23 more per month. These numbers are based on current market conditions and assume that the default has 10% extra renewable energy and an average household energy consumption of 7,500 kWh/year.

Mr. Roche mentioned net metering next, stating the program will seek to offer the same or better terms than Eversource. He explained that net metering is a policy that helps value energy that you generate at your house. He noted that if there are differences between the Community Power program and Eversource, they will make sure it is very clear in their communications so people can make the most informed choice about whether or not they want to participate in the program.

With regards to energy efficiency, Patrick Roche stated that the program aims to promote existing efficiency efforts, such as NH Saves, and over time look to directly fund efficiency efforts to supplement other benefits out there. He also mentioned that the survey results showed a lot of opportunities around Keene and across income levels for energy efficiency, noting that most people hadn't done an energy audit and reported that they could benefit from energy efficiency measures.

Mr. Roche stated the plan allows for Keene to explore group buying opportunities, which would mean Keene working with other communities to benefit the program. He went on to say that each community would have their own plan and own product choices, but they would come together for the bidding opportunity to have a bigger scale and pooled buying, which would help everyone achieve more competitive prices. As they move through the approval process they will assess if there are opportunities to work with others.

Mr. Roche then moved on to program enrollment, stating the program will have voluntary participation with automatic enrollment. He explained that this means the program is open to any electricity customer in Keene;

however, if you are a customer of Eversource you are eligible to be automatically enrolled in the default product, unless you opt-out. To check if your supplier is Eversource Mr. Roche instructed everyone to look at their electricity bill under the supply section where it will name the exact supplier. He went on to say that everyone who is eligible will receive a post card followed by a customer notification letter, and there will also be press releases, flyers, presentations, and notices to raise awareness of program launch and how to opt out if you so choose. He reiterated that the decision to participate in the program is voluntary and the person who gets to make that choice is whomever is paying the electricity bill. For example, if you're a renter and you pay your electricity bill, it is your choice whether or not you want to enroll. If your electricity bill is included in your rent and the landlord pays, then the landlord has the enrollment choice. Mr. Roche highlighted that, even after launch, you can leave the program at any time without penalty.

In summary, Mr. Roche stated that the plan aims to provide the individual choices the community was looking for based on survey results, give the city of Keene control over its energy supply for the first time ever, and focus on achieving the city's renewable energy goals with competitive prices.

b. **Public Comment**

Chair Hansel opened up the meeting for public comments.

Patricia Martin of 17 Farrar Road in Rindge, NH asked if the Keene 50% Local Green option is 50% over the state Renewable Portfolio Standard (RPS). Patrick Roche stated the percentages will all be above the state standards, so 50% on top of the state standards, and the same for 100%. He further explained that if you were in the 100% product option, you would be causing demand that exceeds your usage for renewable energy and that would be real renewable energy that is generated and put onto the electricity grid. Mr. Roche added that moving forward they will be clear about how much higher the product is over the state standards, and will be sure to show the total and how that extra breaks down into different components of renewable energy standards.

Chuck Weed of 28 Damon Court in Keene, NH asked about the community power program working with other municipalities in the community power aggregation, and wondered if Cheshire County could be included in that realm of possibility. He also mentioned that when he speaks of wind as a renewable energy source to people who are not familiar with the concept, they often think he's supporting Texas corporations. Mr. Weed hoped they could obtain local renewable resources and support local corporations, and wondered if the community power committee will make a distinction on this topic. Mr. Roche answered that the program will focus on NH Class 1 renewable energy, which can't come from Texas. He went on to say that it

has to come from New England or be fed onto the New England grid from eastern Canada or New York. In terms of partnering, Mr. Roche stated the City of Keene could partner with any other community power program, whether it's at the county, city or town level, so Cheshire County could be a possibility.

Bob King of 42 Hurricane Road in Keene, NH expressed his excitement about the energy efficiency component of the program and thanked the committee for their efforts. He reported, for full transparency, that he is a potential energy supplier to the City of Keene. Mr. King asked why there is a Keene basic product being offered, given that the goal of the city is to get to 100% renewable energy. Mr. Roche answered that they want to recognize different economic situations and are aware that they will eventually need to move everyone to 100% renewable energy, but want to have a place for people who need to be as cost-effective as possible. He also noted that it's been successful with past programs to have a place for everybody. Rhett Lamb agreed with that answer, stating it is important to the city that they roll this program out in a way that reflects everyone's economic situation. Chair Hansel added that the results of the survey indicated some people just wanted the best rate they could get and weren't concerned about percentage of renewables. He mentioned that they need to be responsible to those individuals and by keeping them in the program it's more likely that they can work with them moving forward, towards the goal of 100% renewable energy.

Mr. King next asked if the use of Renewable Energy Certificates (RECs) were going to be part of meeting the city's goal, or is it that 100% of renewables means 100% of kilowatt hours. Mr. Roche stated they will make sure any claims of using renewable energy will be backed up by the purchase and retirement of renewable energy certificates. Mr. King asked if that means they might import some ISO LMP energy, and if so, would they then match it with the same number of RECs? Mr. Roche replied yes, at least to start, it's typically unbundled purchase of power and then purchasing the certificates that they need to make the renewable energy claims.

Mr. King then asked if the city will only be buying Class 1 RECs or energy associated with Class 1 RECs. He stated he has local hydro, which is Class 4, and wondered if that has a place in the program? Mr. Roche replied that the focus of the plan is for extra renewable energy to be NH Class 1, but it doesn't preclude the city from doing other things. He added that if there are opportunities to support local projects there is room to do so, but in general the idea is to support new renewable energy. Chair Hansel added that the plan gives the City Manager authority to make deals with local power suppliers.

Bruce Norlund of 267 Gilsum Street in Keene, NH asked if the City of Keene has plans to buy electric vehicles. Chair Hansel stated that electric vehicles come under another part of their purview, not necessarily related to community power but definitely related to their (Keene's) Sustainable Energy Plan. He added that there's a whole section of that plan which applies to transportation, noting that they have about 29 years to achieve the goal of 100% renewable in the transportation sector, but there has already been some discussion surrounding the topic. Mari Brunner added that the City's Fleet Services Division of Public Works is currently exploring the option of purchasing electric vehicles, but there are no current set plans. She stated that they do have a few hybrid vehicles and use 20% bio diesel fuel for all city vehicles, but don't have any pure electric vehicles or plans to purchase them as of now. Chair Hansel added that, although electric vehicles are not addressed directly in the community power plan, as people start to change transportation, heating and cooling from fossil fuels to electricity, it will provide more kilowatt hours to the community. This could all be handled by the community power program so it is related and will become more important as people start to make those decisions in the future.

Jake Pipp of 11 Bergeron Avenue in Keene, NH asked how they plan to understand the survey results. In particular, the survey question where people chose either the option of no renewable energy, or more renewable energy as long as it didn't increase cost. He wondered if there were comments that came with the survey results that would further indicate the thinking behind which options were chosen. For example, could it be that those who chose no renewable energy didn't carefully read the next option, which was renewable energy without an increase in cost, or do they assume that those individuals are just anti-renewable energy whether it cost more or not? Daria Mark stated that was a great question and that there seems to be a general consensus that renewables are very expensive, which could have played into the responses of people who are in lower income brackets and are price sensitive. She added that this is another reason why they offer the basic option; it allows them to keep people in the program and continue communication with them, including sharing of rates and comparisons to Eversource. She also mentioned a calculator that will be up on the program website once they have final rates, with the goal to help educate around renewable energy and cost. Ms. Mark concluded by stating that if they have a high percentage of participants adding 5 or 10% in the default product, it creates a significant impact on renewable energy in the region and still keeps the price competitive. With outreach and education they hope they'll be able to get the message across that you don't have to sacrifice one to get the other.

Scott Maslansky of 37 Royal Avenue in Keene, NH thanked everyone for their hard work. He expressed concern about the 50% and 100% options, noting that the price does go up with those options so the perception there

will likely be that renewable energy costs more. He added that education for the community will be helpful to carefully address those perceptions. Mr. Maslansky also stated that the titles for the 50% and 100% options don't seem to work well because of the fact that they are 50% or 100% above the renewable portfolio standard, so the number doesn't match the total percent being offered. Mr. Roche responded that the names they have in there are place holders and are one of those things from a marketing perspective that they can tweak without re-approving the plan. He also added that he appreciates the feedback so the committee can review and make appropriate changes. He addressed the perception of cost concern, stating that with opt-up options they tend to address those by highlighting the benefits and not leading with the cost, and will be sure to do that when educating the community. Chair Hansel stated they've had prior discussions about what the 50% and 100% options really mean, and stated the renewable energy portfolio will be changing its percentage over time, so it's hard to put a figure on those percentages. They will need to clarify this in presentations to the public to carefully explain what they will be getting with the 50% and 100% options.

Bruce Norland stated that he has a hybrid and electric car and asked what they think the effect will be as more cars are using electric power in Keene. Patrick Roche stated there could be some positive effects because there's a volume piece to pricing electricity as well as a load profile, as in when are you using power. He went on to say that at night, power often dips low and electric vehicles could improve the load profile if charges are happening overnight. Mr. Norland stated he charges his car at his house so net metering or different rates at different times of the day would be helpful.

At 1:01 PM Mari Brunner noted that quorum had been lost.

Chair Hansel stated members of the community could contact them directly with questions or come to the next public hearing later that day at 6:30pm. He thanked everyone for being there and went over the next meeting dates and times.

**3) Upcoming Meetings**

- a. **Tuesday, March 30, 2021 at 6:30 pm (public hearing)**
- b. **Friday, April 2, 2021 at 8:00 am**

**4) Adjourn**

Chair Hansel adjourned the meeting at 1:02 PM

Respectfully submitted by,  
Nicole Cullinane, Minute Taker

Reviewed and edited by Mari Brunner, Planner

City of Keene  
New Hampshire

AD HOC COMMUNITY POWER COMMITTEE  
MEETING MINUTES

Tuesday, March 30, 2021

6:30 PM

Remote Meeting via Zoom

**Members Present:**

Peter Hansel, Chair  
Councilor Mike Giacomo  
Dr. Ann Shedd  
Paul Roth

**Staff Present:**

Mari Brunner, Planner  
Rhett Lamb, Community Development  
Director

**Members Not Present:**

Dan Belluscio

**Guests:**

Patrick Roche, Good Energy  
Daria Mark, Good Energy  
Emily Manns, Standard Power  
Bob Hayden, Standard Power

Chair Hansel read a prepared statement explaining how the Emergency Order #12, pursuant to Executive Order #2020-04 issued by the Governor of New Hampshire, waives certain provisions of RSA 91-A (which regulates the operation of public body meetings) during the declared COVID-19 State of Emergency.

**1) Call to Order and Roll Call**

Chair Hansel called the meeting to order at 6:32 PM. Roll call was taken.

**2) Public Hearing: City of Keene Community Power Plan**

a. **Consultant Presentation** –

Chair Hansel introduced the Keene Community Power Committee, Keene Community Development Department staff and Community Power consultants. He provided some background behind establishing this team by mentioning that the City of Keene had an objective of becoming a 100% renewable energy community by 2030 for electricity, and by 2050 for thermal and transportation energy. As a result of this goal, the City appointed this Ad-hoc Community Power Committee and in November of 2020 they hired consultants from Good Energy and Standard Power to help with the project and creation of a Community Power Plan. Chair Hansel went on to provide a timeline overview of the committee's activity thus far. He stated that they began the process of developing the plan with a series of public meetings in December of 2020 and shortly after launched a survey aimed at gathering information from the public and increasing awareness. In January of 2021 they finalized the survey results and used them to begin working on a draft Community Power Plan. Another series of public

meetings were held later that same month and a first draft of the plan was completed and made available to the public in February of 2021. Chair Hansel stated they are currently in the review process, which includes these public hearings and obtaining feedback from the community.

Chair Hansel then introduced Daria Mark from Good Energy to present an overview of the Community Power Plan.

Daria Mark from Good Energy started her presentation by highlighting Community Power basics. She explained that there are two parts to an electricity bill, the delivery and the supply. Delivery includes all parts required to get electricity to you such as wires, trucks and poles. She informed the audience that the delivery portion will remain the same, noting that they will still receive a single bill from Eversource. She explained that what will change with the Community Power Plan is the supply portion. In NH you have the option to choose your own energy supply, so the city of Keene is buying electricity in bulk for residents, which results in cost savings and local control. Ms. Mark stated the plan will bring about more supply options so consumers can select a choice that best suits their household.

Ms. Mark then went over outreach, which she stated included a survey asking the community what they'd want to see in the Community Power program. They did this through digital avenues, such as social media and the Community Power website, as well as newspaper ads. Ms. Mark added that the Community Power website has the aforementioned presentations from January and detailed information about survey results for anyone interested. She stated one of the most telling survey questions was an attempt to tease out how much interest there was in renewable energy and how that played out against price. Ms. Mark showed a graph with the results of this question which demonstrated a strong interest in renewable energy, as well as the feedback that the community wanted cost options. She mentioned that the survey feedback is reflected in the options they presented in the draft plan. Ms. Mark reminded everyone that they can learn about the program via email updates and can easily sign up for those on the City of Keene website.

Patrick Roche from Good Energy then reviewed program implementation steps. He started off by saying they will work with the committee to review all public comments received and incorporate those into the Community Power Plan as they see fit. He went on to say that in the beginning of April 2021 the committee will need to vote to approve a final plan. They will then move into the summer and fall period when the City Council will vote to adopt the plan. This process will also include rulemaking and review by the Public Utilities Commission (PUC) per the amendment of HB 315. He reminded everyone that HB 315 was very restrictive, so the city of Keene and the consulting team worked with the sponsor of the bill to come up with

an amendment that would satisfy all parties. That law adds the requirement that the PUC must review and improve the Community Power plan, and they have 60 days to do so. Mr. Roche noted the amendment to HB 315 could become law sometime in the summer and review by the Public Utilities Commission will hopefully take place by late fall. Once they have those approvals they will be looking to identify favorable market conditions to go out to bid for electricity supply, which will put them in place to launch the program in the winter of 2021 or early 2022.

Mr. Roche then went on to review key aspects of the Community Power draft plan. He reiterated that the plan is firmly grounded in the City of Keene's goal to get to 100% renewable electricity by 2030. The first key aspect he covered was economic and environmental value. Mr. Roche stated they want as many people as possible to participate in the program so it has to offer both affordability and meaning, something people can afford and feel good about.

The next key aspect was flexible framework and tools. Mr. Roche stated that not everyone in the community is the same; there are different abilities to pay and different levels of interest in the program, so they aimed to provide options for everyone. They also want to take advantage of other tools, such as supporting rooftop solar and energy efficiency programs to both reduce and clean up the power supply.

Next was harnessing community ideas and resources. Mr. Roche stated they want to have constant conversations with the community to uncover what they are valuing about the program and what could be added to further increase value.

He then discussed crafting solutions and removing barriers by stating that the City of Keene and the committee have already been engaging in conversations at the state level with regards to policy and restrictive laws. The plan is to continue these efforts which could include fighting to increase the renewable portfolio standard and exploring new potential with grid modernizations and smart meters.

Lastly, Mr. Roche spoke to leading by example and collaboration. He stated that Keene is going to hopefully show the way for other communities. They also want to partner with other communities to increase the scale of purchases and bring about more competitive prices for everyone.

Mr. Roche then moved on to discuss extra renewable energy, stating that the focus of this program is on NH Class 1 which is called "new renewable energy." He explained that this means it has to have been built after 2006 and come from New England, NY or eastern Canada, and is primarily wind, solar, incremental new small hydro, anaerobic digestion, or biomass. He

noted that this aligns with the Environmental Protection Agency's definition of green power. Mr. Roche further explained that all of the offerings in the program will meet the state's minimum renewable portfolio standard, but some of the products will purchase extra renewable energy, which will focus on NH Class 1.

Mr. Roche then spoke about the 4 electricity supply products that will be offered in the plan. He stated the program will automatically enroll eligible members into the default product unless they opt-out. The goal of this product, named Keene Local Green, is to increase renewable energy use while maintaining competitive rates compared to the utility. Mr. Roche then went over the three optional products in the program. The first being Keene Basic, the most competitive and lowest cost option, which will just meet the state's minimum renewable energy requirements. For people who want to use a lot more clean energy and have a bigger impact, there will be the Keene 50% Local Green, which would add 50% of extra renewable energy on top of the state's renewable energy requirements. Then they have the Keene 100% Local Green adding 100% on top of the state's renewable energy requirements. Mr. Roche stated with the default product, Keene Local Green, they are likely looking at the extra renewable energy being 5 or 10 percentage points, and hopefully increasing that over time.

Next, Mr. Roche touched on the monthly cost difference between these products, based on a typical household and relative to the default product. He explained that if you move into Keene Basic you save around \$3 per month. If you choose the Keene 50% Local Green option you will pay around \$10 extra per month, and around \$23 extra for the Keene 100% Local Green product. Mr. Roche noted that these numbers are based on current pricing in today's market and they will reassess these when they are going out to bid after program launch. These numbers also assume 10% extra renewable energy in the default option and an average household energy consumption of 7,500 kWh/year.

Mr. Roche mentioned net metering next, stating the program will seek to offer the same or better terms than Eversource. He explained that net metering is a way to provide economic credit to those who have their own solar systems that send electricity back to the grid. He noted that if there are differences between the Community Power program and Eversource, they will make sure it is very clear in their communications so people can make the most informed choice about whether or not they want to participate in the program.

With regards to energy efficiency, Patrick Roche stated that the program aims to promote existing efficiency efforts, such as NH Saves, and over time look to directly fund efficiency efforts to supplement other benefits out there. He also mentioned that the survey results showed a lot of

opportunities around Keene and across income levels for energy efficiency, noting that most people hadn't done an energy audit and reported that they could benefit from energy efficiency measures.

Mr. Roche stated the plan has the option for Keene to explore group buying opportunities, which would mean Keene working with other communities if it would benefit the program. He went on to say that each community would have their own plan and own product choices, but they would come together for the bidding opportunity to have a bigger scale and pooled buying, which would help everyone achieve more competitive prices. As they move through the approval process, they will assess if there are opportunities to work with others.

Mr. Roche then moved on to program enrollment, stating the program will have voluntary participation with automatic enrollment. He explained that this means the program is open to any electricity customer in Keene; however, if you are a customer of Eversource you are eligible to be automatically enrolled in the default product, unless you opt-out. To check if your supplier is Eversource, Mr. Roche instructed everyone to look at their electricity bill under the supply section where it will say "Eversource" under supplier. He went on to say that everyone who is eligible will receive a postcard followed by a customer notification letter, and there will also be press releases, flyers, presentations, and notices to raise awareness of program launch and how to opt out if you don't want to participate. Mr. Roche highlighted that, even after launch, you can leave the program at any time without penalty.

In summary, Mr. Roche stated that the plan's key considerations are to offer a range of choices with a mix of competitive costs and renewable energy, to bring local control over electricity supply to Keene for the first time ever, and to combine competitive prices with support for local renewable energy.

b. **Public Comment**

Chair Hansel opened up the meeting for public comment.

Bruce Norlund of 267 Gilsum Street in Keene, NH inquired about the opportunities for an individual home owner to install solar cells and sell to the utility. Mr. Roche stated that initially they will, at a minimum, give the same opportunities as are already in place with Eversource, and hopefully offer better incentives over time. He explained that when you produce extra energy it accrues in an account that you can draw from later so you're getting the value of that extra energy, and the Community Power program will have this at the start.

Ruth Goldstein of 61 Laura Lane expressed her support and excitement over the program, stating she is looking forward to being able to participate.

Suzanne Butcher of 44 Felt Road in Keene, NH commented that she is excited about such a great program. She inquired about the pricing and how it compares to other renewable energy programs. She mentioned Arcadia, a third party electricity supplier that likely uses energy supply from the Midwest, stating that they offer their 50% product for no additional charge, and their 100% product for about \$10 extra per month. Mr. Roche replied that there is some very cheap renewable energy in certain markets, like the Midwest and Texas, and the program could have gone that route; however, the idea behind this program is supporting and helping the growth of renewable energy within their region. He explained that, in New England, when someone is developing a renewable energy project they have to look at both the value from the electrons and the renewable energy certificates because they need both of them to make the project economically viable. Whereas in places like Texas, the value of the electrons alone are enough to make the project economically viable, which allows them to sell renewable energy credits at very low rates. The Community Power program could buy those low cost credits for Keene, but it wouldn't help to expand renewable energy here in New England and as locally as possible. Mr. Roche stated that part of the education and outreach of the program will seek to make this concept very clear and will explain how the impact of the renewable energy source is different.

Nancy Gillard of 72 Reservoir Street in Keene, NH stated her household has already chosen 100% renewable energy for the past couple of years, recognizing that it's not local, so they like the local focus of this program and applauded the team for explaining the components so clearly. Mrs. Gillard went on to state that she's interested in hearing more about the energy efficiency piece and the mention of possibly funding some energy efficiency efforts over time. Mr. Roche stated energy efficiency is often overlooked, so the program will do a lot of education and outreach on the topic. He mentioned that there is also the possibility for part of the program rate to include a small fee that goes into a fund specifically for energy efficiency. He brought up the idea to have grants for individuals going through the NH Saves program to help with the cost, noting that it may be that they could target certain income levels. Mr. Roche added that this energy efficiency focus will not be proposed right at the start of the program because they want to focus on the core pieces first, and not add too many other costs.

Mr. Roche asked Emily Manns from Standard Power to speak to this. Ms. Manns began by mentioning that energy efficiency is an important aspect of the energy plan. She stated the current situation with NH Saves is that the docket is open at the PUC for the 2021 programs, which means the funding is being held up. She went on to explain that there is an opportunity for people interested in promoting energy efficiency to provide comments at the

PUC. For anyone interested in furthering funding for energy efficiency in the state, she provided the docket number of EE20092. Ms. Manns also mentioned that there will be significant gas price increases in Keene for the upcoming summer, noting that energy efficiency can make an even bigger difference in that situation.

Councilor Mike Giacomo wondered, in light of upcoming increases in gas prices, whether there is a mechanism in place such that if people are enthusiastic about energy efficiency that they can help subsidize those that anticipate struggling with cost increases. Mr. Roche replied that is a great idea and stated the products as envisioned don't have that built in currently. He added that they are in some ways constrained to the Eversource billing system, but it could be something they add in an efficiency fee, but would have to decide whether they'd want to do that right away with program launch or wait. He mentioned another idea of doing cross-promotion with efficiency and connecting people who want to help with those in need that way.

Bob Hayden from Standard Power stated they could make a small, direct investment to help develop solar projects and also have a charitable fund, putting them both on the website. He mentioned that they are just starting to look at how to retain these types of funds in the communities, and thinks they will have better answers soon. Mr. Hayden stated that it's a great idea and could be a keystone for financing other things such as efficiency, weatherization and heating projects. He added that it could be part of the second phase for the program but that there may also be some time to spend on the website features while the PUC does their rulemaking.

**3) Update on status of HB 315, "Relative to the aggregation of electric customers"**

This item was tabled to the next meeting.

**4) Next Meeting: Friday, April 2, 2021 at 8:00 am**

Chair Hansel mentioned the upcoming meeting on April 2, 2021. He thanked the presenters and committee for their hard work and thanked everyone for attending the hearing.

**5) Adjourn**

Chair Hansel adjourned the meeting at 7:21 PM

Respectfully submitted by,  
Nicole Cullinane, Minute Taker

Reviewed and edited by Mari Brunner, Planner



City of Keene, N.H.  
*Transmittal Form*

April 13, 2021

**TO:** Mayor and Keene City Council

**FROM:** Patricia A. Little, City Clerk

**ITEM:** I.1.

**SUBJECT:** Relating to Designated Loading Zones

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**ATTACHMENTS:**

Description

Ordinance O-2021-03

**BACKGROUND:**

As recommended by the Municipal Services, Facilities and Infrastructure Committee. Ordinance O-2021-03 amends the City Code by creating a mobile vending space between the hours of 10:00 AM and 3:00 PM. Prior to 10:00 AM the space would continue to be used as a loading zone.



# CITY OF KEENE

Ordinance O-2021-03

In the Year of Our Lord Two Thousand and ..... Twenty-one .....

AN ORDINANCE ..... RELATING TO DESIGNATED LOADING ZONES .....

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

That the City Code of the City of Keene, New Hampshire, as amended is hereby further amended by adding the bolded italic text to the following provisions of Article III, "Parking". Division 2, Section 94-92 "Designated Loading Zones", as follows:

Railroad Street, south side, an indented parallel space 145 feet easterly from the curb line of Main Street ***from 6AM till 10AM Monday-Friday.***

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



City of Keene, N.H.  
*Transmittal Form*

April 13, 2021

**TO:** Mayor and Keene City Council

**FROM:** Tara Kessler, Senior Planner

**THROUGH:** Elizabeth A. Dragon, City Manager

**ITEM:** I.2.

**SUBJECT:** Relating to Chapter 46 Licenses and Permits

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**RECOMMENDATION:**

To refer O-2021-04 relating to Chapter 46 Licenses and Permits to the Planning, Licenses and Development Committee for a recommendation to City Council.

**ATTACHMENTS:**

**Description**

Ordinance O-2021-04

Council Action on April 1, 2021

Definitions of Congregate Living and Social Service Uses

**BACKGROUND:**

On April 1, 2021, the City Council voted unanimously to recommend that the City Manager introduce an ordinance proposing amendments to Chapter 46 “Licenses and Permits” of the City Code of Ordinances that relate to the establishment of a license requirement for Congregate Living and Social Services uses. Attached to this memorandum is this ordinance (O-2021-04) for a first reading before City Council.

Also attached is the Council Action on this recommendation, which includes background information on the purpose for this Ordinance that was presented at the PLD meeting on March 24.

As was discussed at this meeting, the proposed Land Development Code (O-2020-10A) introduces a category of uses called Congregate Living and Social Services Uses. Some of these uses would be required to obtain and annually maintain an operating license to be issued by a licensing board. The uses that would require such license include Drug Treatment Clinic, Group Home, Large, Group Home, Small, Fraternity/Sorority, Group Resource Center, Homeless Shelter, Lodginghouse, Residential Care Facility, Residential Drug/Alcohol Treatment Facility. Ordinance O-2021-04 proposes amendments to Chapter 46 that would establish this licensing board, as well as the application and review for a Congregate Living and Social Services Licenses. Attached is an excerpt of the proposed Land Development Code that includes the definitions and associated use standards for these uses.

It is proposed that this Ordinance, if adopted, would not take effect until September 1, 2021, which is the same timeframe proposed for ordinances O-2020-10A and O-2020-11A (related to the proposed Land Development Code and downtown zoning update) to take effect if adopted.



# CITY OF KEENE

Ordinance O-2021-04

Twenty One

In the Year of Our Lord Two Thousand and .....

AN ORDINANCE ..... Relating to Chapter 46 Licenses and Permits .....

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

That the Code of Ordinances of the City of Keene, New Hampshire, as amended, is hereby further amended as follows.

**I. Add the following section to Article V “Boards and Commissions” to Chapter 2 “Administration” of the City Code of Ordinances:**

“Division 24. - Congregative Living and Social Services Licensing Board.

Sec. 2-1111. - Membership.

The congregate living and social services licensing board shall consist of five regular members. At least three of the regular members shall be residents of Keene. One member shall be an administrative official of the City who need not be a resident of the City of Keene. In no instance shall City staff in a code enforcement or law enforcement role serve on this board. One member may be a member of the Planning Board.

Sec. 2-1112. - Terms.

Each regular member of the congregate living and social services licensing board shall be appointed for a term of three years. Except when required to fill vacancies, the terms of regular members shall be staggered so that no more than two appointments occur annually, and the terms of alternate members shall be staggered so that no more than one occurs annually. Vacancies in the board's membership occurring other than through the expiration of a term shall be filled for the remainder of the unexpired term. Regular members may serve up to three consecutive terms.

Sec. 2-1113. - Powers, duties and guidelines.

In accordance with applicable laws and this code, the congregate living and social services licensing board shall have the authority to do the following.

1. Make decisions on applications for congregate living and social services licenses in accordance with Chapter 46 Article X. “Congregative Living and Social Services License.”
2. Suspend, revoke, or make provisional previously approved congregate living and social services licenses in accordance with Section 46-567 of this Code.
3. Shall hear and decide motions to rehear decisions of the board, and to accept, hear and decide appeals to the board taken by any person aggrieved.

**II. Amend Chapter 46. Article I. “In General.” Section 46-1. “Definitions.” as follows:**

~~“Lodginghouse means any dwelling for more than four persons, which lets sleeping accommodations for a transient or permanent basis, without personal care services, with~~

~~or without meals, but without separate cooking facilities for individual occupants. For purposes of this article the term lodging house shall not include a hotel or motel.~~

**III. Amend Chapter 46. Article II. "Licensing Generally." Section 46-63. "Designated licensing officials." as follows:**

Lodging house	City council
<u>Congregate Living and Social Services</u>	<u>Congregate Living and Social Services Licensing Board</u>

**IV. Amend Appendix B. "Fee Schedule." of the City Code of Ordinances as follows:**

~~"§46-593. Lodginghouse license fee.....165.00~~ §46-569. Congregate Living and Social Services license fee.....\$165.00"

**V. Replace Chapter 46. Article X. "Lodginghouses" with the full text included below.**

**"ARTICLE X. CONGREGATE LIVING AND SOCIAL SERVICES LICENSE**

**Section 46-561. - Applicability.**

From and after the effective date of the ordinance from which this article derives no person shall allow or operate any of the following congregative living or social services uses as defined in Chapter 100, Article 8 of the City Code of Ordinances without first having obtained, and having maintained, a congregative living and social services license from the congregative living and social services licensing board (the licensing authority specified in Section 46-63 of this Chapter) for each property location.

1. Drug Treatment Clinic
2. Group Home, Large
3. Group Home, Small
4. Fraternity/Sorority
5. Group Resource Center
6. Homeless Shelter
7. Lodginghouse
8. Residential Care Facility
9. Residential Drug/Alcohol Treatment Facility

### **Section 46-562. - Application and License Renewal Requirements.**

In addition to the application requirements of Division 4 of Chapter 46 of the City Code of Ordinances, the following information shall be required of an applicant for a congregate living and social services license and may be used by the licensing board in evaluation of an application and annual renewal for such license.

1. Description of the property location including street address and tax map parcel number.
2. Description of the client population to be served, including a description of the services provided to the clients or residents of the facility and of any support or personal care services provided on- or off-site.
3. Description of the size and intensity of the facility, including information about: the number of occupants, including residents, clients, staff, visitors, etc.; maximum number of beds or persons that may be served by the facility; hours of operation; size and scale of buildings or structures on the site; and size of outdoor areas associated with the use.
4. For congregate living uses, the average length of stay for residents/occupants of the facility.
5. Name, phone number, and address of the property owner.
6. Name, phone number, and address of a person acting as the operator, if not the owner, who will serve as a point of 24-hour contact for the public and the City.
7. Evidence that all required licenses, permits or authority to operate have been obtained.
8. An operations and management plan, which shall be based on industry standard "Best Management Practices" and, at a minimum, shall address the following.
  - a. A security plan that includes provisions for onsite security including lighting, security cameras, and/or other measures appropriate to provide for adequate health and safety of clients and management.
  - b. A life safety plan that demonstrates compliance with the State Minimum Building Code and Fire Codes.
  - c. Staff training and procedures plan.
  - d. Health and safety plan.
  - e. An emergency response plan that establishes procedures for addressing emergency situations and for coordinating with local emergency service providers.
  - f. A neighborhood relations plan that includes provisions for communicating with adjacent property owners and the City of Keene, including the Keene Police Department.
  - g. Building and site maintenance procedures.
  - h. In addition to the materials listed above, homeless shelters shall be required to submit the following information as part of an operations and management plan.
    - i. Rules of conduct and registration system for guests, including procedures for screening registered sex offenders and for separating individual guests and families with children.
    - ii. Policies and procedures for denying access to the homeless shelter when at maximum capacity or the determination that a person is unsuited for the facility, and how the immediate sheltering needs of individuals who may be turned away from the shelter will be handled.

### **Section 46-563. - Public Hearing.**

Within 30-calendar days of receiving a complete congregate living and social services license application, as determined by the licensing board or their designee, the licensing board shall hold a public hearing on the application. Notice of the date, time and place of the public hearing will be posted in accordance with NH RSA 91-A:2(II).

### **Section 46-564. - Inspections.**

Prior to the issuance of an initial license, and prior to the renewal of an annual license, all appropriate City regulatory and enforcement officers shall make or cause to be made an inspection to determine if all applicable laws, ordinances, codes, permits, rules and regulations have been complied with.

### **Section 46-565. – Licensing Board Review Procedures.**

1. The licensing board shall consider the following criteria when evaluating whether to approve, renew, or deny a congregate living and social services license application.
  - a. The use is found to be in compliance with the submitted operations and management plan, including but not limited to compliance with all applicable building, fire, and life safety codes.
  - b. The use is of a character that does not produce noise, odors, glare, and/or vibration that adversely affects the surrounding area.
  - c. The use does not produce public safety or health concerns in connection with traffic, pedestrians, public infrastructure, and police or fire department actions.
2. The licensing board may require conditions on a license as reasonably necessary to insure compliance with the requirements of this article.
  - a. Failure of any licensee to comply with such conditions shall be considered a violation of the license.
  - b. Such conditions may include restrictions on the operation of the use (e.g. reduced hours of operation, limits on occupancy), and may include limits on the term of the license to a period less than 1-year.
3. The licensing board shall provide notice of its decision on the application in writing to the applicant. In the event that the application is denied, the licensing board shall provide a written statement to the applicant stating the specific reasons for the denial.

### **Section 46-566. – License Expiration and Renewal.**

Licenses issued under this article shall expire in the year following the initial issuance date on the date specified in the list below for the category of use specific to the license; unless, conditions placed on the license require an earlier timeframe for license expiration and renewal. No postponements of the expiration date shall be granted except for good cause shown and as determined by the licensing authority; provided that the license has been applied for prior to the annual expiration date.

1. Residential Care Facility – April 1
2. Residential Drug/Alcohol Treatment Facility – April 1
3. Drug Treatment Clinic – May 1
4. Group Resource Center – May 1
5. Group Home, Large – June 1
6. Group Home, Small – June 1
7. Homeless Shelter – October 1
8. Lodginghouse – November 1
9. Fraternity/Sorority – November 1

**Section 46-567. – Provisional License Status, Suspension or Revocation.**

1. The licensing board, following notice to the licensee and a public hearing, may place the license on provisional status, or suspend or revoke any license issued under this article after it has been issued, when any one or more of the following grounds are found to exist.
  - a. Fraud, misrepresentation, or false statement contained in the license application.
  - b. Fraud, misrepresentation, or false statement made in the course of carrying on the use for which the license is issued.
  - c. Substantial violations of the terms of Chapter 46.
  - d. Any substantial violation of applicable municipal building, zoning, health, police and fire rules, regulations, and ordinances, and applicable statutes, rules and regulations of the state.
  - e. Any violation of a restriction or condition placed on the license.
  - f. The licensee is determined to be routinely conducting the use in such a manner as to be a substantial or unreasonable nuisance to the public health, safety, or welfare.
  - g. Refusal to permit an inspection by a duly authorized City regulatory or enforcement officer while in the performance of their duties in making such inspections required by this article.
  
2. Unless the circumstances otherwise justify, the licensing board shall hold a public hearing at the earliest possible date upon a credible allegation submitted in writing that a licensee is not in compliance with the terms of the license or that one or more of the grounds noted in Section 46-567(1) is found to exist.
  - a. Notice to the licensee of the public hearing shall be sufficient if sent by certified mail to the property owner and operator of the facility at the addresses listed on the license application form at least 10 calendar days prior to the public hearing. Such notice shall specify the time and place of the public hearing and shall state the specific purpose of the hearing.
  - b. The licensing board may act in any of the following ways.
    - i. Place the license on provisional status for a definite period of not more than 180-days, as determined by the licensing board. Under a provisional license, the licensee may continue to operate the use under certain conditions as determined by the board, and shall demonstrate that they have either met the conditions and/or have been found by the applicable regulatory or enforcement authority and by the licensing board to be in compliance with the terms of their license and any applicable regulations prior to the expiration of their provisional license status, failing which the licensing board may either suspend or revoke the license.
    - ii. Suspend the license for a definite period, not to exceed 1-year, as determined by the licensing board. Under suspension, the licensee may not operate the use and will not be able to resume operation of the use until any conditions as determined by the board are met and/or the licensee has been found by the applicable regulatory or enforcement authorities and by the licensing board to be in compliance with the terms of their license and any applicable regulations.
    - iii. Revoke the license. Under revocation, the licensee may no longer operate the use. A license that has been revoked shall not be subject to renewal or restoration except that an application for a new license may be presented and acted upon in accordance with this article.
  - c. In making a determination of whether to place a license on provisional status, or to suspend or revoke a license, the licensing board shall consider all of the following factors.
    - i. The circumstances leading to the violation and the owner/operator's history of violations.

- ii. The extent of deviation from the terms and conditions of the issued license and the licensee's approved operation and management plan.
  - iii. The severity of the violation on public health, safety and welfare, including the degree of impact to the clients of the use and/or the surrounding neighborhood or area.
  - iv. The duration and frequency of the violation, and the owner and operator's efforts to comply with the licensing requirements.
3. Following a decision of the licensing board on the license, the licensee shall be notified of the licensing board's decision. Such notice shall state the specific basis for decision, the necessary corrective action to be taken (if applicable), and the effective dates of the provisional license status, suspension or revocation.
4. A congregate living and social services license may be suspended immediately if the licensing authority determines that immediate harm will otherwise occur and the suspension is required to protect public health, safety and welfare.

#### **Section 46-568. Appeal.**

1. Motion for Rehearing. For the purposes of this article, any person aggrieved by the decision of the licensing board shall first file a motion for a rehearing to the board within 30 calendar days after the date of the licensing board decision. For purposes of this section, "person aggrieved" includes any license applicant, or any person or entity directly affected by the licensing board decision.
  - a. The motion for rehearing shall fully set forth every ground upon which it is claimed that the decision rendered is unlawful or unreasonable. No ground not set forth in the motion for rehearing shall be urged, relied on, or given any consideration by the City Council on an appeal to the City Council, unless the City Council for specific good cause shown, shall allow the moving person aggrieved to specify additional grounds.
  - b. The licensing board shall deliberate the motion for rehearing within 30 calendar days of the date of the filing of the motion.
  - c. If the licensing board grants a motion for rehearing, the new public hearing shall be held within 30 calendar days of the decision to grant the rehearing and be subject to the procedures as stated in this article.
  - d. If a motion for rehearing is denied by the licensing board, the person aggrieved may appeal to the City Council within 30 calendar days after the date upon which the licensing board voted to deny the motion for rehearing.
    - i. The person aggrieved shall fully set forth in the appeal every ground which the person claimed to the licensing board in the motion for rehearing that the board's decision was unlawful or unreasonable. The appeal shall be filed with the Office of the City Clerk, with a copy of the appeal provided by the person aggrieved to the licensing board.
    - ii. The licensing board shall transfer to the City Clerk the complete record of the proceedings held before the licensing board. The City Clerk shall place the appeal on the City Council agenda, and transmit the record of the licensing board to the City Council.
2. Appeal to City Council. For the purposes of this article, any appeal of a final decision of the licensing board to occur before the City Council shall be in accordance with the process described below.

- a. The City Council shall hold a hearing on the appeal within 30 calendar days of the receipt of the appeal by the City Clerk, unless extended by the City Council for good cause shown.
- b. The burden of proof shall be upon the person aggrieved. All findings of the licensing board upon all questions of fact properly before the City Council shall be considered lawful and reasonable by the City Council. The decision appealed from shall not be denied, modified or vacated by the City Council, except for errors of law, unless the City Council is persuaded that the decision is otherwise unreasonable.
- c. The City Council shall allow the person aggrieved or the person's representative, to present the appeal before the City Council; provided, however, that the City Council shall decide the matter based on the record before it.
- d. The filing of an appeal shall not stay any enforcement proceedings upon the decision appealed from, and shall not have the effect of suspending the decision of the licensing board.
- e. The City Council may deny the appeal and affirm the decision of the licensing board; or vacate the decision complained of in whole or in part and remand the matter to the licensing board for further consideration with a written decision stating the specific basis for the remand. The decision of the City Council shall be final.

**Section 46-569. Transferability.**

Licenses issued pursuant to this article shall not be transferable or assignable without the prior approval of the licensing board.

**Section 46-570. Enforcement.**

For the purposes of this article, where compliance with zoning, building, plumbing, electrical and housing codes may be concerned, the enforcement officer shall be the Building and Health Official, and where fire and life safety codes may be concerned, the enforcement officer shall be the Fire Chief.

**Section 46-571. Penalties.**

Any person who operates a congregate living or social services use listed in Section 46-561 of this article without having first obtained a congregate living and social services license in accordance with this article, or who operates such a use without a valid license, shall be subject to a violation in accordance with City Code, Section 1-15 and subject to a fine of \$250.00 for each day that the violation continues.

**Section 46-572. Fee.**

The fee for each congregate living and social services license application shall be as set forth in the schedule of fees in Appendix B of the City Code of Ordinances.

**Secs. 46-573 - 46-620. - Reserved."**

Effective Date of this Ordinance: September 1, 2021

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George Hansel, Mayor



City of Keene, N.H.  
*Transmittal Form*

March 24, 2021

**TO:** Mayor and Keene City Council  
**FROM:** Planning, Licenses and Development Committee  
**ITEM:** D.6.

**SUBJECT:** Relating to Proposed Congregate Living and Social Service License – Senior Planner

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**COUNCIL ACTION:**

In City Council April 1, 2021.  
Voted unanimously to carry out the intent of the report.

**RECOMMENDATION:**

On a roll call vote of 5 – 0, the Planning, Licenses and Development Committee recommends that the City Manager introduce an ordinance to City Council related to amendments to Chapter 46 of City Code, and the establishment of a Congregate Living and Social Service License.

**BACKGROUND:**

Chair Bosley asked to hear from Tara Kessler, Senior Planner.

Ms. Kessler stated that she is joined tonight by Med Kopczynski, Economic Development Director, and Rhett Lamb, Community Development Director. She continued that this is a continuation of a conversation that was started at the Joint Planning Board/Planning, Licenses, and Development Committee's public workshop phase for the proposed Land Development Code. At that time, staff recommended that this proposed Congregate Living and Social Service License be separated from the proposed Land Development Code Ordinance, which was leaving the public workshop phase, for two reasons. One reason is staff had identified some concerns about the existing appeal process in Chapter 46 of the City Code, which is focused on licenses and permits. In addition, they also recognized that the amendments being made related to Congregate Living and Social Services Licenses were specific to Chapter 46, which is not proposed to be merged into the Land Development Code. It would remain its own chapter of the City Code, so they thought it was appropriate to separate the two, at least from an Ordinance standpoint. Tonight she will give an overview of some of what staff has been working on to update the language and the framework for this proposed license that they had started discussing with the PLD Committee through the Joint Committee public workshop phase. Ultimately, what they are looking for is feedback from the PLD Committee on this proposed framework and then some guidance/direction to submit an Ordinance to the City Council that would formalize these proposed amendments to Chapter 46 for a license.

Ms. Kessler stated that a handout was included in the agenda packet that has a lot in it, so she will not go through all of it, but it would be helpful to walk through some of the components of it. As a reminder, a number of the uses they are talking about are proposed uses to the City's Zoning Code, new uses that would be permitted if the Land Development Code were adopted. They include drug treatment clinic, fraternity and sorority, group home (either large or small), group resource center, homeless shelter, lodging house, residential care facility, and residential drug and alcohol treatment facility. They do have lodging house and group home as

existing uses that occur today and lodging houses require an annual license through Chapter 46. With the proposed Land Development Code there are amendments proposed to the definitions of those uses and also the standards for which those uses would be allowed. Tonight's discussion is focused on an operating license. So for these uses, at least as proposed in the Land Development Code, any new uses would first require a Conditional Use Permit issued by the Planning Board to operate as a use. That would have its own review process and criteria. This license would be something that a business or entity that operates any of those uses would need to obtain, in an initial instance to operate the use, but also to renew each year thereafter. It is focused more on how that business and entity operates and functions, and not so much related to the ability of that use to operate on the site as granted by the Planning Board through a Conditional Use Permit. This license would apply to existing uses that operate today but might fall under a different category of Zoning Use in the Code, because these nine uses are not in existence today; but it would also apply to any future or new uses that would be proposed if the Land Development Code is adopted.

Ms. Kessler continued that if the Land Development Code is adopted, the City recognizes that there are a number of existing businesses that might fall into one of those use categories, and they would propose that those existing businesses be given at least a year of time to obtain a license, and then each year thereafter they would have to renew that license. Any new businesses that were to be proposed and fall within one of those categories of uses after the Land Development Code takes effect, if it is adopted, would need to obtain a license in order to operate their use. Existing businesses would have a grace period to pull together a license application and come before the City and new businesses would have to obtain their license in order to begin operation immediately.

She continued that staff is also proposing that there be a schedule in place for when licenses would need to be renewed each year. If you obtained an initial license in May for a group home, you would not have to renew that license until June of the next year if June is the date that they propose to be the schedule for all group home licenses to be renewed.

Ms. Kessler stated that regarding the question of who issues the license, this question is what staff raised initially as a concern with the existing language in Chapter 46. Currently there are three categories of licenses that are reviewed and approved by the City Council. Those include the lodging house license, street fair licenses, and community events. The issue staff raised is that the current appeal process for the City Council decisions on these licenses is to the City Manager, City Clerk, and Police Chief. There is a conflict there in that the City Clerk and City Manager are Charter Officers and employees of the City Council, so staff wanted to create a fairer and more straightforward process for these licenses, which they expect to be higher in volume than what you typically see for lodging houses and street fairs and community events. They are proposing the creation of a Licensing Board that would be a public body, with members (potentially five) appointed by the City Council. The appeal entity to that board would be the City Council. Because of that, they are recommending that City Councilors not be part of the composition of the Licensing Board, nor staff that are in enforcement roles, such as Police, Fire, or Code, in that they may have a role in testifying on behalf of an application or providing a recommendation on an application. Staff thinks there should be some parameters for who could be a member of the Licensing Board and who would be qualified. Some thoughts around that are a certain number of citizens from the community, potentially a staff member from a non-enforcement role, or a member of the Planning Board. The Licensing Board meetings would be open to the public. All license applications would go to the board to be acted on either for their initial application or renewal, or any need to hold public hearings to address potential violations or questions about suspension or revocation of licenses. The Licensing Board would have a few options for how they would side on an application. Staff's goal was to try and provide more structure than there is today in Chapter 46, for this Licensing Board to have an understanding of how they act on these applications and what the criteria and parameters are for action on applications.

Ms. Kessler stated that regarding the process, in the first instance, if an entity that falls into one of those use categories and needs to either obtain an initial license or if they are seeking to renew a license, they would submit

an application to the Community Development Department, and staff would review the materials and ensure that everything that is required for an application is present and that the application is complete. They would then send the application to other City departments for review. For instance, the Fire, Police, and Code Departments would review what types of inspections have been conducted on that property in the past year, and any known violations that are attributed to that property related to Police violations or Life Safety violations. Staff would prepare a report with a recommendation to the Licensing Board for their public hearing on the application. They have, staff is proposing, 30 days from the receipt of a complete application to when this Licensing Board would have to hold a public hearing. That public hearing would give an opportunity to members of the public to speak, although it is important to note that staff is not proposing that abutters be notified in advance or that a legal notice be posted for these meetings. They do want to make sure there is an opportunity built into that meeting for public testimony.

Ms. Kessler continued that the Licensing Board would have a few options for how they might act on an application, at least with reviewing an initial or renewal application. They could either approve, approve with conditions, deny, or continue a license hearing to another meeting. The appeal process staff is proposing would be that any party that is aggrieved, whether it is the license applicant or somebody else who might be affected by the decision of the Licensing Board, could appeal the decision to the City Council within 30 days. That is the basic outline.

She continued that she just addressed the process for an initial license application and the renewal license application. If at any point during the course of a year between when the license is issued or renewed it is brought to the attention of the Licensing Board that there are significant violations happening with respect to the terms of the license, or if there are any grounds for suspension or revocation, then the Licensing Board could hold a public hearing and review the violations that have been brought forth. Staff is proposing some criteria or guidance for that board and how they might act on a hearing related to violations. Those options would include either placing the applicant on a provisional license, which would give them the opportunity to continue to operate their use except under certain conditions, and that could license be for a shorter timeframe than the issuance of an annual license. For instance, if somebody was in violation of their management plan, which is a requirement of the application, the Licensing Board could say they will give the entity a month to show that they are getting back in compliance with their management plan and they can continue to operate but under certain conditions. Then the entity would have to come back to the Licensing Board and demonstrate that they met those conditions and that they are back in compliance. The other options would be, depending on the severity and/or frequency of the violation, the Licensing Board could choose to suspend the license for a period not to exceed a year, or they could revoke the license, which would be cessation of the use and the owner would no longer be able to operate, but that would be an extreme circumstance.

Finally, Ms. Kessler continued, there is the criteria the Licensing Board would use to make decisions or evaluate applications. When reviewing initial applications and applications for renewal of licenses, the Licensing Board would be looking to see whether the use is in compliance with their submitted operations management plan as well as in compliance with all local, State, and Federal codes and regulations, especially those related to building, fire, and life safety. That operations and management plan requires a fair amount of information, including security plan, life safety plan, staff training and procedures plan, health and safety plan, emergency response plan, neighborhood relations plan, and building and site maintenance procedures. Thus, the applicant would be including that plan in their application and then the Licensing Board would be evaluating or holding them to the plan that they have submitted, including all of those elements just mentioned.

Other factors they would use when reviewing and acting on a license application would be to make sure the character of the use does not produce noise, odors, glare, and/or vibration that adversely affects the surrounding area and that the use does not produce public health or safety concerns in connection with traffic, pedestrians, public infrastructure, and Police or Fire Department actions. The Licensing Board could issue conditions on the license at any point, even if it is an annual license or renewal license, but they should be related to the operation of the use.

Ms. Kessler continued that there are two other sets of criteria that staff put forth. None of this is actually included in the lodging house license process today, so they are trying to get this guidance but also clear criteria that could be used for both the Licensing Board and for the applicants to know what decisions on licenses are being held against. There is a proposed list for grounds for suspension or revocation or placing a license on a provisional status. This list of criteria would be used to determine what would cause a license holder to be brought before the Licensing Board to determine whether or not their license should be suspended, revoked, or placed on a conditional or provisional status. Those include: fraud, misrepresentation or false statements contained in the application for the license or in the carrying out of the use for which the license is issued, substantial violations of Chapter 46, substantial violation of local Codes and safety regulations, any violation of a restriction or condition placed on the license, or if the licensee is determined to be routinely conducting the use in a manner that is a substantial or unreasonable nuisance to the public health, safety, or welfare, or refusal to permit an inspection or any interference with an authorized City Enforcement Officer performing inspections required by Chapter 46.

Finally, Ms. Kessler noted that staff heard from Councilors and Planning Board members in the Joint Committee process concerns that there was not clear enough or objective enough set of criteria for the Licensing Board to use in making a determination as to whether to suspend, revoke, or place on probationary status. It is really difficult to try and create a clear, set threshold for which a license would be suspended or revoked, because this applies to so many different types of uses and each use and its operation will be unique. The types of violations may vary and may have varying degrees of impact, thus, staff feels like if they could give the Licensing Board some parameters to weigh decisions versus giving them set thresholds, it might be a preferred process for trying to address so many different types of situations. In the Licensing Board's effort or role of trying to determine whether to place a licensee on a provisional license, suspend, or revoke a license, these are the factors that they would be considering: the circumstances leading to the violation; the owner or operator's history of violations; the extent of deviation from the terms and conditions of the license and from the licensee's approved operation and management plan; the severity of the violation, including the degree of impact to the clients and/or surrounding area; the duration and frequency of the violation; and the owner/operator's efforts to comply with the licensing requirements.

Ms. Kessler stated that she will be happy to answer questions. She continued that staff is looking for guidance. Their next step would be to draft this Ordinance and have it introduced to City Council on April 15, to ideally have it come back to the PLD Committee on April 21. Ultimately, if this is moving forward it would need to be voted on at the same time as the proposed Land Development Code, because they do go together. The Land Development Code establishes these uses, and notes that these uses need to obtain a license in order to operate. She asked if Mr. Lamb or Mr. Kopczyński had anything to add.

Mr. Kopczyński stated that he thinks that is a good synopsis for right now. He continued that he is interested in feedback from the members of the public or the PLD Committee. It is a little difficult to provide bright line standards; as Ms. Kessler said, there are so many different variables.

Mr. Lamb reminded the committee that this was part of the strategy from the beginning, as they took on this difficult task of identifying and creating processes to improve congregate living and social service uses. The community really wants to make sure that we do not let these uses impose on quality of life in neighborhoods and one way to do that is this license process, because it provides for this continuing, ongoing review.

Chair Bosley asked if there were any questions from the committee. She continued that that was a lot of information to absorb, but they have been talking about this at length at the Joint Committee meetings.

Councilor Jones asked if it is correct that many of these licenses are uses under many of the new Zones under conditional use. Ms. Kessler replied yes, all of the nine uses that she just talked about, in the proposed Code, would only be allowed first by a Conditional Use Permit issued by the Planning Board. That is, any *new* uses

in those categories. Councilor Jones asked: if these licenses were approved by the Licensing Board, do you still have to go through the Conditional Use Permit as in Article 13.5 of the Land Use Code? Ms. Kessler replied yes, that would come first. In the first instance, that Conditional Use Permit, if granted, would give the owner of that use the ability to operate that use. It is similar to if a use was allowed in Zoning by Special Exception, it would need to go to the Zoning Board of Adjustment for approval before it can establish the use. In this instance they would need to go before the Planning Board to get approval before they could establish the use.

Councilor Jones asked why go to the Planning Board first; why not do the license first? Mr. Lamb replied primarily because Zoning establishes the use pattern and the evaluation of the Conditional Use Permit really is this assessment of whether or not the use is compatible with the neighborhood and the Zoning surrounding the neighborhoods, whereas the license gets closer to the operation of each individual business associated with a use that is subject to a Conditional Use Permit.

Councilor Jones replied that it could happen where the Zoning is approved but the license is denied, but it cannot happen vice versa. Chair Bosley replied that in an initial case she does not think that would be a real potential. She continued that they would have criteria to meet with the Licensing Board, to get their initial license, and then at the review process there could be potential for ramifications for violations for some part of their originally license. Councilor Jones asked if she is saying the Planning Board would go first. Chair Bosley replied yes, they would receive the Conditional Use Permit through the Planning Board to operate the use on the site, and then they would need to submit an application for an operating license to the Licensing Board, which would initially be approved with the understanding that they have submitted safety and management plans to the Licensing Board. After a year of operation, it would be reviewed, just like with a City Council license that was granted, and the license could have conditions placed on it by the Licensing Board. The original license would have been given with information about what the expectations would be. Then in the year following, you would have the Code, Fire, and everyone submitting any reviews that needed to happen, and an opportunity for the public to speak again; it would be very similar to the City Council process now.

Councilor Jones replied that he understands all of that. He continued that the part he wants to ask about is: if the Planning Board denies the Conditional Use Permit, that negates any reason to apply for a license? Chair Bosley and Mr. Lamb replied correct. Chair Bosley added that the Conditional Use Permit applies to the land, not the business, so that Conditional Use Permit, once approved, could transition to other entities that wanted to operate on that lot. Councilor Jones stated that he just wanted to know what the process would be if one was approved and the other was denied.

Chair Bosley stated that the other thing she wants to point out is these licenses are relative to the proposed Land Development Code but this would also transfer the other licenses that are before the PLD Committee and City Council, through this Licensing Board, such as sidewalk cafes, outdoor events; all of those licenses would go through this new Licensing Board and the PLD Committee would then be the appeal board. Councilor Jones replied that he understands that part.

Chair Bosley asked if there were more questions or comments from the committee. Hearing none, she stated that she would like to make a couple comments herself. She thinks the majority of the Licensing Board members should be members of the public/Keene and maybe a representative from staff if that is reasonable, but having the voice of the community involved in this process is really important. She continued that she also looked at the calendar. As a committee member who has been to a lot of meetings, she sees that there are only six months of scheduled meetings. She suggests a shift in those dates to the winter months instead of the summer months, because she thinks people would be more willing to meet in the winter instead of giving up their summer evenings to talk about licenses.

Chair Bosley asked for public comment.

Tom Savastanos stated that he reviewed this licensing language pretty closely and he feels a lot of care has gone into it, which he appreciates. He continued that he had a couple questions. He thinks his comments apply to group homes in general, because that is mostly what he has been following, though obviously it carries over into the other uses as well. There can be well-run group homes that are also good neighbors, and there could be poorly-run group homes that are not good neighbors and not good for the residents served or the city at large, and not good for well-run group homes, because they give them a bad name. He believes, partially from his social services background, that group homes can be good neighbors. One of his questions, as he reviewed the language, is: there is an ‘operations and management plan’ which includes a ‘neighborhood relations plan.’ He wonders if that could be fleshed out more. What would be an example of a neighborhood relations plan, or what should that include? He thinks that people in the neighborhoods of group homes can sort of be the first backstop in seeing issues that are arising in poorly-run group homes. Also, in terms of the definition of “group home,” both for large and small, it says “*unrelated natural persons who are in need of personal care services and/or are in need of supervision, and that may include non-medical drug and alcohol rehabilitation.*” He would say that regarding people undergoing drug or alcohol rehabilitation in a group home, that group home could be well-run or poorly-run. Does that definition imply in-house supervision? That is his concern. That also ties into this whole thing about licensing. It is there in the language, “*in need of supervision,*” but he does not know if that is of a nature that is residential supervision, ongoing, or something else. It would help with the licensing process if there is good supervision. That tends to be a well-run group home.

Chair Bosley asked if members of the public had any further questions. Hearing none, she stated that she will go back to the committee then, because they need to give some direction on this. Do they feel comfortable with how this was presented to move forward and asking that the City Manager introduce an Ordinance? Or are there other changes or clarifications that need to be made? Hearing no response, she stated that it seems like the committee is comfortable with the language as it was submitted to them.

Councilor Greenwald stated that he liked Chair Bosley’s comment about the dates. He asked, does the Ordinance need a change to have those dates reflected? Mr. Lamb replied that it is actually something that the City Clerk has been incorporating into Chapter 46 already under some circumstances, so they are trying to spread out the licensing process so it fits people’s schedules. Yes, they can make that change.

Mr. Savastanos asked if the neighborhood relations plan is something that Mr. Lamb, Ms. Kessler, or Mr. Kopezynski could give any input about. What is included in that?

Ms. Kessler replied that in the Land Development Code itself they provide a bit more detail, but it is still open-ended. She continued that the neighborhood relations plan is intended to establish provisions for how the operator of the use would be communicating with adjacent property owners and the City, including the Police Department or any other entities that might be important. Each plan might look a little different depending on what the use is. A group resource center might have a very different neighborhood relations plan than that of a homeless shelter, but it is intended to establish those guidelines for how the operator of the use intends to commit to communications with its abutting property owners, the neighborhood, and the City, Police Department, and other emergency services that might be needed or connected to the operation of that use. The Licensing Board would be evaluating that as part of the operations management plan and the public would also have an opportunity to comment on that when a license is being applied for before that board.

Chair Bosley stated that it is great that staff has taken all of the feedback they were given during the Joint Committee meetings and really crafted a lot of language here that helps the neighbors feel that there is some avenue for them to have a voice, and to have some protections, and for people who are applying for these licenses to have some protections as well, knowing that there is a review process and they know what expectations are going to be asked of them from the beginning. Both sides of that are important.

Councilor Jones stated that usually the City’s Ordinances take effect at the time they are passed, unless they have a take effect date built in. He asked if they want to have a take effect date that coincides with the Land Development Code so they come about together, or if they want this Ordinance to happen before then. Ms.

Kessler replied that they would need to go together, so a take effect date would be written into both the Ordinance related to the license and the Ordinance related to the Land Development Code and it would be the same take effect date. Councilor Jones replied that is what he thought. Chair Bosley stated that they will continue to hear license applications here until that date. That will give time to find people to serve on the board.

Mr. Kopczynski stated that on the Ordinances themselves, he thinks they are going to put together kind of a score card, because there are several of them that are in motion that have to come together at the same time.

Councilor Greenwald made the following motion, which was seconded by Councilor Jones.

On a vote of 5 – 0, the Planning, Licenses and Development Committee recommends that the City Manager introduce an ordinance to City Council related to amendments to Chapter 46 of City Code, and the establishment of a Congregate Living and Social Service License.

## F. Senior Center

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

### 8.3.4 Congregate Living & Social Services Uses

#### A. Domestic Violence Shelter

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

and operation of the facility shall not alter the residential character of the structure.

#### B. Drug Treatment Clinic

1. **Defined.** A non-residential facility authorized by the state to provide treatment and licensed drugs to natural persons, including, but not limited to, methadone or suboxone, to manage and treat drug dependencies.
2. **Use Standards**
  - a. No drug treatment clinic shall be constructed or operate without first having obtained a congregate living and social services conditional use permit from the Planning Board in accordance with **Article 15.**
  - b. Annually, a drug treatment clinic shall obtain a congregate living and social service licenses from the City Council as set forth in Chapter 46 of the City Code of Ordinances.
  - c. Security lighting is required and shall be adequate to deter or detect intrusions or other criminal activity during non-daylight hours.
  - d. If this use is located directly adjacent to a residential zoning district there shall be a building setback of 50-ft from the property line(s) directly abutting such district, unless an alternative solution is approved by the Planning Board as part of a site plan.

#### C. Fraternity/Sorority

1. **Defined.** A place of residence, with or without meals, for natural persons that are all members of or pledged to a local or national fraternity or sorority.
2. **Use Standards**
  - a. No fraternity/sorority shall be constructed or operate without first having obtained a congregate living and social services conditional use

permit from the Planning Board in accordance with **Article 15.**

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

#### D. Food Pantry

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

#### E. Group Home, Large

1. **Defined.** A facility providing living accommodations and care for up to 16 unrelated natural persons who are in need of personal care services and/or are in need of supervision. Group home may include non-medical drug and alcohol rehabilitation. A group home with 4 or fewer residents would be classified as a single-family dwelling.
2. **Use Standards**
  - a. Only 1 large group home shall be permitted per lot.
  - b. No large group home shall be constructed or operate without first having obtained a congregate living and social services conditional use permit from the Planning Board in accordance with **Article 15.**
  - c. Annually, a large group home shall obtain a congregate living and social service licenses from the City Council as set forth in Chapter 46 of the City Code of Ordinances.
  - d. If located within a residential zoning district, large group homes shall maintain the appearance of a residential structure and the design and operation of the facility shall not

alter the residential character of the structure.

#### F. Group Home, Small

1. **Defined.** A facility in a residential dwelling, providing living accommodations and care for no more than 8 unrelated natural persons who are in need of personal care services and/or are in need of supervision. Small group home may include non-medical drug and alcohol rehabilitation. A group home with 4 or fewer residents would be classified as a single-family dwelling.
2. **Use Standards**
  - a. Only 1 small group home shall be permitted per lot.
  - b. No small group home shall be constructed or operate without first having obtained a congregate living and social service conditional use permit from the Planning Board in accordance with **Article 15.**
  - c. Annually, a small group home shall obtain a congregate living and social services license from the City Council as set forth in Chapter 46 of the City Code of Ordinances.
  - d. Small group homes shall maintain the appearance of a residential structure, and the design and operation of the facility shall not alter the residential character of the structure.

#### G. Group Resource Center

1. **Defined.** An establishment designed with the primary purpose of providing access to services related to counseling, personal care, or social well-being in a group setting. It does not include in-patient, overnight services, or treatments typically conducted in a medical office.
2. **Use Standards**
  - a. No group resource center shall be constructed or operate without first having obtained a congregate living

and social services conditional use permit from the Planning Board in accordance with **Article 15.**

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

## H. Homeless Shelter

1. **Defined.** A facility that provides temporary shelter without a required fee to natural persons who are homeless. The facility shall be managed by a public or non-profit agency with in-house supervision provided during operation.
2. **Use Standards**
  - a. Proximity to other uses.
    - i. Any new homeless shelter use shall not be located within 750-ft (measured at the property line) of any pre-existing homeless shelter use.
    - ii. Any new homeless shelter shall not be located within 500-ft (measured at the property line) of a any pre-existing public or private school, or child day care center.
    - iii. Homeless shelters with more than 16-occupants shall not be located directly adjacent to a residential zoning district.
  - b. No homeless shelter shall be constructed or operate without first having obtained a congregate living and social services conditional use permit from the Planning Board in accordance with **Article 15.**
  - c. Annually, a homeless shelter shall obtain and maintain a congregate living and social services license from the City Council as set forth in Chapter 46 of the City Code of Ordinances.

- d. All outdoor activity areas on-site shall be screened from public view and from the view of adjacent properties with a minimum 6-ft high solid fence.
- e. The facility shall provide indoor and/or outdoor waiting areas of a sufficient size to accommodate demand and to prevent queueing on the public right-of-way. Such waiting areas shall be screened from view.

## I. Lodginghouse

1. **Defined.** Any dwelling for between 5 and 16 unrelated natural persons, which provides separate rooms for sleeping for a fee, without personal care services and without separate cooking facilities for individual occupants. A lodginghouse may include separate living quarters for an on-site property manager. For purposes of this LDC, the term lodginghouse shall not include a hotel or motel.
2. **Use Standards**
  - a. Only 1 lodginghouse shall be permitted per lot, and no other residential uses shall be permitted on the same lot as a lodginghouse.
  - b. No lodginghouse shall be constructed or operate without first having obtained a congregate living and social services conditional use permit from the Planning Board in accordance with Article 15.
  - c. Annually, a lodginghouse shall obtain a congregate living and social services license from the City Council as set forth in Chapter 46 of the City Code of Ordinances.
  - d. If located within a residential zoning district, lodginghouses shall maintain the appearance of a residential structure, and the design and operation of the facility shall not alter the residential character of the structure.

## J. Residential Care Facility

1. **Defined.** A licensed facility that provides 24-hour medical and/or non-medical care to natural persons in need of personal care services, supervision, or assistance essential for sustaining the activities of daily living, or for the protection of the individual. A residential care facility may include nursing care, assisted living, hospice care, and continuum of care facilities. Residential care facility does not include a residential drug/alcohol treatment facility.
2. **Use Standards**
  - a. No residential care facility shall be constructed or operate without first having obtained a congregate living and social services conditional use permit from the Planning Board in accordance with **Article 15.**
  - b. Annually, a residential care facility shall obtain a congregate living and social services license from the City Council as set forth in Chapter 46 of the City Code of Ordinances.
  - c. If located within a residential zoning district, residential care facilities shall maintain the appearance of a residential structure, and the design and operation of the facility shall not alter the residential character of the structure.

## K. Residential Drug/Alcohol Treatment Facility

1. **Defined.** A licensed facility that provides 24-hour in house supervision for medical and/or non-medical/therapeutic care of natural persons seeking rehabilitation from a drug and/or alcohol addiction. Such facilities may include medical detoxification.
2. **Use Standards**
  - a. No residential drug/alcohol treatment facility shall be constructed or operate without first having obtained a congregate living and social services conditional use permit from the

Planning Board in accordance with **Article 15.**

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

## 8.3.5 Industrial Uses

### A. Artisanal Production

1. **Defined.** The on-site production of hand-fabricated or hand-manufactured artisanal, custom or craft goods (e.g. small-scale metalworking, glassblowing, and furniture making, etc.). Showrooms and the ancillary sales of goods produced on-site are permitted. Artisanal production does not include micro-breweries, micro-distilleries, and micro-wineries.
2. **Use Standards**
  - a. Outside storage is prohibited, unless located in the Industrial District.
  - b. All manufacturing or production activities shall be conducted entirely within a building sufficiently insulated to confine noise, flashing, fumes and odors to the premises, unless located in the Industrial District.

### B. Bulk Storage and Distribution of Goods

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



City of Keene, N.H.  
*Transmittal Form*

April 7, 2021

**TO:** Mayor and Keene City Council  
**FROM:** Municipal Services, Facilities & Infrastructure Committee  
**ITEM:** J.1.  
**SUBJECT:** Relating to Sewer Service and Industrial Pretreatment

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**RECOMMENDATION:**

On a roll call vote of 5-0, for the Municipal Services, Facilities & Infrastructure Committee recommends the adoption of Ordinance O-2021-02.

**ATTACHMENTS:**

Description

Ordinance O-2021-02

**BACKGROUND:**

Councilor Manwaring asked to hear from the Public Works Department staff.

Kürt Blomquist, Public Works Director, stated that tonight he and Eric Swope will talk about the Sewer Use Ordinance. He continued that this was forwarded to the City Council last week for a first reading. This has been a long time coming. He turned it over to Mr. Swope.

Eric Swope, Industrial Pre-Treatment Coordinator who works at the Waste Water Treatment Plant Laboratory, gave a PowerPoint presentation. He stated that he is here to talk about proposed changes to the Sewer Use Ordinance (SUO) section of the City Code. He continued that within that is a subset of changes they are proposing to make for local industrial discharge limits, referred to as “local limits” from here on out.

Mr. Swope stated that to give a brief background of why this is important, he runs the Industrial Pre-Treatment program for the City, of which there are several main objectives. One is to protect the City’s collection system. He showed a picture from Louisville, Kentucky in 1981 when a business discharged a lot of hexane into the sewer system. A car drove by with a muffler dragging, which caused a spark, and it exploded two miles of the main city line and a total of 13 miles of city sewer. It took about two years to repair. He showed a picture of one of London’s “fatbergs” from a couple years ago, which was about 800 feet long and weighed about 130 tons. It is food grade fats, oils, and grease, and other things combined with it, causing a blockage in the sewer. He showed what a smaller fat blockage looks like and explained the hole was created by the auger going through and trying to clear the line. Once a line gets plugged with grease, any other solids in the line also contribute to the blockage, and when that happens, one of the possible outcomes is a sewer overflow from a manhole. These are some of the things City staff is concerned about getting into the sewer and some of the reasons they need to make sure they protect the City’s collection system. They also need to make sure to protect their workers and public health. Sometimes workers have to go down into confined spaces. They want to make sure there are not particularly toxic or explosive atmospheres waiting to meet them.

Mr. Swope continued that they also need to protect the Wastewater Treatment Plant (WWTP). He showed a picture from a few years ago when they were doing a large upgrade. He pointed out the aeration basin, which is packed full of zillions of micro-organisms that are doing important work of breaking down pollutants. Some things that get into the sewer system have the potential to be toxic to those micro-organisms. They want to make sure they do not shock the system and are able to continue treating wastewater as needed. Also, they need to protect the environment. The WWTP outfall goes into the Ashuelot River. He showed a picture of the outfall, stating that there are two and a half to three million gallons a day of wastewater, and they need to make sure it is clean enough that when it goes to the river it meets the permit limits and will not negatively impact the river. The way that they do all this is through the SUO. That is how all of this is regulated.

Mr. Swope stated that to give some history of the changes to the SUO, in about 2008 they were already in the process of revising it, for the sake of clarity. They wanted to make it easier for people to understand. It also seemed a little outdated. Around the same time, the Environmental Protection Agency (EPA) told the City they needed to make some additional changes in order to be in line with new EPA rules. The NH Department of Environmental Services (NHDES) also had some new rules that the City had to make some changes to align with. The City brought in Teton Environmental, which had a lot of experience with this work. The City presented the proposed changes to the 11 Significant Industrial Users (SIUs) and other stakeholders in the Towns of Swanzey and Marlborough. No concerns were expressed about what the City was proposing.

Mr. Swope continued that in December 2020 the EPA got back to them and approved the changes proposed in 2008. In the interim there had been some other changes at NHDES, so NHDES wanted another look at it. In January 2021, the NHDES also finished the review and approved the changes. The main reasons for these proposed changes are clarity and flexibility, consistency with State and Federal language and purpose, and compliance with EPA and NHDES rules. Also, they had to come up with some site-specific local industrial discharge limits. This has its own history with the EPA.

He continued that in 2007 after being required by the EPA to redo the local limits, they submitted some site-specific local limits. These were approved by the City Council and sent to the EPA and NHDES. Following EPA guidance, they calculated the limits and it resulted in some stringent limits, which staff was concerned about. In 2010, the EPA got back to them and recommended that staff reevaluate using a different allocation method. Thus, right now all of the City's SIUs are under an allocation method that results in them all having the same milligrams per liter or the same concentration limits they all have to meet regardless of how much of a certain pollutant they have in their water, and regardless of how much flow they have. Someone who has 200 gallons per day of processed wastewater had to meet the same limit as someone who has 20,000 gallons per day.

Mr. Swope continued that staff started to review their options right away. They met with the stakeholders. After looking at the available options, they agreed on a new way of doing this called "mass allocation." With mass allocation, rather than giving everyone a uniform concentration limit, the consultant calculated out how much of a given pollutant - say, copper - the WWTP could accept and adequately treat, without having any issues with their permit or issues with water quality criteria. They do a very good job at removing these pollutants but they only remove most of it, not all of it. They calculated it and figured out they could accept a certain amount of pounds of copper per day and still be in good shape. A certain amount of that copper comes from pipes and other things, unregulated loads, homes and small businesses the City is not monitoring on a regular basis, schools, and other places that are discharging to the collection system. Some of this poundage of copper staff wants to leave as a buffer for future business growth, so they cut off 10% of it right off the bat. The remainder is the "maximum allowable industrial limit." For example, say the WWTP could accept two pounds of copper per day and they assume that, 1.1 of it is from unregulated loads and 10% is cut out for growth, the remainder of that is what is allocated out to businesses. With mass allocation they can look at a business and say, "You have 30,000 gallons per day of processed wastewater, and essentially no copper. You do not need much copper. We're giving you a small slice." Then maybe the next business they look at has 20,000 gallons per day

of processed wastewater and a fair amount of copper, maybe not an unreasonable amount but more than any other user does, and staff says, “We can give you a larger slice.” They go through, divide it all up, and make sure everyone gets what they need. Under the current scenario, with the current pollutant loads, they are in good shape. None of the businesses will have any specific trouble with the local limits staff are proposing. It looks like they will be able to allocate everything they need to and still have some extra space left over.

Mr. Swope continued that staff proposed these newly calculated mass allocation limits to the EPA in 2012. Between then and the time that the EPA got back to them, there was a change in some underlying assumptions. There was a change in NHDES rules that meant some of the things staff had based their calculations on no longer held true. They went back, recalculated, and resubmitted in 2015, which the City Council approved. Stakeholders were still on board with the mass allocation. At the same time that the EPA accepted the SUO changes, they also accepted the City’s local limits changes, in December 2020. The EPA had to put it out for a public comment period of 30 days. He believes they received no comments. The EPA got back to staff in January 2021 saying the local limits were approved as proposed.

Mr. Swope stated that to give an idea of what some of the changes in the SUO are all about: there are many changes, and most are just administrative. They added a section on abbreviations, because there were places in the text of the document where abbreviations are used and not defined. They added new definitions, either because of EPA requirement or NHDES requirement, or just for additional clarity. Sometimes there was a term used in the text that was not clearly defined. There are a number of minor, non-substantive changes scattered throughout the document. There are also simple changes such as, for example, removing or changing outdated language if a bureau within the NHDES changed its name. There were also changes to make sure the City is consistent with and compliant with the EPA and NHDES rules and some of their SUO model language and purpose. For example, in Sections 98-328 and 98-329, Prohibited Discharges and Limited Discharges, there are a couple added items that were EPA-required, at least one added item that was NHDES-required, and other items that were recommended to more clearly define what they are trying to do. Another example is 98-344-B – the EPA came out with the rule a few years ago that all dental offices have to have dental amalgam separators, and the State already had such a rule. The City Code did not have anything specifically talking about that and it was recommended that they add that in, just for consistency. There is inclusion of a certain certification statement that is required with all reports that sent to him by the City’s SIUs.

He continued that regarding “Reports of changed conditions or sludge discharges,” those are things that the EPA required the City to have in the SUO, that they did not have before, or at least, not in the format that the EPA wanted. If a business is, for example, doing a certain process and then they add on a new process, they need to first notify the City and go through an application process to make sure it is not going to cause an excessive amount of some sort of pollutant coming to the WWTP. They also have to notify the City of any sludge discharges. If there is an accidental spill, for example, and someone suddenly discharges, say, 500 gallons of something toxic, they have to alert the WWTP right away.

He continued that 98-480, Permit Conditions, was not as expansive as NHDES thought it should be, so they added more specifics to it. Sections 98-481 and 98-482 are new. It lays out the process by which a business can appeal, if there is a requirement that they think is unfair or unnecessary. Businesses already had the ability to approach staff and ask about it but now the process is laid out clearly, based on models of SUOs from the EPA and/or NHDES. Modification of Permit is also a new section.

Mr. Swope continued that they wanted to add some flexibility. One of the rules the EPA came out with a while back was the Streamlining Rule. One objective was to make things easier for some businesses. Something that was optional for a municipality to adopt was to classify some of the categorical industrial users, which is a subset of the SIUs, to categorize them as “non-significant.” Basically, it would take off some of the reporting requirements. In order for that to happen the user would have to have very low wastewater discharges and a very clean record of no violations in recent history. This would be helpful for one of the City’s businesses at this point. Thus, staff opted to put that in. Section 98-330, Best Management Practices, is new and gives dental

offices, for example, the ability to forego meeting the City's strict mercury and silver limits by doing a 'best management practice' of installing and maintaining an amalgam separator. The Local Limits section is 98-330. Instead of concentration limits for local limits, there are now mass allocations. This section says what the mass limit is for the SIUs, and staff will divide it up separately (not in the Code) and keep a spreadsheet of how much has been allocated and how much is still available.

Councilor Giacomo stated that his only question is about the mass allocation strategy, which is interesting. In this case, if they are able to flex up and down depending on the actual mass outflow of a specific chemical, it still needs to meet the concentration limits set by EPA and NHDES. Is that correct?

Mr. Swope replied yes, he thinks Councilor Giacomo is talking about categorical industrial users, which EPA has standards for, and specific metal concentration limits. He continued that the City cannot supersede that, but they can allocate some of the available poundage. If the EPA has a uniform concentration limit for a metal finisher for copper that is, say, 1.0 milligrams per liter, the City cannot allow a business, in their permit, to discharge more than 1.0 milligrams per liter. They still have to work within that. However, it gives the City more flexibility. For some of the pollutants, the EPA categorical limit is quite a bit higher than what the City would have normally had previous to this or currently with their uniform concentration limits – for instance, for chromium. This gives them the opportunity for a business that is a very small discharger of a little bit of chromium, maybe the City can give them a very small amount of poundage. They can then go up to the categorical limit. Councilor Giacomo is correct that they still have to stay within the concentration limits set by the EPA if they have a categorical limit.

Councilor Manwaring asked if there were any further questions. Hearing none, she asked if members of the public had any questions or comments. Hearing none, she asked the committee if they want to send this forward with a recommendation.

Vice Chair Giacomo made a motion the following motion which was seconded by Councilor Filiault.

On a roll call vote of 5-0, for the Municipal Services, Facilities & Infrastructure Committee recommends the adoption of Ordinance O-2021-02.

Councilor Madison stated that he wanted to acknowledge Mr. Swope for doing a great job with that presentation. He continued that it is complex material. Councilor Manwaring replied that she particularly liked the beginning where all of the abbreviations are in one place to make them easier to look up.



# CITY OF KEENE

Ordinance O-2021-02

In the Year of Our Lord Two Thousand and ..... Twenty-one .....

AN ORDINANCE ..... An Ordinance Relating to Sewer Service and Industrial Pretreatment .....

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

That the Ordinances of the City of Keene, as amended are hereby further amended, by deleting in its entirety Article V. "Sewer Ordinance" and Article VI. "Industrial Pretreatment" in its entirety and inserting in its place the following:

## **ARTICLE V. SEWER SERVICE**

### DIVISION 1. GENERALLY

#### Sec. 98-271. Abbreviations / Definitions.

The following abbreviations, when used in this Article, shall have the following designated meanings:

- BOD - Biochemical Oxygen Demand
- CFR - Code of Federal Regulations
- COD - Chemical Oxygen Demand
- EPA - United States Environmental Protection Agency
- gpd - Gallons per day
- IDP - Industrial Wastewater Discharge Permit
- mg/L - Milligrams per liter
- NHDES - New Hampshire Department of Environmental Services
- NPDES - National Pollutant Discharge Elimination System
- POTW - Publicly Owned Treatment Works
- RCRA - Resource Conservation and Recovery Act
- RSA - New Hampshire Revised Statute Annotated
- SIC - Standard Industrial Classification
- TSS - Total Suspended Solids
- USC - United States Code

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Authorized Representative of the User* means

- a. If the user is a corporation:

- i. The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
  - ii. The manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedure
- b. If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.
- c. If the user is a federal, State, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility.
- d. The individuals described in paragraphs (a) through (c), above, may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the city.
- e. If the authorization under paragraph (d) is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of paragraph (d) of this section must be submitted to the city prior to or together with any reports to be signed by an authorized representative.

*Best Management Practices (BMPs)* means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the pollutant control prohibitions of this Code. BMPs may also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

*Biochemical oxygen demand (BOD)* means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees Celsius expressed in milligrams per liter (mg/L).

*Building drain* means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and that conveys it to the building sewer, beginning five feet (1.5 meters) beyond the foundation walls of the building or structure.

*Building sewer* means that part of the drainage system which extends from the end of the building drain and conveys its discharges to a public sewer, private sewer, individual sewage disposal system, or other point of disposal.

*Bypass* means intentional diversion of waste streams from any portion of an industrial user's treatment facility.

*Categorical pretreatment standards* means any regulation containing pollutant discharge limits promulgated by the Environmental Protection Agency in accordance with section 307(b) and (c) of the Clean Water Act, which applies to a specific category of industrial users and which is found in 40 CFR 401--471, subchapter N.

*City* means the City of Keene, New Hampshire, Cheshire County, a municipality of the State of New Hampshire, acting by and through its City Council and through its authorized representatives, including the Director.

*Composite sample* means the sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time.

*Dilution* means any increase in the use of water as a partial or complete substitute for adequate treatment to achieve compliance with a limitation on the discharge of pollutants.

*Director* means the public works director or an authorized deputy, agent, or representative.

*Domestic wastewater* and *sanitary sewage* mean normal water carried from household and toilet wastes or waste (such as human excrement and gray water) from sanitary conveniences of residences, commercial buildings, and industrial plants; excluding groundwater, surface water, stormwater, industrial wastewater and unpolluted water.

*Easement* means an acquired legal right for the specific use of land owned by others.

*Environmental Protection Agency or EPA* means the United States Environmental Protection Agency or, the Region 1 Water Management Division Director, or other duly authorized official of the agency.

*Existing source* means any source of discharge that is not a "New Source."

*Floatable oil* means oil, fat, or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. A wastewater shall be considered free of floatable oil if it is properly pretreated and the wastewater does not interfere with the collection system.

*Garbage* means the animal and vegetable matter resulting from the handling, preparation, cooking and serving of foods.

*Grab sample* means a single sample that is taken from a wastestream without regard to the flow in the wastestream and represents the characteristics of the wastestream only at that time and place.

*Health officer* means the public health director for the city or an authorized designee.

*Holding tank* means a tank which receives wastewater and has no outlet.

*Industrial user.* See *User*.

*Industrial wastes* means any liquid, gaseous, solid waste substance or pollutant from any process or from development of any natural resource by industry, manufacturing, trade, business or governmental entity, as distinct from domestic or sanitary wastes.

*Industrial wastewater* means any wastewater that contains industrial waste, as distinct from sanitary sewage or unpolluted water.

*Instantaneous limit* means the maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

*Interference* means a discharge that, alone or in conjunction with other sources, inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal and which causes a violation of the WWTP's National Pollution Discharge Elimination System (NPDES) permit, including an increase in the magnitude or duration of a violation, or prevents the WWTP from using its chosen sludge use or disposal practice in accordance with Section 405 of the Clean Water Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any State regulations

contained in any State biosolids management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; the Marine Protection, Research, and Sanctuaries Act; and the 40 CFR Part 503 Standards for Sewage Sludge Use and Disposal.

*Local limits* mean specific, enforceable numerical limits, as required by EPA, on the types and quantities of pollutants that may be discharged to the POTW. Local limits are established by the city and approved by EPA, and are distinct from State and federal limitations on the discharge of industrial wastewater to the POTW.

*May* means is allowed (permissive). See *Shall*.

*Medical/Infectious waste* means any solid waste that is generated in the diagnosis, treatment, or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals. Medical/infectious waste does not include any hazardous waste regulated under RSA 147-A. (Ref. RSA 125-N:2, VIII)

*Minor industrial user* means small industries and some commercial users (restaurants, auto repair shops, etc.) whose individual discharges do not significantly impact the treatment system, degrade receiving water quality, or contaminate sludge. Industries which have the potential to discharge a nondomestic or process waste stream, or slug flow, but at the present time may discharge only a sanitary waste, are included in this group.

*Natural outlet* means any outlet, including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake or other body of surface water or groundwater.

*New source* means

(1) Any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under 40 CFR chapter I, subchapter N, parts 405-471, which will be applicable to such source if such standards are, thereafter, promulgated in accordance with that section, provided that:

(a) The building, structure, facility, or installation is constructed at a site at which no other source is located; or

(b) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(c) The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.

(2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of this definition, but otherwise alters, replaces, or adds to existing process or production equipment.

(3) "Construction of a new source" has commenced if the owner or operator has begun or caused to begin, as part of a continuous on-site construction program:

(a) Any placement, assembly, or installation of facilities or equipment;

(b) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

(c) Entered into a binding contractual obligation for the purchase of facilities or equipment which is intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this definition.

*Noncontact cooling water* means water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product and is not degraded in quality by mixing with or addition of process waste or pollutants other than heat.

*Pass through* means a discharge that exits the WWTP to surface waters of the United States in quantities or concentrations which, alone or in conjunction with other discharges, causes a violation of the WWTP NPDES permit or of applicable water quality criteria, including an increase in the magnitude or duration of a violation.

*Person* means any individual, partnership, copartnership, firm, company, association, joint stock company, trust, estate, society, corporation or group, government agency, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all federal, State, and local governmental entities.

*pH* means the logarithm of the reciprocal of the hydrogen ion concentration. The concentration is the weight of hydrogen ion in grams, per liter of solution.

*Pharmaceutical waste* means a prescription drug, as defined by RSA 318:1, XVII, or a nonprescription or proprietary medicine, as defined by RSA 318:1, XVIII, which is no longer suitable for its intended purpose or is otherwise being discarded.

*Pollutant* means dredged spoil, solid waste, incinerator residue, filter backwash, garbage, wastewater treatment sludges, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

*Pretreatment* means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

*Pretreatment requirement* means any substantive or procedural pretreatment requirement, other than a pretreatment standard, applicable to industrial users.

*Pretreatment Standards* or *Standards* mean prohibited discharge standards, categorical pretreatment standards, and local limits.

*Private wastewater disposal system* means a wastewater disposal system, other than a public or community system, which receives either human excreta or liquid waste or both from one or more premises. Included within the scope of this definition are septic tanks, soil absorption systems, privies, chemical-type toilets, composting toilets and such other types as may be prescribed in regulations by the health officer.

*Prohibited Discharge Standard* or *Prohibited Discharge* means an absolute prohibition against the discharge of a certain substance. Prohibited discharge standards appear in Section 98-328 of this Code.

*Properly shredded garbage* means the wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch (1.27 centimeters) in any dimension.

*Public sewer* means a pipe or conduit that carries wastewater, stormwater, groundwater, subsurface water, or unpolluted water from any source, which is controlled by a governmental agency or public utility.

*Publicly Owned Treatment Works* or *POTW* means a "treatment works," as defined by Section 212 of the Clean Water Act (33 U.S.C. §1292) that is owned by the city. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sanitary sewage or industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances only if these structures convey wastewater to a POTW wastewater treatment plant. The term also means the municipality that has jurisdiction over discharges to and the discharges from such a treatment works.

*Radiological waste* means radioactive waste as regulated by RSA 125-F.

*Sanitary sewage*. See Domestic wastewater.

*Sanitary sewer* means a sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions together with minor quantities of groundwaters, stormwaters and surface waters that are not admitted intentionally.

*Screening level* means a numerical value for a pollutant concentration above which actions are initiated to evaluate, prevent or reduce adverse environmental or health and safety impacts. A screening level may be adjusted upward or downward within an IDP to account for site-specific conditions at the point of discharge and administered as a local limit.

*Septage* or *Septic Tank Waste* means any liquid, solid, or sludge pumped from chemical toilets, vaults, septic tanks, or cesspools or other holding tanks, that have received only domestic wastewater.

*Septic tank* means a tank which receives wastewater allowing the solids to separate and the majority of the water to leave through an overflow, thereby increasing the concentration of solids remaining in the tank.

*Sewer* means a pipe or conduit that carries wastewater, stormwater, groundwater, subsurface water, or unpolluted water from any source.

*Sewer service* or *building sewer* means that part of the drainage system which extends from the end of the building drain and conveys its discharges to a public sewer, private sewer, individual sewage disposal system, or other point of disposal.

*Shall* means is mandatory. See *May*.

*Significant indirect discharger* means an industrial user that:

- (a) Discharges an average of ten thousand (10,000) gallons per day (gpd) or more of industrial wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater);

(b) Discharges medical/infectious waste, pharmaceutical waste, or radiological waste [unless exempted by the city under paragraph (4) of this definition];  
or

(c) Is otherwise a significant industrial user.

*Significant industrial user* means an industrial user that is, except as provided in paragraphs (3) and (4) of this definition:

(1) An industrial user subject to categorical pretreatment standards; or

(2) An industrial user that:

(a) Discharges an average of twenty-five thousand (25,000) gallons per day (gpd) or more of industrial wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater);

(b) Contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant;

(d) Is determined by the city to have an impact or a potential for impact, either singly or in combination with other contributing industries, on the wastewater treatment system, the quality of the sludge, the system's effluent quality, or air emissions generated by the systems.

(3) The city may determine that an industrial user subject to categorical pretreatment standards under §403.6 and 40 CFR chapter I, subchapter N is a non-significant categorical industrial user rather than a significant industrial user on a finding that the industrial user never discharges more than 100 gpd of total categorical wastewater (excluding sanitary, noncontact cooling and boiler blowdown wastewater, unless specifically included in the pretreatment standard) and the following conditions are met:

(a) The industrial user, prior to the city's finding, has consistently complied with all applicable categorical pretreatment standards and requirements;

(b) The industrial user annually submits the certification statement required in §403.12(q) together with any additional information necessary to support the certification statement; and

(c) The industrial user never discharges any untreated concentrated wastewater.

(4) Upon determining that a user meeting the criteria in paragraph 2 of this definition has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the city may at any time, on its own initiative or in response to a petition received from a user, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such user should not be considered a significant industrial user.

*Significant noncompliance* means a significant industrial user that meets one or more of the following criteria:

- (1) Chronic violations of wastewater discharge limits, defined as those in which 66 percent or more of all of the measurements taken during a six-month period exceed, by any magnitude, a numeric pretreatment standard or requirement, including instantaneous limits, for the same pollutant parameter;
- (2) Technical review criteria (TRC) violations, defined as those in which 33 percent or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the numeric pretreatment standard or requirement, including instantaneous limits, times the applicable TRC (TRC equals 1.4 for BOD, TSS, fats, oil and grease and 1.2 for all other pollutants except pH);
- (3) Any other violation of a pretreatment effluent limit (daily maximum or longer-term average, instantaneous limit, or narrative standard) that the director determines has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;
- (4) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge;
- (5) Failure to meet, within 90 days after the scheduled date, a compliance schedule milestone contained in a local control mechanism or enforcement order, for starting construction, completing construction, or attaining final compliance;
- (6) Failure to provide, within 45 days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, reports on compliance with compliance schedules, and any other reports required by the pretreatment coordinator;
- (7) Failure to accurately report noncompliance; or
- (8) Any other violation or group of violations, which may include the violation of Best Management Practices, which the director determines will adversely affect the operation or implementation of the local pretreatment program.

*Slug* means:

1. Any discharge at a flow rate or concentration that could cause a violation of the prohibited discharge standards in Section 98-328 of this Code; or
2. Any discharge of any pollutant, including biochemical oxygen demand, of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass through, or adversely affect the collection system and/or performance of the POTW.

*Storm drain* or *Storm sewer* means a drain or sewer for conveying stormwater, groundwater, subsurface water or unpolluted water from any source.

*Stormwater* means any flow occurring during or following any form of natural precipitation and resulting therefrom, including snowmelt.

*Superintendent* means the superintendent of the wastewater treatment plant or an authorized designee.

*Suspended solids* or *Total suspended solids (TSS)* means the total suspended matter that either floats on the surface of or is in suspension in water, wastewater or other liquids, and that is removable by laboratory filtering as prescribed in EPA Method 160.2 and referred to as "nonfilterable residue."

*Total toxic organics* means the summation of all quantifiable values greater than 0.01 mg/L for the following organic compounds:

Acenaphthene.  
Acrolein.  
Acrylonitrile.  
Benzene.  
Benzidine.  
Carbon tetrachloride (tetrachloromethane).  
Chlorobenzene.  
1,2,4-trichlorobenzene.  
Hexachlorobenzene.  
1,2-dichloroethane.  
1,1,1-trichloroethane.  
Hexachloroethane.  
1,1-dichloroethane.  
1,1,2-trichloroethane.  
1,1,2,2-tetrachloroethane.  
Chloroethane.  
Bis (2-chloroethyl) ether.  
2-chloroethyl vinyl ether (mixed).

2-chloronaphthalene.  
2,4,6-trichlorophenol.  
Parachlorometa cresol.  
Chloroform (trichloromethane).  
2-chlorophenol.  
1,2-dichlorobenzene.  
1,3-dichlorobenzene.  
1,4-dichlorobenzene.  
3,3-dichlorobenzidine.  
1,1-dichloroethylene.  
1,2-trans dichloroethylene.  
2,4-dichlorophenol.  
1,2-dichloropropane (1,3-dichloropropene).  
2,4-dimethylphenol.  
2,4-dinitrotoluene.  
2,6-dinitrotoluene.  
1,2-diphenylhydrazine.  
Ethylbenzene.  
Fluoranthene.  
4-chlorophenyl phenyl ether.  
4-bromophenyl phenyl ether.  
Bis (2-chloroisopropyl) ether.  
Bis (2-chloroethoxy) methane.  
Methylene chloride (dichloromethane).  
Methyl chloride (chloromethane).  
Methyl bromide (bromomethane).  
Bromoform (tribromomethane).  
Dichlorobromomethane.  
Chlorodibromomethane.  
Hexachlorobutadiene.  
Hexachlorocyclopentadiene.  
Isophorone.  
Naphthalene.  
Nitrobenzene.  
2-nitrophenol.  
4-nitrophenol.  
2,4-dinitrophenol.  
4,6-dinitrophenol.  
4,6-dinitro-o-cresol.  
N-nitrosodimethylamine.  
N-nitrosodiphenylamine.  
N-nitrosodi-n-propylamine.  
Pentachlorophenol.  
Phenol.  
Bis (2-ethylhexyl) phthalate.  
Butyl benzyl phthalate.

Di-n-butyl phthalate.  
Di-n-octyl phthalate.  
Diethyl phthalate.  
Dimethyl phthalate.  
1,2-benzanthracene [benzo(a)anthracene].  
Benzo(a)pyrene [3,4-benzopyrene].  
3,4-benzofluoranthene [benzo(b)fluoranthene].  
11,12-benzofluoranthene [benzo(k)fluoranthene].  
Chrysene.  
Acenaphthylene.  
Anthracene.  
1,12-benzoperlene.  
Fluorene.  
Phenanthrene.  
1,2,5,6-dibenzanthracene [dibenzo(a, h)anthracene].  
Indeno(1,2,3-cd)pyrene [2,3-o-phenylene pyrene].  
Pyrene.  
Tetrachloroethylene.  
Toluene.  
Trichloroethylene.  
Vinyl chloride [chloroethylene].  
Aldrin.  
Dieldrin.  
Chlordane (technical mixture and metabolites).  
4,4-DDT.  
4,4-DDE (p,p-DDX).  
4,4-DDD (p,p-TDE).  
Alpha endosulfan.  
Endosulfan sulfate.  
Endrin.  
Endrin aldehyde.  
Heptachlor.  
Heptachlor epoxide (BHC-hexachlorocyclohexane).  
Alpha-BHC.  
Beta-BHC.  
Gamma-BHC.  
Delta-BHC.  
PCB's (polychlorinate biphenyls).  
PCB-1242 (arochlor 1242).  
PCB-1254 (arochlor 1254).  
PCB-1221 (arochlor 1221).  
PCB-1232 (arochlor 1232).  
PCB-1248 (arochlor 1248).  
PCB-1260 (arochlor 1260).  
PCB-1016 (arochlor 1016).  
Toxaphene.

2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD).

*Unpolluted water* means water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.

*Upset* means an exceptional incident in which there is unintentional and temporary noncompliance with pretreatment standards because of factors beyond the reasonable control of the industrial user. This does not include noncompliance due to operational error, improperly designed facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

*User (or Industrial User)* means a person who discharges industrial wastewater to the POTW of the city.

*Wastewater* means the spent water of a community. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions, together with any groundwater, surface water and stormwater that may be present.

*Wastewater treatment plant (WWTP)* means that portion of the POTW that is designed to provide treatment of sanitary sewage and industrial wastewater

*Watercourse* means a natural or artificial channel for the passage of water either continuously or intermittently.

Cross references: Definitions generally, § 1-2.

#### Sec. 98-272. Restrictions.

It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the city or in any area under the jurisdiction of the city any human or animal excrement, garbage or objectionable waste. It shall be unlawful to discharge to any natural outlet within the city or in any area under the jurisdiction of the city any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with this article. Except as provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of wastewater. The use of portable chemical toilets is allowed at construction sites and for other purposes provided the wastes are properly disposed off site.

#### Sec. 98-273. Requirement for connection.

The owner of any house, building, structure, or property used for human habitation or occupancy, including but not limited to dwellings, places of employment, and recreational facilities, situated within the city, is hereby required, at the owner's expense, to install suitable toilet facilities therein, and to connect such facilities directly with the public sewer in accordance with this article within 90 days after receipt of notice to do so, provided that such public sewer is within 300 feet of such house, building, structure, or property and provided that such public sewer is within 100 feet of any portion of the property line of such property measured on a straight line from the sewer to the property line, with such straight line measurement running only through the public way. The city council may grant a waiver if it is demonstrated that the house, building or property is served with an adequate alternative sewage disposal system that is in compliance with the requirement in City of Keene Code of Ordinances, chapter 98, article IV, private waste disposal, is designed by a designer licensed in the State of New Hampshire, and is approved for construction by the New Hampshire Department of Environmental Services after January 1, 1985.

Sec. 98-274. Small commercial structures.

Small commercial structures of less than 150 square feet of interior space, such as permanent kiosks and booths, with not more than one person employed therein shall not be required to install water closets (toilets) or lavatories (sinks) within the structure, provided that such facilities are available within a nearby structure on a permanent basis by an agreement in writing. Establishments selling food of any kind shall have lavatories. The maximum distance of travel from the person's usual working place to the facilities shall not exceed 250 or 500 feet if entirely under cover.

Secs. 98-275--98-295. Reserved.

## DIVISION 2. BUILDING SEWERS AND CONNECTIONS

Sec. 98-296. Permit required.

No unauthorized person shall uncover, make any connection with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the director.

Sec. 98-297. Classes of permits; permit application and fees.

There shall be two classes of building sewer permits: (i) for residential, institutional and commercial service where only sanitary wastewater is produced, and (ii) for service establishments producing industrial wastes. In either case, the owner or an agent shall make application on a form furnished by the city. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the director. A permit and

inspection fee as set forth in the schedule of fees in appendix B to this Code shall be paid to the city at the time the application is filed.

Sec. 98-298. Responsibility for costs.

All costs and expenses incidental to the installation and connection of building sewer shall be borne by the owner. The owner shall indemnify and hold harmless the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

Sec. 98-299. New discharges.

Any person proposing a new discharge into the sewer system or a substantial change in the volume or character of pollutants that are discharged into the system shall notify the director at least 60 days prior to the proposed change or connection. Proposed new discharges from residential, institutional or commercial sources involving loading exceeding 50 population equivalents (5,000 gpd), any new industrial waste, or any flow increase greater than twenty percent (20%) of existing discharge into the POTW, or that could cause interference with the POTW or have an adverse effect on the receiving water or otherwise endanger life, limb, public property or constitute a nuisance, shall be approved by the NHDES Water Division. Approvals for industrial waste shall be obtained in accordance with Article VI of this Code.

Sec. 98-300. Services.

The following shall apply to building sewer services:

(a) *Separate sewers.* A separate and independent building sewer shall be provided for every building. However, where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the front building sewer may be extended to the rear building and the whole considered as one building sewer, however, the city shall not assume any obligation or responsibility for damage caused by or resulting from any such single connection. Old building sewers may be used in connection with new buildings only when they are found, on examination and tested by the director, to meet all standards adopted by and available at the department and standards set forth in other articles of this Code.

(b) *Materials to be used.* The size, slope, alignment, materials of construction for a building sewer and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench shall all conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the city. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate sections of the Standards of Design and

Construction for Sewerage and Wastewater Treatment Facilities (chapter Env-Ws 700) of the NHDES, Water Division shall apply.

(c) *Elevation.* Whenever possible the building sewer shall be brought to the building at an elevation below the basement floor or at least four feet below grade. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted in accordance with the city plumbing code, as set forth in chapter 18, article II, division 6, and discharged to the building sewer.

(d) *Surface water runoff.* No person shall make connection of roof downspouts, foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain that in turn is connected directly or indirectly to a public sanitary sewer.

(e) *Materials shall conform to code.* The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing codes set forth in article II of chapter 18 or other applicable rules and regulations of the city, and to the requirements of the NHDES. All such connections shall be made gastight and watertight and verified by proper testing. The department shall make or oversee the making of all sewer connections and shall make or oversee the laying, relaying and repair all sewer service pipes. Nothing in this subsection shall prevent the director from contracting the work to private contractors or permitting the property owner to do such work himself to the city specifications. The cost of such work shall be charged to the owner of the property so served. Any deviation from the prescribed procedures and materials must be approved by the director before installation.

(f) *Inspection.* The applicant for the building sewer permit shall notify the director when the building sewer is ready for inspection and connection to the public sewer. The connection and testing shall be made under the supervision of the director.

(g) *Excavation procedures.* All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Any person owning pipes laid in the city streets or highways desiring to relay or repair the pipes or install a new service connection shall, before digging up any ground where the pipes are laid, apply to the director as provided under section 82-32 pertaining to excavation of highways and section 82-36 pertaining to obstruction of highways. All streets sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the director at the expense of the applicant.

(h) *State approval required.* The following is an excerpt from the regulations of the NHDES: "Except for special reasons, the NHDES will approve plans for new systems, extensions, or replacement sewers only when designed upon a separate

plan, in which rainwater from roofs, streets, and other areas, and groundwater from foundation drains are excluded."

Secs. 98-301--98-325. Reserved.

### DIVISION 3. LIMITATIONS ON USE OF PUBLIC SEWERS

Sec. 98-326. Marlborough interceptor.

In accordance with the U.S. EPA Special Condition #21, any proposed connection to the city sewer interceptor line extending from Optical Avenue to the Marlborough town line or to any lateral sewer line connected to this interceptor shall require special review. If the property being connected contains wetlands or floodplains, connection may be prohibited. The mere existence of floodplain or wetland on a portion of a lot does not in and of itself preclude connection to the sewer line. It is the direct placement of a building or any portion of a building on wetlands or floodplains or the placement of fill on floodplains or wetlands on top of which would be located a building which would prohibit connection.

Sec. 98-327. Discharge of unpolluted water.

No person shall discharge or cause to be discharged any unpolluted waters such as stormwater, groundwater, roof runoff, subsurface drainage, or unpolluted cooling water to any sanitary sewer. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers or to a natural outlet approved by the director. Industrial cooling water or process waters require a NPDES permit prior to discharge to a storm drain or natural outlet.

Sec. 98-328. Prohibited discharges.

**General Prohibitions:** No person shall introduce or cause to be introduced into the POTW any pollutant or wastewater that causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other federal, State, or local pretreatment standards or requirements.

**Specific Prohibitions:** No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

(1) *Explosives.* Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas, or any waste stream with a closed cup flashpoint less than 140 degrees Fahrenheit or 60 degrees Celsius as determined using methods specified in 40 CFR 261.21.

(2) *Corrosive wastes.* Any waters or wastes having a pH lower than 5.5 or higher than 12.0 standard units or having any other corrosive property capable of causing

damage or hazard to structures, equipment and/or personnel of the wastewater treatment plant or collection system.

(3)*Substances which cause obstruction.* Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers or other interference with the proper operation of the wastewater treatment plant or collection system, such as but not limited to fats, oils and greases; wipes; ashes; bones; cinders; sand; mud; straw; shavings; metal; glass; rags; plastics; wood; unground garbage; hair; paper; dishes, cups; paper towels, either whole or ground by garbage grinders.

(4)*Substances which cause interference, pass through, nuisance.* Any pollutant, including oxygen demanding pollutants (BOD, etc.) released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW, constitute a hazard to humans or animals, create a public nuisance, exceed any categorical pretreatment standards, or cause pass through.

(5) Wastewater containing such concentrations or quantities of pollutants that its introduction to the POTW could cause a treatment process upset and subsequent loss of treatment ability.

(6)*Temperature.* Wastewater sufficiently hot to cause the influent at the wastewater treatment plant to exceed 104 degrees Fahrenheit, 40 degrees Celsius, or cause inhibition of biological activity at the wastewater treatment plant.

(7)*Oils.* Wastewater containing more than 100 milligrams per liter (mg/L) of petroleum oil, nonbiodegradable cutting oils, or product of mineral oil origin. Wastewater from industrial plants containing floatable oils, fat, or grease. Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through.

(8)*Fume toxicity.* Any pollutants that result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause worker health and safety problems.

(9)*Trucked or hauled pollutants.* Any trucked or hauled pollutants, except at discharge points designated by the POTW.

(10)*Miscellaneous wastes.* The discharge of all medical/infectious waste, pharmaceutical waste, or radiological waste is subject to review by the director. Any discharge not in conformance with site-specific requirements established by the director is prohibited.

(11)*Fail toxicity testing.* Wastewater causing, alone or in conjunction with other sources, the wastewater treatment plant's effluent or biosolids to fail a toxicity test.

(12) *Hazardous waste.* Any hazardous waste listed or designated by the NHDES under Env-Hw 400.

Pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW.

Sec. 98-329. Limited discharge.

The substances, materials, waters, or waste described in this section shall be limited to discharges of concentrations or quantities which will not harm either the sewers, wastewater treatment process or equipment; will not have an adverse effect on the receiving stream; will not otherwise endanger lives, limb, or public property; or constitute a nuisance. The director may set limitations stricter than the limitations established in this section if in the director's opinion such stricter limitations are necessary to meet the objectives of this section. In forming this opinion as to the acceptability, the director will give consideration to such factors as the quantity of subject waste in relation to flows and velocities in the sewers, materials of construction in the sewers, the wastewater treatment process employed, capacity of the wastewater treatment plant, degree of treatability of the waste by the wastewater treatment plant, and other pertinent factors. The limitations or restrictions on materials or characteristics of waste or wastewaters discharged to the sanitary sewer which shall not be violated are as follows:

(1) *Properly shredded garbage.* Any garbage that has not been properly shredded (see section 98-271). Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments, or similar places where garbage originates from the preparation of food in kitchens for the purpose of consumption on the premises or when served by caterers. The installation and operation of any garbage grinder at a non-residential location shall be subject to the review and approval of the director, and grease and solids pretreatment may be required.

(2) *Toxic substances.* Any waters or wastes containing heavy metals, solvents, and similar objectionable or toxic substances to such degree that any such material discharged to the public sewer exceeds the limits established by the director, the NHDES, or the United States EPA for such materials; any water or wastes containing pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute or chronic worker health and safety problems.

(3) *Odor-producing substances.* Any waters or wastes containing odor-producing substances exceeding limits which may be established by the director.

(4) *Radioactive wastes.* Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the director in compliance with applicable state or federal regulations.

(5) *Slug flows.* Quantities of flow, concentrations or both, which constitute a slug, as defined in this article. Industrial users shall immediately notify the pretreatment coordinator of any slug or waste discharged by such user to the POTW or of any discharge which, alone or in conjunction with any other waste, has the potential to cause harm or create a problem at the wastewater treatment plant, in the collection system, or to the environment or worker safety.

(6) *Untreatable wastes.* Waters or wastes containing substances which are not amenable to treatment or reduction by the wastewater treatment processes employed, or are amenable to treatment only to such a degree that the wastewater treatment plant cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

(7) *Color.* Wastewater that imparts color that cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently, in the opinion of the director, could impart color to the treatment facility's effluent, thereby violating the city's NPDES permit.

(8) *Flammable atmospheres.* Wastewater that causes a reading on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, of more than ten percent (10%) of the Lower Explosive Limit.

(9) *Other wastes.* Any water or wastes which, by interaction with other water or wastes in the public sewer system, release obnoxious gases, form suspended solids which interfere with the collection system, or create a condition deleterious to structures and treatment processes.

Sec. 98-330. Specific discharge limitations.

(a) Maximum Allowable Industrial Loadings. The following numerical pollutant loading limitations are established to protect against pass-through and interference. For all users connected to sewer lines that are tributary to the City of Keene POTW, the director will not issue permits that in combination with other industrial loads exceed the values in the following table:

POLLUTANT	MAXIMUM ALLOWABLE INDUSTRIAL LOADING (lb/day)	POLLUTANT	MAXIMUM ALLOWABLE INDUSTRIAL LOADING (lb/day)
Cadmium	0.013	Mercury	0.005
Chromium (total)	7.99	Nickel	1.47

POLLUTANT	MAXIMUM ALLOWABLE INDUSTRIAL LOADING (lb/day)	POLLUTANT	MAXIMUM ALLOWABLE INDUSTRIAL LOADING (lb/day)
Copper	0.93	Silver	0.10
Cyanide	1.22	Zinc	3.67
Lead	0.14	-	-

All limitations for metals represent total metals. To administer these allowable loadings through IDPs, the director may impose concentration-based limitations, or mass limitations. For industrial users, the values written into IDPs for the above pollutants shall apply at the end of the industrial wastestream and prior to dilution with non-industrial wastewaters.

Unless specifically identified in an IDP, an industrial user is not allowed to discharge the locally limited pollutants at concentrations greater than background concentrations.

(b) Screening Levels. Screening levels are numerical values above which actions are initiated to evaluate, prevent or reduce potential adverse impacts on the POTW, the environment, and/or human health and safety. Screening levels are developed as needed using the methodology of the director. The pollutants in the following table (list is not all inclusive) are representative of concentrations above which pollutants shall not be discharged to the POTW without approval of the director:

POLLUTANT	SCREENING LEVEL
Arsenic	0.032 mg/L
Selenium	0.30 mg/L
Total toxic organics	5.0 mg/L
Sulfite	2.0 mg/L
Sulfate	20.0 mg/L
Sulfide	20.0 mg/L

If any of the screening levels are exceeded, repeat analysis may be required by the director to verify compliance or noncompliance with that screening level. If noncompliance is indicated, then the industrial user may be required, at the discretion of the director, to conduct an appropriate engineering evaluation at the industrial user's expense to determine the potential impact of the discharge of this pollutant to the POTW or alternatively, to develop a Best Management Practices plan specifically addressing the pollutant that exceeds the screening level. This study or plan shall be approved by and conducted under the supervision of the director. Should the evaluation indicate the impact to be unsatisfactory, the

industrial user shall reduce the pollutant concentration to a satisfactory level. If the evaluation supports development of an alternate site-specific limitation, then the screening level may, at the discretion of the director, be adjusted as a special agreement for the industrial user and administered as a permit limitation for the specific discharge.

If an industrial user proposes to discharge at concentrations greater than the concentration-based screening level maintained by the director, then the industrial user may be required to conduct the evaluations described in the previous paragraph. Should the evaluations support an alternate site-specific limitation, then the screening level may, at the discretion of the director, be adjusted as a special agreement for the industrial user and administered as a permit limitation for the specific discharge.

(c) *Best Management Practices.* The director may develop or require the user to develop Best Management Practices (BMPs) to implement Sections 98-329 and 98-330. Such BMPs shall be considered local limits and pretreatment standards for the purposes of this Code.

#### Sec. 98-331. Special agreements.

No statement contained in this article shall be construed as preventing any special agreement or arrangement between the director and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the director for treatment, provided that such agreements do not contravene any requirements of existing federal or state laws and/or regulations promulgated thereunder and are compatible with any user charge and industrial cost recovery system in effect and do not waive applicable categorical pretreatment standards.

#### Sec. 98-332. Compliance by dilution.

It shall be illegal to meet the requirements of this article by diluting wastes in lieu of proper treatment.

#### Sec. 98-333. Options for dealing with noncompliant discharges.

If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which contain the substances or possess the characteristics enumerated in sections 98-326 through 98-330 pertaining to limitations on use of the public sewers, the director may do any or all of the following:

- (1) Reject the wastes.
- (2) Require pretreatment to an acceptable condition for discharge to the public sewers.

- (3) Require control over the quantities and rates of discharge.
- (4) Require payment for all costs incurred in correcting damage to the sewer system and/or flushing or removing such wastes from the sewer system.
- (5) Begin enforcement proceedings according to the city's enforcement response plan approved by the EPA.

#### Sec. 98-334. Interceptors

(a) Grease and oil interceptors shall be provided, in accordance with the plumbing code adopted by the city, or when required by the director, for the pretreatment of liquid wastes containing floatable grease or flammable wastes, sand or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All pretreatment devices shall be of a type and capacity approved by the plumbing code adopted by the city, and shall be located as to be readily and easily accessible for cleaning and inspection. In the maintaining of these interceptors, the owner shall be responsible for the proper removal and disposal by the appropriate means of the captured material in accordance with State of New Hampshire licensing laws and shall maintain records of the dates and means of disposal which are subject to review by the pretreatment coordinator. The director has the authority to require other specific actions to reduce the discharge of grease into the POTW as necessary. Removal or modification of grease pretreatment equipment is prohibited unless written approval from the director is granted. Installation of fixtures with potential for grease-laden wastewater must be approved by the director.

(b) A Dental practice which manages dental amalgam shall install and maintain an amalgam separator in accordance with federal and/or state regulations.

#### Sec. 98-335. Approved test methods.

All measurements, tests and analyses of the characteristics of water and wastes to which reference is made in this article shall be determined in accordance with the EPA approved methods published in the Code of Federal Regulations, title 40, part 136 (40 CFR 136), unless otherwise specified in an applicable categorical pretreatment standard. When an approved method is not available, the pretreatment coordinator will determine which alternate method is to be used. Sampling methods, location, times, durations and frequencies are to be determined on an individual basis subject to approval by the pretreatment coordinator.

#### Sec. 98-336. Sample collection.

Samples collected to satisfy reporting requirements must be obtained through appropriate sampling and analysis performed during the period covered

by the report, and must be representative of conditions occurring during the reporting period.

A. Except as indicated in Section B and C below, the user must collect wastewater samples using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the pretreatment coordinator. Where time-proportional composite sampling or grab sampling is authorized by the city, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the city, as appropriate. In addition, grab samples may be required to show compliance with instantaneous limits.

B. Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

C. For sampling required in support of baseline monitoring and 90-day compliance reports required in Sections 98-423 and 98-426, a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the pretreatment coordinator may authorize a lower minimum. For the reports required by Section 98-421, the industrial user is required to collect the number of grab samples necessary to assess and assure compliance with applicable pretreatment standards and requirements.

D. The integrity of all samples shall be protected by following established chain-of-custody practices for all required samples. A copy of these practices is available from the director. Sampling and chain-of-custody records shall be maintained in accordance with the IDP and copies shall be submitted as part of each analytical report.

Sec. 98-337. Right of revision.

The discharge standards and requirements set forth in this Article are established for the purpose of preventing discharges to the POTW that would harm the public sewers, wastewater treatment process, or equipment; would have an adverse effect on the receiving stream or wastewater treatment plant biosolids; or would otherwise endanger lives, limb, public property, or constitute a nuisance.

To meet these objectives, the director may, from time to time, review and set more stringent standards or requirements than those established in this Article if the director determines that such more stringent standards or requirements are necessary to meet the above objectives. In forming this determination, the director may give consideration to such factors as the quantity of waste in relation to flows and velocities in the sewers, materials of construction of the sewers, the wastewater treatment process employed, capacity of the wastewater treatment plant, degree of treatability at the wastewater treatment plant, pollution prevention activities, and other pertinent factors. The limitations or restrictions on materials or characteristics of waste or wastewaters discharged to the sanitary sewer shall not be exceeded without the approval of the director.

The director shall allow affected industrial users reasonable time, in the opinion of the director, to comply with any changes to the local limits. The conditions and schedule for compliance shall accompany the written notification of amended local limits.

Secs. 98-338--98-355. Reserved.

#### DIVISION 4. ENTRY, SEPTAGE, ENFORCEMENT

Sec. 98-356. Detection and prevention.

(a) *Imminent endangerment.* The city may, after informal notice to the industry discharging wastewater to the public sewer, immediately halt or prevent any such discharge reasonably appearing to present an imminent endangerment to the health and welfare of persons or any discharge presenting or which may present an endangerment to the environment or which threatens to interfere with operation of the public sewers or wastewater treatment facilities. Actions which may be taken by the city include ex parte temporary judicial injunctive relief, entry on private property to halt such discharge, blockage of a public sewer to halt such discharge, or demand of specific action by the industry.

(b) *Monitoring and surveillance.* The city shall as necessary sample and analyze the wastewater discharges of contributing industries and conduct surveillance and inspection activities to identify, independently of information supplied by such industries, occasional and continuing noncompliance with industrial pretreatment standards. Each industry will be billed directly for costs incurred for analysis of its wastewater. All industries discharging to the POTW shall allow unrestricted, safe and easy access to personnel of the city, the NHDES and the EPA for the purposes of investigating and sampling discharges from the industries. This access shall include copying and inspecting any records pertaining to the discharge or disposal of wastewater or chemical wastes and any records that have been compiled pursuant to pretreatment programs.

(c) *Investigations.* The city shall investigate instances of noncompliance with industrial pretreatment standards and requirements.

(d) *Public information and participation.* Information and data submitted to the city under this article relating to wastewater discharge characteristics shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the director, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable State law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report that might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person providing the report. Other such information shall be available to the public at least to the extent provided by 40 CFR part 25 section 2.302. All data pertaining to the characteristics of chemical composition of the wastewater shall be available for public information and inspection. None will be considered confidential. The city shall comply with the public participation requirements of 40 CFR 25 in the enforcement of industrial pretreatment standards and requirements.

Sec. 98-357. Handling of septic tank (septage) and Hauled Industrial waste.

(a) *Generally.* Septic tank waste and the discharge from holding tanks will be accepted into the sewer system at a designated receiving structure within the treatment plant area at such times as are established by the director, provided such wastes do not contain unusual toxics or pollutant material and provided such discharge does not violate any other special requirements established by the director. There shall be no unrestricted access to the septage discharging facility. The director may allow discharge of holding tank waste from nonindustrial sources at a designated area in the collection system outside of the wastewater treatment plant area.

(b) *Permits.* Permits to use such facilities shall be under the jurisdiction of the director. Fees for dumping septage will be established as part of the user charge system. The director shall have authority to limit or refuse the disposal of such wastes, if such disposal would interfere with the treatment plant operation.

(c) *Hauled Industrial Wastes.* All procedures for the disposal of such wastes shall be in conformance with the operating policy of the wastewater treatment plant director, and disposal shall be accomplished under the director's supervision unless specifically permitted otherwise. The discharge of industrial wastes as industrial septage requires prior approval of the NHDES Water Division.

(d) *Sampling.* The city shall as necessary sample and analyze the discharges from septage haulers to identify occasional and continuing noncompliance with these standards. Each hauler will be billed directly for costs incurred for analysis of its wastewater.

(e) *Septage source form required.* Before any septage or holding tank waste is discharged, a form shall be turned in to the director describing the source of the waste. The director shall determine whether a sample is needed from each load of septage or holding tank waste.

#### Sec. 98-358. Powers and authority of inspectors.

(a) *Right of entry.* The director and other duly authorized city employees bearing proper credentials and identification shall be permitted to enter all properties for the purposes of, but not limited to, inspection, observation, measurement, sampling and testing pertinent to discharge to the public sewer system in accordance with this article in order to determine compliance with this article and any IDP or order issued hereunder. If the director has been refused access, then the director may obtain an administrative inspection warrant under RSA 595-B.

(b) *Obtaining information.* The pretreatment coordinator or any federal or state official is authorized to obtain information concerning industrial processes which include but are not limited to those which have a bearing on the kind and source of discharge to the wastewater collection system. The industry may not withhold information considered confidential. The pretreatment coordinator may hold certain information that is not available for public review, but the industry must establish that the revelation to the public of the information in question might result in an advantage to competitors.

(c) *Inspectors' responsibilities.* While performing the necessary work on private properties referred to in this section, the director shall observe all safety rules applicable to the premises established by the company, and the company shall be held harmless for injury or death to the city employees. The city shall indemnify the company against loss or damage to its property by city employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by the negligence or failure of the company to maintain safe conditions as required in section 98-390 pertaining to the structure for collecting samples.

(d) Where a user has security measures in force that require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the director will be permitted to enter without delay for the purposes of performing specific responsibilities.

(e) The director and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all private properties through which the city holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the POTW lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

Sec. 98-359. Annual fee for industrial users.

Industrial users will be assessed an annual fee by the city to defray the administrative costs of the industrial discharge permits (IDP) program. The fee shall be calculated as set forth in the schedule of fees in appendix B to this Code.

Sec. 98-360. Violations.

(a) *Destruction.* Any person causing obstruction, destruction, or other impairment to any part of the sewer system, treatment plant, pumping stations or any appurtenance shall be subject to the full penalties of the criminal law. This penalty shall be classified as aggravated criminal mischief, a class B felony. The maximum sentence for this crime is imprisonment for 3 1/2 years to seven years and a fine of \$2,000.00.

(b) *Penalties.* Any person found to be violating any section of this article except subsection (a) of this section pertaining to destruction may be served by the city with written Notice of Violation stating the nature of the violation. The offender shall, within the period of time stated in such notice, comply with all specific required actions, including providing an explanation for the noncompliance and corrective actions initiated. A user's timely response to a Notice of Violation in no way relieves the user of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this section shall limit the authority of the director to take any action, including emergency actions or any other enforcement action without first issuing a Notice of Violation.

Remedies for these violations shall include but are not limited to the following:

(1) Demand by the pretreatment coordinator of a specific action to be performed by the user. Such action(s) may include, but are not limited to development of a compliance schedule and/or best management practices plan.

(2) IDP termination.

(3) Civil forfeiture up to \$10,000.00 per violation per day (Ref. RSA 149-I:6).

(4) Judicial injunctive relief.

(5) Shutting off the water supply at the facility's water service to prevent further discharge.

(6) Blockage of the public sewer to halt discharge.

(c) *Criminal penalties.* Any person who shall continue any violation beyond the time limit provided for in subsection (b) of this section shall be subject to criminal penalties in the form of fines in the amount not exceeding \$1,000.00 per day, per violation. Fines shall be assessed from the first day of the violation. Additionally, any violation beyond the time limit provided for in subsection (b) of this section may be referred to the state for criminal prosecution under its powers as stated in RSA 485-A:22.

(d) *Procedure for shutting off water supply.* If the director decides it is necessary to shut off the water supply to a facility for noncompliance other than an immediate endangerment to the environment, sewer workers, wastewater treatment plant, or the public health, the following approach will be taken:

(1) Written explanation of the violation with an opportunity for the user's explanation.

(2) Administrative order from the director requiring the user to come into compliance. The order shall include deadlines for reaching stages of compliance.

(3) A show cause hearing in front of the director and city manager to show cause as to why the water should not be shut off.

(4) Certified notice sent with a shutoff date.

(5) Water shutoff at service.

(e) *Restoration of service.* To return service, the user must demonstrate that compliance will be achieved and must show what changes have been made to prevent the violation from recurring.

(f) *Non-discharge violation penalties.* Any nondischarge violations of the industrial discharge permits are subject but not limited to the following penalties:

(1) Administrative order from the director.

(2) Show cause hearing before one or all of the following: the pretreatment coordinator, the director, and the city council.

(3) IDP termination.

(4) Civil prosecution if an order from the director is disobeyed.

(g) *Reimbursement of costs.* Any costs incurred by the city in enforcing any violations can be collected from the industrial user if the issue is resolved in favor of the city.

(h) *Public notice of significant noncompliance.* At least once each year the pretreatment coordinator will publish a notice in a newspaper(s) of general circulation that provides meaningful public notice within the jurisdiction served by the POTW a listing of industrial users found to be in significant noncompliance of either this article or federal regulations listed in 40 CFR.

(i) *Nonexclusive remedies.* The remedies provided for in this Code are not exclusive. The city may take any, all, or any combination of these actions against a noncompliant user.

Secs. 98-361--98-385. Reserved.

## **ARTICLE VI. INDUSTRIAL PRETREATMENT**

### **DIVISION 1. GENERALLY**

Sec. 98-386. Applicability.

All persons discharging or having the potential to discharge industrial wastewater into the city's POTW shall comply with applicable requirements of federal and state industrial pretreatment regulations, as amended, in addition to the requirements of this article. No industrial wastewater shall be directed to a sewer that is not connected to the POTW.

Sec. 98-387. Pretreatment of industrial wastewater.

(a) All industrial wastewater shall be pretreated in accordance with federal regulations contained in 40 CFR and state regulations as listed in RSA 485-5:A and this article to the extent required by applicable federal categorical pretreatment standards, state pretreatment standards, or standards established by the director, whichever is more stringent. Federal categorical pretreatment standards, as listed in 40 CFR Chapter I, Subchapter N, Parts 405 to 471, when promulgated, if more stringent, will supersede any local standards for the same pollutant. Users shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in Article V of this Code within the time limitations specified by EPA, the State, or the director, whichever is more stringent.

(b) Where pretreatment or flow equalizing facilities are provided or required for any industrial wastewater, they shall be maintained continuously in satisfactory and effective operation by the owner at the owner's expense.

(c) Whenever deemed necessary, the director may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sanitary sewage wastestreams from industrial wastestreams, and impose such other conditions as are deemed necessary to protect the POTW and determine the user's compliance with the requirements of this Code.

(d) The director may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. An IDP may be issued solely for flow equalization.

(e) Users with the potential to discharge flammable substances shall, at the discretion of the director, install and maintain an approved combustible gas detection meter and alarm.

(f) The director may require specific operation and maintenance activities and frequencies for any pretreatment system or device.

#### Sec. 98-388. Approval of pretreatment plans required.

If the director permits the pretreatment or equalization of industrial wastewater, the design and installation of the pretreatment facilities shall be subject to the review and approval of the director and the NHDES Water Division, and shall be subject to the requirements of all applicable codes, ordinances and laws, and fees. If applicable, plans and specifications for any pretreatment facility shall be stamped/sealed and signed by a professional engineer registered in the State of New Hampshire who shall be responsible for the design. Such facilities shall not be connected until such approval is obtained in writing. Plans and specifications for a proposed treatment facility shall be the result of the design of a professional engineer. Such approval shall not relieve the owner of the responsibility of discharging treated waste meeting the requirements of this article.

#### Sec. 98-389. Bypass of pretreatment systems.

(a) The required industrial wastewater pretreatment system shall not be bypassed at any time, even if such a bypass does not result in a violation, unless:

(1) Bypass was necessary to prevent loss of life, personal injury, or severe property damage.

(2) There are no feasible alternatives. These alternatives shall not include the absence of adequate backup equipment or bypass during routine preventative maintenance of the pretreatment equipment.

(b) If the user anticipates the need to bypass the treatment system, the user must notify the pretreatment coordinator at least ten days ahead of time. If the bypass is not anticipated, the user must orally notify the pretreatment coordinator within 24 hours after becoming aware of the bypass. The oral notice must be followed within five (5) days by a written description of the bypass, its cause, its duration, exact times and dates (actual or expected) and what has been done to rectify the problem and prevent it from recurring.

#### Sec. 98-390. Structure for collecting samples.

When required by the director, the owner of any property serviced by a building sewer carrying industrial wastewater shall install a suitable structure together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such structure, when required, shall be accessible and safely located and shall be constructed in accordance with plans approved by the director. The structure shall be installed by the owner at the owner's expense and shall be operated and maintained by the owner so as to be in good working order, safe and accessible at all times. All devices used to measure wastewater flow and quality shall be calibrated to ensure their accuracy at a frequency approved by the director. The failure of an owner to keep its monitoring facility in good working order shall not be grounds for the owner to claim that sample results are unrepresentative of its discharge.

#### Sec. 98-391. Monitoring required.

All industries discharging into a public sewer shall perform such monitoring as the director or duly authorized city employees may reasonably require, including installation, use and maintenance of monitoring equipment; keeping records; and reporting the results of such monitoring to the pretreatment coordinator. Such records shall be made available upon request by the pretreatment coordinator to other agencies having jurisdiction over discharges to the receiving water.

#### Sec. 98-392. Information required.

The pretreatment coordinator may require a user of sewer services to provide information needed to determine compliance with this article. These requirements may include the following:

- (1) Wastewater discharge peak rate and volume over a specified time period.
- (2) Chemical analyses of wastewaters.
- (3) Information on raw materials, processes and products affecting wastewater volume and quality.

- (4) Quantity and disposition of specific liquid, sludge, oil, solvent or other materials important to sewer use control.
- (5) A plot plan of sewers on the user's property showing sewer and pretreatment facility locations.
- (6) Details of wastewater pretreatment facilities.
- (7) Details of systems to prevent and control the losses of materials through spills to the public sewer.

Sec. 98-393. Spill control.

When directed to do so by the pretreatment coordinator, the industrial user shall develop, submit for approval, and implement such a plan to control slug discharges as defined in section 98-271. The plan shall contain at least the following elements:

- (1) Description of discharge practices, including non-routine batch discharges;
- (2) Description of stored chemicals;
- (3) Procedures for promptly notifying the POTW of slug discharges, including any discharge that would violate a specific prohibition under section 98-328 pertaining to prohibited discharges and section 98-329 pertaining to limited discharges, with procedures for followup written notification within five days;
- (4) If necessary, procedures to prevent adverse impact from accidental spills including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants including solvents, and/or measures and equipment for emergency response; and
- (5) If necessary, followup practices to limit the damage suffered by the treatment plant or the environment.

Significant industrial users are required to notify the director immediately of any changes at its facility affecting the potential for a slug discharge.

Sec. 98-394. Best management practices plans.

The director may develop or require any person discharging wastes into the POTW to develop and implement, at their own expense, a Best Management Practices Plan (BMP Plan), also referenced as a pollution prevention plan.

Documentation demonstrating implementation or compliance with best management practices shall be created, retained, and made available as required.

The review and approval of such BMP Plans by the city shall in no way relieve the user from the responsibilities of modifying their facilities as necessary to produce a discharge acceptable to the city in accordance with the provisions of this Code.

Secs. 98-395--98-420. Reserved.

## DIVISION 2. REPORTING REQUIREMENTS

Sec. 98-421. Significant industrial users.

Significant industrial users shall submit periodic reports at least twice a year in June and December or as required after the compliance date of such pretreatment standard or, for a new source, after commencement of the discharge into the wastewater treatment plant. These reports shall indicate the nature and concentration of pollutants in the discharge from the regulated processes governed by pretreatment standards and the average and maximum daily flows for these process units. If required, it shall also include an indication of mass of applicable pollutants discharged, and reasonable measure of the user's long term production rate, and production rate during the reporting period. In cases where a pretreatment standard or an IDP requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the user must submit documentation required by the city or the pretreatment standard necessary to determine the compliance status of the user.

If a user subject to the reporting requirement in this article monitors any pollutant more frequently than required by the director, using the procedures prescribed in Sections 98-336 of this Code, the results of this monitoring shall be included in the report and will be used to determine compliance.

The report shall contain a certification statement which asserts that applicable categorical pretreatment standards and effluent limitations are being met on a consistent basis and, if not, what additional operation and maintenance practices and/or pretreatment are necessary. Additional requirements for such reports may be imposed by the pretreatment coordinator. The reports must be signed and certified in accordance with Section 98-424 of this Code.

Sec. 98-422. Categorical industrial users.

Categorical industrial users shall submit periodic reports as required indicating the nature and concentration of pollutants in the discharge from the regulated processes governed by pretreatment standards and the average and maximum daily flow for these process units. The reports shall state whether the applicable categorical pretreatment standards and effluent limitations are being

met on a consistent basis and, if not, what additional operation and maintenance practices and/or pretreatment are necessary. Additional requirements for such reports may be imposed by the city. Reports submitted under this section shall be signed by an authorized representative.

**Sec. 98-423. Baseline monitoring reports.**

Within either one hundred eighty (180) days subsequent to the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users currently discharging to, or scheduled to discharge to the POTW, shall submit to the director a report that contains the information listed in paragraph (B), below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the director a baseline monitoring report. A list of information required for baseline monitoring reports can be obtained from the director. If necessary, a new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall provide estimates of its anticipated flow and quantity of pollutants to be discharged.

**Sec. 98-424. Signatories and certification.**

All IDP applications and user reports submitted under this article shall be signed by an authorized representative of the user and contain the following certification statement:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

**Sec. 98-425. Compliance schedule and progress reports.**

Compliance schedules for meeting federal categorical pretreatment standards shall meet all applicable federal requirements. The director may require compliance schedules including identification of major milestones and completion dates.

Each user subject to a compliance schedule pursuant to this article shall report on progress toward meeting compliance as follows: Not later than fourteen (14) days following each date in the schedule and the final date for compliance, the industrial user shall submit a progress report to the pretreatment coordinator indicating whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply; the reason for the delay; and the steps being taken by the industrial user to return to the schedule established.

Sec. 98-426. Ninety-day reports.

Within 90 days following the date for final compliance with applicable categorical pretreatment standards, as described in 40 CFR 403.12(d) or, for a new source, following the commencement of the introduction of wastewater into the POTW, any industrial user subject to categorical pretreatment standards shall submit a report to the pretreatment coordinator containing the information described in 40 CFR 403.12(d). All compliance reports must be signed and certified in accordance with Section 98-424 of this Code.

Sec. 98-427. Violation indicated by self-monitoring report.

If a violation is indicated by a report as provided in this article, the wastewater must be resampled and the results must then be submitted to the pretreatment coordinator within 30 days after becoming aware of the violation. The user must notify the pretreatment coordinator, either orally or in writing, of a violation within 24 hours after he becomes aware of it.

Sec. 98-428. Monitoring records.

Industrial users subject to the reporting requirements under this article shall maintain records of information resulting from monitoring activities required to prepare such reports, including documentation associated with Best Management Practices, required by this Code or IDP and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Such records shall be maintained for a minimum of five years and shall be made available for inspection and copying by the city and authorized state or federal personnel. Such reports shall include the following:

- (1) The date, exact place, method and time of the sampling and the name of the person taking the sample.
- (2) The dates analyses were performed.
- (3) The laboratory performing the analyses.
- (4) The analytical techniques and methods used.
- (5) The results of such analyses.

Sec. 98-429. Records retention.

In addition to the recordkeeping requirements in Sec. 98-428, all records that pertain to matters that are the subject of special orders or any other enforcement or litigation activities shall be retained and preserved by the industrial user until all enforcement activities have concluded and all periods of limitation with respect to any and all appeals have expired.

Sec. 98-430. Date of receipt of reports.

Written reports will be deemed to have been submitted on the date postmarked. For reports, which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

Sec. 98-431. Reports from other industrial users.

All non-significant users and users not required to obtain an IDP, shall provide reports to the pretreatment coordinator as the pretreatment coordinator may require.

Sec. 98-432. Reports of changed conditions.

Each user must notify the director of any planned significant changes to the user's operations in accordance with the requirements of Section 98-484.

Sec. 98-433. Reports of slugs or potentially adverse discharges.

(a) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, or a slug, that may adversely impact the POTW, the user shall immediately telephone and notify the director of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions conducted by the user.

(b) Within five (5) days following such discharge, the user shall, unless waived by the director, submit a detailed written report describing the cause(s) of the discharge and the measures to be initiated by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability that may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability that may be imposed pursuant to this Code. This report must be signed and certified in accordance with Section 98-424 of this Code.

(c) Employers shall ensure that all employees who could cause such a discharge to occur are advised of the emergency notification procedure.

(d) The permittee shall notify the city immediately of any changes at its facility that may affect the potential for a slug discharge. The city may require the permittee to develop or modify a Slug Control Plan or take other actions to control slug discharges.

Secs. 98-434--98-450. Reserved.

### **DIVISION 3. CATEGORICAL PRETREATMENT STANDARDS**

#### **Sec. 98-451. General**

The categorical pretreatment standards are found at 40 CFR Chapter I, Subchapter N, Parts 405-471 and are hereby incorporated into the Code and will be administered by the director in accordance with the requirements of 40 CFR Part 403.

#### **Sec. 98-452. Notification.**

The city shall provide timely notification to appropriate industries of applicable categorical pretreatment standards. Upon promulgation of the categorical pretreatment standards for a particular industrial subcategory, the categorical pretreatment standards, if more stringent than limitations imposed under this Code for sources in that subcategory, shall, on the compliance date of the categorical pretreatment standards, immediately supersede the limitations imposed under this Code.

#### **Sec. 98-453. Compliance date for categorical standards.**

Compliance with categorical pretreatment standards shall be achieved within three years of the date such standards are effective, unless a shorter compliance time is specified in the standards.

#### **Sec. 98-454. Categorical compliance report.**

The need for categorical compliance reports under this division shall be fulfilled by the reporting requirements outlined in section 98-422 pertaining to reporting requirements for categorical industrial users.

Secs. 98-455--98-475. Reserved.

### **DIVISION 4. INDUSTRIAL DISCHARGE PERMITS (IDPs)**

#### **Sec. 98-476. Required.**

The discharge of any industrial wastewater to the city's POTW from a significant indirect discharger is prohibited without a valid industrial discharge

permit (IDP). The director may require other users to obtain IDPs, or submit an application for an IDP within sixty (60) days of the request, as necessary to execute the purposes of this Code.

Sec. 98-477. Application contents.

Persons subject to this division shall submit an application for an industrial discharge permit containing information required under applicable federal and state industrial pretreatment reporting regulations. The director is authorized to prepare a form for this purpose and may periodically require users to update this information.

Incomplete or inaccurate applications will not be processed and will be returned to the user for revision. All applications must be signed and certified in accordance with Section 98-424 of this Code.

Sec. 98-478. Amendment required.

An industrial user subject to categorical pretreatment standards shall not discharge wastewater directly or indirectly to the city POTW after the compliance date of such standards unless an amendment to its industrial discharge permit has been issued by the city.

Sec. 98-479. Application for amendment.

Within 90 days after the effective date of a categorical pretreatment standard, an industry subject to such standards shall submit an application for an industrial discharge permit amendment. The application shall contain the information outlined under section 98-477, except that the compliance certification for pretreatment or operation and maintenance statement must be signed by a qualified professional and must contain the certification statement in Section 98-424 of this Code.

Sec. 98-480. IDP conditions.

(a) The industrial discharge permit will outline the general and specific conditions under which the industrial wastewater is accepted for treatment at the city's wastewater treatment plant. Specifically, included in the permit are the following:

(1) Pretreatment and self-monitoring facilities required.

(2) Self-monitoring, sampling, reporting, inspection, notification, and record-keeping requirements. These requirements shall include an identification of pollutants (or best management practices) to be monitored, sampling location, sampling frequency, and sample type based on federal, State, and local law.

(3) Effluent limitations, including Best Management Practices, categorical pretreatment standards, local limits, and the general and specific prohibitions from this Code that apply to the industrial wastewater.

(4) Listing of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by this Code, applicable State and federal laws, rules and regulations.

(5) Requirements to control a Slug Discharge, if determined by the director to be necessary.

(6) Industry name, street/ mailing address along with daytime phone number, along with dates of IDP issuance and expiration, and effective date. The permit will be in effect for a specified time period, not to exceed five years. A new application will be filed with the pretreatment coordinator by the industry a minimum of 180 days before the permit expires.

(7) Requirement for city approval prior to any increased or new discharge.

(8) Requirement for the industry to provide a copy of the IDP to the DES upon request.

(b) The permit may be revoked by the city for noncompliance or modified so as to conform to discharge limitation requirements that are enacted by local, federal or state rules and/or regulations.

(c) Any violation of the terms and conditions of an IDP shall be deemed a violation of this Code and subjects the permittee to the enforcement actions set out in this Code. Obtaining an IDP does not relieve a permittee of its obligation to comply with all federal and State pretreatment standards or requirements or with any other requirements of federal, State, and local law, including those that become effective during the term of the IDP.

(d) IDPs shall be terminated upon cessation of operations or transfer of business ownership, unless notification of such transfer is provided in accordance with Section 98-483 of this Code. All IDPs issued to a particular user are void upon the issuance of a new IDP to that user.

#### Sec. 98-481. IDP appeals.

Any person, including the user, may petition the director to reconsider the terms of an IDP within thirty (30) days of notice of its issuance.

(a) Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.

(b) In its petition, the appealing user must indicate the IDP provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the IDP.

(c) The effectiveness of the IDP shall not be stayed pending the appeal.

(d) If the director fails to act within sixty (60) days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider an IDP, not to issue an IDP, or not to modify an IDP shall be considered final administrative actions for purposes of judicial review.

Sec. 98-482. IDP modification.

The director may modify an IDP for good cause, including, but not limited to, the following reasons:

(a) To incorporate any new or revised federal, State, or local pretreatment standards or requirements;

(b) To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of IDP issuance;

(c) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;

(d) Information indicating that the permitted discharge poses a threat to the city's POTW, city personnel, or the water quality in the receiving waters;

(e) Violation of any terms or conditions of the IDP;

(f) Misrepresentations or failure to fully disclose all relevant facts in the IDP application or in any required reporting;

(g) Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;

(h) To correct typographical or other errors in the IDP; or

(i) To reflect a transfer of the facility ownership or operation to a new owner or operator.

Sec. 98-483. IDP transfer.

IDPs may be transferred to a new owner or operator only if the permittee provides at least sixty (60) days advance notice to the director, and the director approves the IDP transfer. The notice to the director must include a written certification by the new owner or operator that:

(a) States that the new owner and/or operator has no immediate intent to change the facility's operations and processes that generate wastewater to be discharged to the POTW;

(b) Identifies the specific date on which the transfer is to occur; and

(c) Acknowledges full responsibility for complying with the existing IDP. Failure to provide advance notice of a transfer renders the IDP void as of the date of facility transfer.

#### Sec. 98-484. Proposals for new or changed discharges.

Each user proposing a new discharge or a change in volume or character of its existing discharge must notify the pretreatment coordinator at least 60 days prior to the commencement of such discharge.

(a) The pretreatment coordinator may require the user to submit such information as deemed necessary to evaluate the proposed change, including the submittal of an IDP application under Section 98-477 of this Code and all information required by the NHDES for an Industrial Wastewater Discharge Request (IDR) under the Env-Wq 305 Pretreatment of *Industrial Wastewater* rules.

(b) Upon approval of the IDR request by the city it will be submitted by the city to the NHDES Water Division based on information submitted by the user. All applicable NHDES Water Division review fees shall be provided by the user.

(c) Upon approval of the IDR by the NHDES Water Division, the director will issue an IDP under Section 98-480 of this Code or modify an existing IDP under Section 98-482 of this Code in response to changed conditions or anticipated changed conditions.

#### Sec. 98-485. IDP termination.

The director may terminate a user's IDP for good cause, including but not limited to the following:

(a) Violation of IDP conditions;

- (b) Failure to accurately report the wastewater constituents and characteristics of its discharge;
- (c) Failure to report significant changes in operations or wastewater constituents and characteristics;
- (d) Misrepresentation or failure to fully disclose all relevant facts in the IDP application;
- (e) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling;
- (f) Falsifying self-monitoring reports;
- (g) Tampering with monitoring equipment;
- (h) Failure to pay fines;
- (i) Failure to pay sewer charges;
- (j) Failure to meet compliance schedules;
- (k) Failure to provide requested information;
- (l) Failure to provide advance notice of the transfer of a permitted facility;
- (m) Discharging wastewater that presents an imminent hazard to the public health, safety or welfare, or to the local environment; or
- (n) Violation of any pretreatment standard or requirement, or this Code or order issued hereunder, or any applicable State or federal law.

Sec. 98-486. IDP reissuance.

A user with an expiring IDP shall apply for reissuance of the IDP by submitting a complete IDP application, in accordance with Section 98-477 of this Code, a minimum of one hundred eighty (180) days prior to the expiration of the user's existing IDP. Under no circumstances shall the permittee continue to discharge without an effective permit. An expired IDP will continue to be effective and enforceable (i.e., administratively extended) until the IDP is reissued if:

- (a) The industrial user has submitted a complete IDP application at least one hundred eighty (180) days prior to the expiration date of the user's existing permit; or

(b) The failure to reissue the IDP, prior to expiration of the previous IDP, is not due to any act or failure to act on the part of the industrial user.

Secs. 98-487--98-500. Reserved.

## DIVISION 5. MISCELLANEOUS

Sec. 98-501. Validity.

If a provision of this Code is found to be in conflict with any provision of zoning, building, safety or health or other code of the city, the State of New Hampshire, or the federal government existing on or subsequent to the effective date of this Code, that provision which in the judgment of the city establishes the higher standard of safety and protection shall prevail.

Sec. 98-502. Interpretation.

The provisions of this Code with respect to the meaning of technical terms and phrases, the classification of different types of sewers, the regulations with respect to installing or constructing connections to sewers or drains, and other technical matters shall be interpreted and administered by the director acting in and for the City of Keene, New Hampshire through the city council.

Secs. 98-503--98-510. Reserved.

Sec. 98-512. - Sewer rates and charges.

(a) *Sewer rates.* Rates and charges for sewer service should be based on the quantity of water delivered to the premises as measured by and registered on the water meter or other method for a flat-rate estimation and shall be as set forth in the schedule of fees in appendix B to this Code.

(b) *Septage and holding tank charges.* Charges for the disposal of septic waste (septage) and holding tank waste (domestic sewage) shall be based on the load's actual volume, rounded up to the nearest 100-gallon increment, based on the readings taken by city staff, provided the sanitary truck's owner has installed and maintains, at his own expense, a sight tube of such design as approved by the wastewater treatment plant chief operator. If the owner does not install such a sight tube, the charge shall be based on the measured capacity in gallons of the sanitary tank truck as licensed by the state department of environmental services, water supply and pollution control division, water quality and permit compliance bureau.

The charges for septage and for each load of septic waste and the charge for holding tank waste and for each load of holding tank waste shall be as set forth in the schedule of fees in appendix B to this Code.

The public works director may establish rules to govern septage and holding tank waste disposal into the sewer system or wastewater treatment plant.

(c) *Surcharge.* Based on review and evaluation of industrial wastewater characteristics by the Director, where the strength or characteristics of sewage accepted into the public sewers exceeds the standards set forth, a surcharge may be added to the normal sewer service bill. For the purpose of fixing surcharge rates, the characteristics indicating sewage strength have been divided into two groups as follows:

<i>Group 1</i>	Suspended solids	250—400 ppm
	BOD	250—400 ppm
<i>Group 2</i>	Suspended solids	In excess of 400 ppm
	BOD	In excess of 400 ppm

All of the sewage in group 1 shall have a surcharge of 20 percent of the normal bill, and all of the sewage in group 2 shall have a surcharge of 50 percent of the normal bill.

(d) *Water not going to sewer of residential users.* A residential consumer (owner) who indicates that less than 100 percent of his waste as indicated by the meter is not returned to the sewer may, with the permission of the public works director, add a second standard meter at the consumer's cost for meter and plumbing installation. The second meter will be located adjacent to the normal water meter, near the service entrance. There will be a tee in the line on the street side of the meter so that water will only be metered once. A separate pipe from the second meter will convey water only to those uses or fixtures approved and inspected from time to time by the director as not contributing to sewer flow. The installation and final inspection of such meter is to be under the supervision of the water division. The consumer will be billed once a year for this second meter for water only according to what billing section they are in, either October, November or December. The reading will be taken by the water division. The residents who have a meter installed as per this subsection to

meter water not going into the sewer shall receive no summer discount as provided in subsection (g) of this section pertaining to a summer discount.

*(e) Water not going to sewer of commercial or industrial user.* If a commercial or industrial consumer indicates that less than 100 percent of his water consumption as indicated by the meter is returned to the sewer, the director and the consumer shall devise an appropriate method of fixing a percentage of consumption that may include use of meters, estimates, etc. The agreement arrived at shall be in writing, with three copies distributed as follows: one to the consumer, one to the department, and one to the city comptroller.

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Mayor George S. Hansel