PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

SEPTEMBER 29, 2025

A meeting of the Planning and Economic Development Committee was held Monday, September 29, 2025 at 7:00 p.m. in the Aldermanic Chamber and duly noticed in two places, including the City's website, in accordance with the requirements of RSA 91-A:2 II.

If you are participating via Zoom, please state your presence, reason for not attending the meeting in person, and whether there is anyone in the room with you during this meeting, which is required under the Right-to-Know Law.

The roll call was taken with 4 members of the Planning and Economic Development Committee present:

Alderman Tyler Gouveia, Acting Chairman
Alderman-at-Large Ben Clemons
Alderman Derek Thibeault
Alderman Ernest Jette

Members not in Attendance: Alderman-at-Large Melbourne Moran, Jr.

Also, in Attendance: Sam Durfee, Planning Manager

ROLL CALL

Alderman Thibeault

We have 4 Alderman and that is quorum.

Alderman Gouveia

Alderman Moran sent me a text earlier today. He would not be making the meeting tonight and I will be your chairman tonight.

PUBLIC COMMENT – None.

PRESENTATIONS/DISCUSSIONS

- Use Table
- Site Standards

Sam Durfee, Planning Manager

Well, good evening. For the record, Sam Durfee, Planning Manager. It is great to be back before you again for our seventh session. I'm sure you're all feeling very comfortable with the Code at this point. Can recite it line by line to your constituents.

Well, this session is going to focus on use table, site standards and time and interest permitting, we can do a little update to inclusionary zoning as that was brought up before and we've hold on those strings a little bit more. So just to recap, here are all the topics we've covered and what I was talking about use table, and site standards, and IZ tonight, and we can also field some thoughts for future sessions a little bit later in this year.

So jumping right into use table. So I want to start off with this little history around some of our use variances. So looking back five years, 53 use variances primarily for uses not permitted in districts. That's largely what we see. I think that as you look at what those topics really are where you have a lot of commercial uses in residential, those are largely what I would typically classify as kind of neighborhood commercial barbershops and residences that wouldn't otherwise permit commercial. We're not talking about typically significant commercial uses coming into neighborhoods. We do see some instances where multi-family was sought in single family, and duplex, or even commercial industrial lands. This is mostly pre-expansion of the MU overlay in a number of areas of the city. Some interesting, you know, some estheticians in beauty uses in industrial zones. Just something that you would think should be permitted but we hadn't done that so kind of a that's a nice little data point for us to go back and kind of fix and then we had some for daycare uses, and there was a legislative fix coming. There was a change in State law. We actually have submitted legislation to bring our codes up to speed with State law and then a few other miscellaneous uses, but the bulk of them is really the uses not permitted in districts.

Alderman Clemons

Can I ask you a question?

Sam Durfee, Planning Manager

Yeah, by all means.

Alderman Clemons

Are these the ones that were approved?

Sam Durfee, Planning Manager

Correct, yes. So these show all applications that were approved.

Alderman Clemons

Okay.

Alderman Thibeault

Thank you, Mr. Chair. How many were not? Is it just the 53 minus the 45?

Sam Durfee, Planning Manager

I don't actually have that offhand. I know that this is the majority were approved.

Alderman Thibeault

A majority. Okay, thank you.

Sam Durfee, Planning Manager

I think by quite a wide margin, actually.

So why do we regulate uses? You know, we have what would typically be called a “Euclidean approach to zoning” where we separate uses. Typically good practice. Heavy industrial away from residential but as the history of variances have shown, you know, there are some gray areas where there might be some appropriate mixing of uses. I think some of those neighborhood commercials in those more neighborhood character defined areas of the city. But we currently have a use table that is 293 uses long, which is quite a lot and there's a whole bunch of those that we've never seen, never used so we really want to simplify that. So we're proposing about 125 uses and the idea is that these would be organized into categories and I can show you a good example of that. But the idea is with the creation of categories, you know, it frees us to say, okay a new use comes in. It's not explicitly in the use table but if it's easily put in one of the categories, we can then proceed and treat it as such.

So this is a snippet from our current Code. You know, bike sales and repair, books, magazines, cameras, photographic supplies. All of these are kind of like the retail sales, consumer goods. So you can just call it that as a category. However, there are some instances where there are uses that while may fall within a specific category, do require further regulation.

So here's a snippet from the proposed use table where you have your zoning districts in the color up top with those columns coming down. The uses are down on the left side there establishing the rows. The bold text, so educational services, maintenance or repair services, those are the use categories. But then you'll see under personal services that not bold text, body art services, fitness services, funeral services. Those uses have different characteristics to them therefore, we call them out to regulate them specifically and you'll see the “P” means permitted. The “C” means conditional use and then if there's just a little dash, it's not permitted in the district. So based on the character of certain uses within a category, we shift where and how they are permitted and regulated throughout the city.

Chairman Gouveia

Question for you. So looking at the chart here like, for example, take funeral services because that was one that - I mean I had to deal with in Ward 1 for about a year. So the conditional - when we're looking conditional, what exactly does that mean?

Sam Durfee, Planning Manager

Sure, yeah. So a conditional use permit, right? So it's an application before the Planning Board may or may not be associated with a site plan. So when a use comes in if there's no real significant changes to the property, no new building being erected, it may not require a site plan because nothing is physically changing but the use if it's permitted conditionally, we'd still have to go to before the Planning Board. There's a whole bunch of criteria. Right now, we apply the same 9 criteria or so to all conditional use permits. We recognize those 9 criteria. While generally quite broad and cover most of the bases, there are instances where other uses may require different questions being asked, right, and being considered. So we're hoping to expand those criteria kind of on an individual use basis. So, you know, in addition to these couple other things will need to be considered for the uses that are marked as conditional.

Chairman Gouveia

And just the follow up on that. So with this chart and the way we're proposing now, I mean you're familiar with the Deerwood Drive incident that I was talking about but would that make it so something of that nature wouldn't happen again?

Sam Durfee, Planning Manager

That's the idea, right? So there's a kind of a twofold approach there where 1) You have to identify what is the district. What is the character of the district and it was primarily residential, right? So then the base district would reflect that. So instead of it being an industrial district, which I believe it is right now, which would permit a crematorium, we'd say, okay, well that's not the character of the district. It's a neighborhood district. It's a residential district. Well therefore, you know, funeral services wouldn't even be permitted in such a district.

Chairman Gouveia

Okay, thank you.

Alderman Clemons

Yeah, so well, so that kind of brings me to my concern because what does funeral services mean? What's underneath that?

Sam Durfee, Planning Manager

So in this case here, funeral services are not actually inclusive of crematoria. That is a separate use that just didn't fall under personal services as we are calling that an industrial use. It's in an industrial category. So I think of Davis Funeral Home on Kinsley where there's no cremation services occurring but there's a place of assembly. Maybe people line up for the fleet of vehicles that go to a cemetery as a service.

Alderman Clemons

Yeah, obviously my concern is more along the lines of like a church or something like that where, you know, they may have a funeral, right, and that could lie. I don't know where every single church is …

Sam Durfee, Planning Manager

Sure.

Alderman Clemons

…in the city but obviously, we could lie within one of those zones. We wouldn't want to exclude them. So I don't know if they'd be grandfathered in I assume?

Sam Durfee, Planning Manager

So it wouldn't even be a question of that, right? So a church, its primary use is that of religious assembly, and practice, and worship, and all of that. A funeral may occur there but we would not be classifying churches as funeral services …

Alderman Clemons

Right.

Sam Durfee, Planning Manager

... because that's not their principal use.

Alderman Clemons

Okay, alright, that makes sense.

Sam Durfee, Planning Manager

Yeah, yeah.

Alderman Clemons

Thank you.

Alderman Thibeault

So funeral services. You're basically talking about a funeral home that doesn't have a crematorium. I was thinking that just because like, you know, typically funeral homes in the city are like plopped into like neighborhoods like…

Sam Durfee, Planning Manager

Right.

Alderman Thibeault

You know, they're not like often on Main Street, right? They're usually in a neighborhood in a nice, old house, you know. So I was hoping that wasn't going to take away. I don't think we have too many people that open new ones. We have plenty in the city but okay. So it's just basically the funeral home itself.

Sam Durfee, Planning Manager

Yes.

Alderman Thibeault

Okay. Thank you.

Chairman Gouveia

Alderman Jette.

Alderman Jette

You mentioned on conditional uses, you mentioned there were 9 conditions. Where are those in the current law?

Sam Durfee, Planning Manager
I could give you a section number if you would like. Essentially, these are part of our approval criteria. The conditional use permit approval criteria are found in Section 190-133, specifically enumerated in Subsection F.
Alderman Jette

I'm sorry, did you say 191 or 190?

Sam Durfee, Planning Manager

190-133 F as in Frank.

Alderman Jette

Okay.

Sam Durfee, Planning Manager

So I do want to talk a little bit about Residential Use Classification. So in the table, this is our current use table. It's a different format that this is identifying all of the types of residential uses that we currently have. There's quite a few, right? Some of these aren't even uses. If you look at dwelling, modular home, that is a construction typology. That's not a use, the use is residential. So in the spirit of simplifying, we're considering the four residential uses off there on the right. So the way that would pencil out, so residential, separate facilities. Separate facilities being really the key thing there where you would have just a dwelling unit.

In that unit you have sleeping, eating and bathroom facilities. That is what defines a unit. I apologize - multi family dwelling, three units or more should be highlighted. It is not. While there are multiple units in a building, they all have separate facilities. That is the key differentiating factor there.

Co-living say with shared facilities, that really materializes as single room occupancy units. So basically, you know, you might be living in a single room that has a bed but perhaps you have shared kitchen facilities, shared bathroom facilities. So things like dormitories, room renting. Those sorts of uses will be considered co-living with shared facilities.

Co-living with services. Currently, we only have halfway houses in our ordinance that would classify as such. Same idea. You have a room, you're sharing facilities but co-living with services there would be staff on site. This could be assisted living facilities. You know, we separate these things out because there's clear differences between them. There're different demands on the site.

And then we also have commercial lodging where these aren't, you know, residences but they are places where people can access a sleeping space, some sort of food space, and then also bathroom facilities. So rather than having 20 some odd residential uses that may or may not vary significantly, the simplification of these into four residential categories under logical as we see it differentiating factors approaches just a more simplified code and I will also add that there have been some changes to State law, most notably this past session - HB457. We can no longer regulate on the basis of familial, marital, employment, or educational status. We currently have an unrelated person's table, basically restricting the number of unrelated people per square foot in a household. I believe in single family, it's one per 300 square foot as an example. That is no longer. We cannot do that. So that is something that is part of that legislative package.

Chairman Gouveia

Alderman Clemons.

Alderman Clemons

Yeah, so just to clarify. We can still regulate the number of people per square feet. We just can't say you have to be related or something like that, right?

Sam Durfee, Planning Manager

There are such provisions in the building and fire codes. There are life safety concerns for, you know, residential density of number of people in a space.

Alderman Clemons
Right.

Sam Durfee, Planning Manager

I spoke briefly with Bill McKinney our building official today just to get a sense of that and it's quite complicated. I'm no expert on building and fire codes, but there are provisions there from a life safety standpoint.

Alderman Clemons

Okay, so but if we wanted to say in our code, which I think it says, remind me what it says - one person per 350 square feet, we could still do that as long as we're not calling out the relationship of the people in there, right?

Sam Durfee, Planning Manager

I believe so. I would like to test that. I want to pull on that thread just a little bit. You know, in context, right, so single family home. What if it is a small home but a huge family? Would we want to regulate it like that and say, Oh, you and your whole family, maybe it's extended. You can't all live together. You know, there's 10 of you in a 1,500 square foot home. You're in violation of our ordinance. That context is different from what we've seen in other instances. Somewhat recently in the city with a co-living situation where they're unrelated but obviously we can't do that.

Alderman Clemons

Mr. Chairman?

Chairman Gouveia

Yes.

Alderman Clemons

Yeah, so I was thinking more of the of the co-living and not so separating out from residential to co-living either that shared or the with services even, yeah, and saying, you know, that's under those categories. That's where you would do the per person per square foot type. You know, so a residential facility, you wouldn't do that but in those particular instances you would.

Sam Durfee, Planning Manager

Sure. Yeah and theoretically, you could. At the same, you know, think of like a single room occupancy unit. Now assume no sort of program, this is just a very cheap, attainable way to secure shelter. You know, your room may not be 300 square feet.

Alderman Clemons

Right and I'm not - and just to - I think there's a number …

Sam Durfee, Planning Manager

There is.

Alderman Clemons

…that we could probably figure out what it is. I'm just throwing out a generic number, but I think there is a number and I think we ought to have a discussion about what that number is and figure that out and put that into the Code for those two situations. I was using 300 as an example. I don't know if that's the one, but I think that's a reasonable conversation to have.

Sam Durfee, Planning Manager

Thank you and I think we'll look to building and fire codes to inform that and then I think that's a discussion that we can float here. That's important feedback so thank you.

Chairman Gouveia

Alderman Thibeault.

Alderman Thibeault

Thank you, Mr. Chair. Yeah, that's, I mean, I don't know how you ever regulate that because no one ever goes into anybody's house and count people but because we know there's probably a lot of it happening now. Hotel, motel, bread and breakfast lodging. Does that fall under those same guidelines? Obviously, you know, the marriage part or the related part doesn't matter but do we have - we must have standards for how many people we can put in one of those? I guess it goes by the fire code I would guess, right?

Sam Durfee, Planning Manager

That's actually a lot more clear in the building and fire codes. Outside of like single family residential as you move into the commercial side of fire codes, that is very cut and dry. So much so that I believe even in our current Code, we don't really even approach it. We do have it in our Unrelated Persons Table but there's, I think we're well covered by building and fire code.

Alderman Thibeault

Just a follow up. So I look at the tourist homes, right, so hey, you decide to do whatever it is, whatever they call it - loan out your house for, you know, touristy things and yeah, you fill it out with, you know, 50 kids or whatever, 50 frat kids. I mean, obviously that's breaking that kind of law I would think, right? I mean but you can't really - how do you regulate that?

Sam Durfee, Planning Manager

There are ways to regulate short term rentals. You know if we were a North Conway, I would imagine that we would be very interested in regulating such things. We're not a tourism driven economy here in Nashua for better or for worse yet and that is a conversation to have. It would be good to have something on the books and we're happy to explore that. We have not done so yet.

Alderman Thibeault

Okay, thank you.

Chairman Gouveia

Alderman Jette.

Alderman Jette

So I'm looking at the, you know, you mentioned that the State law now says we can no longer regulate on the basis of familial, marital, employment or educational status. So - but then you say, well, you know, if you have family of 10, you can't tell them they can't live there. I mean how can you say that? If we can't distinguish based upon familial, how can we say, you know, if you have 10 children they can live in a 1,500 square foot house when you can't distinguish between whether they're related or unrelated?

Sam Durfee, Planning Manager

My choice of words was poor. I didn't say that you can't. I think it would just be very unpopular thing to do if we were to tell families that you can't have so many kids because you're your home is too small. It's not - we certainly - I suppose that we could. I just don't know if that's ever been tested or tried before.

Alderman Jette

It's not a question of - I mean if the State law says that we cannot discriminate or distinguish based upon familial, then we don't have any choice. If we say you need so many square feet per person, you know, you can't say well if that person is your child, there's an exception. This law is saying we can't do that.

Sam Durfee, Planning Manager

Building and fire codes really leave single family alone for the most part and I am wading into an area of law that I'm not very familiar with. But my understanding in speaking with Bill McKinney this afternoon is that once you get into the three units or more type of situation, the fire codes are much more explicit. That's where you see 50-100 square feet and that varies. There're many different classifications but beyond single family, I mean single family itself is from a number of people in a dwelling. I don't believe it is all that thoroughly regulated.

Alderman Jette

Okay, so even the term "single family" here is violation of that law isn't it?

Sam Durfee, Planning Manager

I would defer to Corporation Counsel to make a determination on that.

Alderman Jette

I mean if you can't legislate based upon a familial relationship calling something a single family, you're using the word "family". You're, I mean.

Sam Durfee, Planning Manager

We typically would consider single family synonymous with detached, single unit, right? So when we think of single family or two family, it's the number of units, right? You have the sleeping, the cooking and the bathroom facilities. Those define the unit. A single-family home, a detached single-family home, a detached single unit, your typical house, there's only one unit in there unless it has an ADU, then it's a single family with ADU, attached or detached. But I see your point calling it single family and then we see this law and calls in question familial relation.

Alderman Jette

Maybe we should call it a single unit. You seem to be saying you can put as many people as you want in a single unit because you can't, you know, you can't have more than a certain number of unrelated people. You can't do that anymore it sounds like. I mean I don't mean to - I'm not making you responsible for this law. I don't know what the - it just seems like …

Sam Durfee, Planning Manager

Well, it's …

Alderman Jette

There are good questions to ask whether …

Sam Durfee, Planning Manager

You're right and it's a smart question, right? You maybe recall our 16 Archery Lane incidents where this really got tested. You know, we have local zoning ordinances, we have building and fire codes, we also have the Fair Housing Act, and we got bit by that because we made a determination, and it got challenged, and ended up violating the Fair Housing Act.

And so that experience, we learned from it. And so by simplifying this and this Bill, this House Bill, I believe makes it even more cut and dry on how we need to be regulating and taking the power away of regulating based on, you know, these criteria is helpful. It helps municipalities not go down that dangerous, potentially discriminatory path.

Alderman Jette

So right now what are you in this re-code what does this re-code say about a single unit or single-family home? Is there any restriction on how many people can occupy it?

Sam Durfee, Planning Manager

No. It would be considered residential.

Alderman Jette

What's that?

Sam Durfee, Planning Manager

It would be considered residential just as those four uses off to the side there and then building and fire codes to the extent that they would be applicable would prevail in the regulation of, you know, person density if you will.

Alderman Jette

Okay.

Sam Durfee, Planning Manager

But to Alderman Clemons's earlier point, there might be just a universal number that we apply and I think that's a number that we have to test out. But then again to Alderman Thibeault's earlier point, how do you enforce it? You hear that there are more people than should be allowed and you're knocking on doors counting people. Do they live there? Are they visiting? It's a slippery slope.

Alderman Jette

Well my experience having been an Alderman for just a few years, but my experience is the neighbors will tell you …

Sam Durfee, Planning Manager

Yes.

Alderman Jette

Whether they think the ordinance is being violated or not.

Chairman Gouveia

You all set Alderman Jette?

Alderman Jette

Yeah. Thank you.

Chairman Gouveia

Alderman Clemons.

Alderman Clemons

Thank you. So let me ask through you Mr. Chair. Do you think that with this Code the Archery Lane situation would have been different because that house would have fell under either the co-living with services or the co-living shared facilities?

Sam Durfee, Planning Manager

Yes. My hope is that that would have been different because the answer in its classification would have been more cut and dry. That would have been the ideal outcome. I think that it was so difficult because it was fraught with unknown and it was questioning things that yeah, we called it a single family but we did that because we looked at FHA. We really weren't finding a lot of guidance in our ordinance but we said, okay, we'll look at FHA but we'll still regulate it as unrelated persons and that's how we came to the one for 300. It was a 3,600 square foot home, so 12 people. Many would argue that that's too many people. Well is it too many people for if you have a large family or is it too many people because they're unrelated? And that's where you can start seeing that discriminatory conversation that got us in trouble.

Alderman Clemons

So that's why I was saying I think if you have a separation from the residential with the co-living - both of those co-living and you only apply …

Sam Durfee, Planning Manager

I see.

Alderman Clemons

…the residential number of people restriction on the co-living situations but not in the residential, I think that's what we need to do.

Sam Durfee, Planning Manager

I see.

Alderman Clemons

That's what we need to do because the use there is completely different. And I think the, you know, and if it's not different, then we shouldn't have those other two categories up there. But I feel that they are different and I think with that being said, I think we can come up with a reasonable number of how many occupants per whatever it is - bedrooms maybe in the house, bathroom facilities, maybe - like there's a lot of different ways that we could come up with how you can manage something like that and I think that's the discussion that I want to have on those particular two. Not the residential because I agree with Alderman Thibeault about that. Like, you know, a family is a family.

Sam Durfee, Planning Manager

Well and I think that is a thread that we could pull on tonight if there is interest. We went down that road of thought, you know. So take 16 Archery. One kitchen, couple of bathrooms, it's one unit. It is one detached single-family home. Looking at our ordinance and the definition of family, it's a group of individuals living together as one housekeeping unit related or otherwise and this came before us. There's no services on site. It is people living together. They're unrelated so we applied the table, but it was still single family despite there being an obvious difference but our hands were tied by the Fair Housing Act.

So while, you know, it looks and feels different, federal law tells us to treat it a certain way. I can see why federal law exists to do that but it makes it very challenging for us to regulate it differently because knowing what I know now out of that experience and gaining familiarity with FHA, I would still have to call that single family today because we don't have the latitude in our Code and in under federal law to call it something else and be able to defend that.

Alderman Clemons

Then we ought to get rid of the co-living. If we can't separate out those - in other words, if you're telling me that due to federal law we're unable to separate out somebody who wants to come in and start a business - because let's face it that's what it is, that's a recovery house somewhere and we are unable to regulate how many people are allowed in that space, okay, the same that we would a commercial lodging space. Then we ought to get rid of those two categories because there's no difference.

And I am saying that because I think of those spaces. I think of those recovery houses as businesses because that's what they are. They're owned and operated by somebody who is collecting rent from those folks for a purpose, and the purpose is recovery, and that's fine, and I don't mind that they exist. I have no problem with that but as far as being able to regulate them from the standpoint of we are only going to allow so many people per whatever the thing is in that house because for the purpose because it's a business, then that's - we need to have a greater discussion and I think we're not prepared to have tonight. But I think in my opinion, that's more commercial. It's more under the - it's a very gray area but I think there is a clear purpose for that and I think we ought to look at that because I am of the opinion that they are separate categories and they should be regulated differently.

Sam Durfee, Planning Manager

Right.

Chairman Gouveia

I would have to agree with Alderman Clemons here because I think when I'm looking at what separates a commercial business from like a residential or co-living is like you said, there's a mission behind it and the mission, the service they're providing is treatment. Well if you're providing a service, you're now commercial. I mean in my mind, you're commercial but I think that also opens up a path of well if I owned a duplex and I just rented out to two families used to live there then moved somewhere else, I would also start to think that's also commercial because I'm collecting that rent, and providing the service of housing, and there in most cases, it's for profit. You're profiting off of rents based on market demand. I think that's - it definitely is a gray area. I do agree with you but I would tend to believe that, I mean, these facilities that are providing treatment. It's not like when you look at the deed, it's under somebody's name. It's always under some sort of corporation or some entity that would lead to some commercial enterprise. I think that's where I kind of get tied up as saying well, it's owned by a company. The company is not out there to go bankrupt. The company is out there to make money, and pay its employees, and provide a service. So to me that's, I do agree that that's not really co-living. Co-living is if I had three bedrooms in a house and I rented out one of them to a student or a friend. That would be co-living. To me, anything above that falls under commercial.

That's just kind of my two cents but I think that is a hard line to kind of draw in the sand of where that's at but I think it can be done and I think it is a worthwhile conversation.

Chairman Gouveia

Alderman Thibeault.

Alderman Thibeault

Thank you, Mr. Chair. I do like this. I tend to agree with Alderman Clemons that we need to I think for the co-living, we would need to have some feet per person in place. I just think that's just, it's like everybody keeps saying it's gray. I mean a condominium is for profit. Some company owns condos and they, I mean, that's profit too. They're not all co-living like shared services and stuff like that but it's, I mean, you can look at any of those things, except for maybe a house somebody owns, and say that somebody's profiting off it may be other than the person living there.

Halfway houses is weird because of the reasons they say. That's just a weird situation. It's different than most of those other ones that are in blue. Dormitories could kind of be that way. Schools making profit off kids co-living in a space together but just renting a room that has other same facilities not necessarily that way either. So there's some in there that, in my opinion, might move around. I mean this whole family thing, I mean, there was a Manson family. I mean you can have, you know, you can call anyone your family. Like, hey, that person over there is my family. Like it's just, it's a hard thing without telling people to start taking out birth certificates and going this is my uncle, this is my, you know. So I think that's going to be - I think we got to do it by person at least for the nonresidential.

I mean what are we doing with camping trailers? Or do we have how many people can be in a trailer? I mean it's not probably footage at that point, right? It's just how many kids can you fit into a trailer or a camper.

Sam Durfee, Planning Manager

Yeah, no, that's an interesting one.

Alderman Thibeault

I don't know. I mean it's - I would have more conversation about it but I think I like it. I want to go with a foot print and I don't know if we look at halfway houses a little differently just because they're kind of unique in a way, in a lot of ways, just because the situation they're in. I mean you don't want to - if it's for profit, you don't want them stashing 40 people in a 20 people place just because they want to get, you know, profit. I'm not saying they're all like that because they're probably not. Most of them probably aren't but if you get that one shady person that wants to do that, we don’t really want that happening.

Sam Durfee, Planning Manager

Sure.
Chairman Gouveia

Alderman Jette.

Alderman Jette

You know, is it possible that the distinguishing factor is, you know, is not the fact that the people might be paying. They might be one person that's the nominal owner and everybody's paying that person to live there. You know, is the distinguishing factor that, you know, that there's some other service that's being provided other than residential …

Sam Durfee, Planning Manager

Yes.

Alderman Jette

…the ability to sleep there or whatever. I don't know. It's …

Sam Durfee, Planning Manager

Yes and that's why we have halfway houses called out differently. In our Code, halfway houses there are services being provided on site. You know, there are staff that come in, they check in, there might be medication administration. There's all sorts of - and it could be assisted living facilities. That's why we have that co-living with services. But this has been really good conversation and I appreciate all these points and they all resonate. I've heard these before. They make a lot of sense and we're very constrained with under federal law and, you know, now State law, with what we can do and it's not easy, you know, and I think that we have a lot to think about. You know, we try to find, you know, those common characteristics that we can use as, you know, defining different ways of classification and what defines a unit that that's one of them, right? You know, kitchen, sleeping, bathroom, okay. There's one thing, one common thing that we can use across all these as a defining factor.

Owner occupancy is another one, right? You know, so it seems like there's a line where yeah if I'm renting out some of my rooms to people, not family, maybe I have a lease agreement, maybe I don't. You know, maybe that feels a little bit different than someone who has a business and a home and just they don't live there. So I think we have a number of strings that, you know, I've written down that we can pull on and try and find a way to regulate this in a way that achieves what I believe I'm hearing this evening.

Chairman Gouveia

Great.

Sam Durfee, Planning Manager

Okay. We can jump into Site Standards now if that's preferable. All right.

So these are high level. These are the general Site Standards that we have regulating the Code. We have most of these already in our current Code. Organization is a little bit different, so I apologize for just the massive amount of text on the slide. But we can hang out here for a little bit if you'd like to talk about any of these in detail. I will add that the following slide is just a couple of cut sheets from the Code relative to signs and what those look like. But then after that, it's just an IZ update, inclusionary zoning update.

So this is almost as a teaser if hey if there's anything that you want to flag as further discussion later on, we can do. Obviously, we've already talked about green score, a little bit of stormwater management in there as well. Landscaping is tied to that as well.

Chairman Gouveia

Alderman Clemons.

Alderman Clemons

Yeah, so just the fences and walls that we made that change …

Sam Durfee, Planning Manager

Yes.

Alderman Clemons

…for the properties along the turnpike. That’s staying I assume.

Sam Durfee, Planning Manager

Yup.

Alderman Clemons

You know, there may be other areas we want to do that as well throughout the city but that kind of stuff, those changes we've made along the way, those are…

Sam Durfee, Planning Manager

Yeah, very generally speaking, a lot of the recent ordinance changes, we're just porting over, carrying over identically unless it's something to do with a rezoning of an area because obviously, we're changing the districts but the character is still being transposed if you will. But yes, things around, you know, heights for fences, absolutely, we're going to bring them right over.

Alderman Clemons

Yeah, because I only bring that up because it's unique …

Sam Durfee, Planning Manager

Yes.

Alderman Clemons

…to Nashua. So, yeah.

Sam Durfee, Planning Manager

Agreed.

Chairmen Gouveia

Alderman Jette.

Alderman Jette

Well since signs are on the on the slide, there was a recent case where I didn't realize this but the - when the Zoning Board was looking at a sign, the staff advised the Zoning Board that, I can't remember all the details, but like in our current ordinance, it talks about ground signs and ground signs are defined as signs that are on, you know, a supporting structure which I thought described, you know, like two posts and the sign. But the staff advised the Zoning Board that if, for example, in a residential zone the maximum size of a sign is 10 square feet and the staff advised the zoning - and the request was for a sign. It was three times that size but the sign is on a structure which is like 10 times that restriction and the staff advised the Zoning Board that they couldn't consider the maximum size of the sign was limited to where the lettering is. So you could have a sign, you know, that says Attorney Jette. As long as the lettering part was within the 10 square feet, you could have, you know, a structure that is 100 square feet but, but they don't consider that.

So it just struck me as, you know, frankly didn't make sense to me, but that was the ruling. So I'm thinking that personally, I think, you know that we ought to - if we're going to restrict the size of a sign, it ought to be the whole structure that's being restricted not just where the letters are. So I'm thinking that the wording of that ordinance ought to be visited because I'm sure, you know, you're not making this stuff up. You're just looking at the ordinance as it reads, as you read it, and so that's how you determined it. So I'm thinking that there should be some clarification so that it's not just the lettering, it's the entire sign.

Sam Durfee, Planning Manager

Sure. Let's just look up on this example on the left. Right, so the awning sign. There's text that's on the valance, there's text that's, you know, on the main body of the canopy. Canopies can be all sorts of sizes. So Alderman Jette with what you're saying is the entire canopy is the sign not just the text.

Alderman Jette

Well, I don't know. Are there building regulations that would regulate the size of the canopy?

Sam Durfee, Planning Manager

Yeah, there would be.

Alderman Jette

So, I'm talking about a ground sign which is…

Sam Durfee, Planning Manager

Sure but the concepts the same, right? So you have the text and you have what the text is on. So what I'm hearing is, is that it's not just the text but everything that is attached to the text is structurally supporting is also part of the sign.

Alderman Jette

But I think I can easily distinguish between a sign that is on an awning or a building. Those aren't ground signs. A ground sign is a free standing …

Sam Durfee, Planning Manager

Sure, yup.

Alderman Jette

…sign. It's not, you know, there's a different part of the ordinance that regulates what's on a building. A ground sign is separate, you know, into - I'm just thinking to ignore the structure. Shouldn't we be regulating the entire structure not just the letters?

Sam Durfee, Planning Manager

Look, I hear your point. I've worked in other communities. It is basically standard procedure. You regulate the text, right? The text is what makes something a sign. You know, we've seen this, you know, art. Very subjective. Art can be murals but when does it become a sign? In the context of a structure supporting a sign, you know, it can be minimalist. It can be a single post. It can be what I would typically call like a monument sign where there's a lot more to it. There's utility to that. I think there's also a question of, you know, and I think I follow exactly what you're saying is how is the monument itself not part of the sign, right? It's drawing your attention to the text. There's character associated with the monument that is related to the use perhaps.

I understand what you're saying. It's a tricky situation. I think we would need to look at case law to see if there is support for regulating signs in such a way with the understanding that it's typically done just by regulating the text. I think that's something that we should explore to make sure that we're not installing any sort of regulation that would be illegal either from a precedent standpoint or if there's specific laws around it and there are quite a bit. You know, Reed v. Gilbert. You cannot regulate content. You can only regulate esthetics. We had to remove a ton of regulations around telling applicants what they can and cannot put on a sign. We cannot regulate speech, right. First Amendment to the Constitution. You know, there's a lot around signs and we're kind of going bit by bit to put together an ordinance that is as legally compliant as possible. But I think that this as you've highlighted, Alderman Jette, is something that we should also explore specifically relevant to ground signs as I understand it less so building mounted signs.

Chairman Gouveia

Alderman Clemons.

Alderman Clemons

Thank you. Yeah, so my question - I have a couple questions. One, again, this is a recent - I'm just going to say it anyway because I want to know the answer. I know that during covid we changed the use code for umbrellas to make sure that they were exempt from the sign category and I want to make sure that that remains. We don't want …

Sam Durfee, Planning Manager

No.

Alderman Clemons

It's a business tax is essentially what that is by not allowing it to them to have like, you know, Coors Light or whatever. You know what I mean. All right, so that's staying. They are exempt.

Sam Durfee, Planning Manager

Right, yep.

Alderman Clemons

Okay.

My second question is in regards to this. Do we have, do we what - how do we define what is a sign versus what is art? Is it that it's an advertisement for something?

Sam Durfee, Planning Manager

Essentially, yes.

Alderman Clemons

Okay.

Sam Durfee, Planning Manager

Commercial speech if you will, though that itself is kind of a fraught term but generally speaking, yes.

Alderman Clemons

Okay. So if somebody wanted to do, you know, if somebody had a big side of their building and they wanted to paint a mural, this would not fall under this. That would not fall into this.

Sam Durfee, Planning Manager

There are mural signs but again, it's that commercial speech that we'd be looking at and again, very fraught topic but I hate to say you know when you see it.

Alderman Clemons

I know what you mean, right. So I'm talking about like a community thing where, you know, somebody comes together they want to build or paint a mural or something like Positive Street Art does, right? That kind of stuff is not an advertisement. I mean it's an advertisement for them but it's not really an advertisement, right? It's for the public greater good, I guess, versus an awning that's advertising a business.

Sam Durfee, Planning Manager

Yup.

If I may provide an example. I'm sure you've seen in other historic downtowns with brick buildings that still have remnants of large murals on the side of the building advertising, you know, flour, or Coca Cola, you know, whatever. Those would be mural signs where it's clearly painted on there, it's advertising something but that mural that's in the Santander Bank parking lot, you know, there are words on it but it's not advertising something.

Alderman Clemons

Right.

Sam Durfee, Planning Manager

Yeah.

Alderman Clemons

So the Mill Yard chimney stack will be all right?

Sam Durfee, Planning Manager

Yes.

Chairman Gouveia

Alderman Jette.

Alderman Jette

So is there anything prohibiting Alderman Clemons' neighbor from painting his house, you know, in a mural style? You know, I don't know a big picture of Minnie Mouse?

Alderman Clemons

I mean, I hate mice. I might go after them.

Sam Durfee, Planning Manager

Is there a Minnie Mouse associated business operating of the house?

Alderman Jette

Excuse me?

Sam Durfee, Planning Manager

Is there a Minnie Mouse business operating out of that residence? If not…

Alderman Jette

No.

Sam Durfee, Planning Manager

…then yeah, free to do it.

Alderman Jette

Yeah, so there's - right now, there's nothing preventing anyone from painting their house in any outlandish style they might choose. It might be outlandish in my opinion but not in theirs I guess.

Sam Durfee, Planning Manager

Exactly. That's the subjectivity, right. Say I don't like the color beige and I, you know, I want to install an ordinance to see you can't have beige houses. Well that's just silly, you know, but you know, how far do you go? Like vibrant pink? That might be offensive to some people but we would - I would not want us to be regulating that. That is just such a fraught legal road that we would not want to travel down.

But, you know, that's just colors, right. You know, signs have a purpose, the advertising, and recognizing maybe someone really loves Disney and they want to paint their house all sorts of Disney characters. If they were operating a Disney related business out of the household, then we would have, I think, we'd have a case to make there about regulations because there's a clear nexus between what is being displayed and what is occurring at the property. But otherwise, hey, drive Pluto and Goofy all over your house if that's really what does it for you.

Alright. If we want to talk about Site Standards or signs further, we certainly can. Otherwise, we can jump into an IZ update which I'll try and fly through but there are a lot of slides.

Chairman Gouveia

Alderman Jette. This is your bread and butter. You got anything?

Alderman Jette

No. I just wanted to bring the point up about the structure on which a sign is located and ..

Sam Durfee, Planning Manager

Yep. And that is something that we need to explore. So thank you for that.

Alderman Jette

Okay, thank you.

Sam Durfee, Planning Manager

Okay. So when we talked about inclusion rezoning, we heard a very clear preference that we want to see IZ units, affordable units, built on site when they're required as part of a development and any alternatives being Payment In-Lieu or off site, that is not an automatic option. You would have to demonstrate some need to be able to do that and you have to justify it.

We talked about penalties for noncompliance, so we're going to explore some of those and there was also concern about the concentration of low-income housing in certain areas of the city and the perpetuation of that. So we'll explore three approaches for payment in-lieu, off site, and penalties for each, and let's get right into it.

So payment in-lieu, more generally, it's not default. You need to apply for a conditional use permit and demonstrate that need. We'll get into fees.

So Option A. We establish a formula-based payment. Now that could be, as we talked about with the presentation, you can do a value gap analysis, you know, the cost of affordable versus the cost of market. You can apply a multiplier to there and capture that gap and that goes into the Housing Trust Fund. You could also do a cost of construction that would be much higher. It would be, you know, on a one to one delivery basis but we would need to test that against the ability for a project to actually deliver, you know, a project and still be subject to such a fee. So that's something we need to test. So we have Option 1 is a formula-based model where we calibrate and calculate a payment in-lieu.

Another option is a flat fee per square foot. Very easy to administer and regulate and then something that would also be very easy to adjust based on inflation, cost of construction. We can index it to something and make it very easy to adjust. And then Option C, which is kind of interesting, and we do a little bit of this now, is more discretionary. This is something that we've learned that both Denver and Miami are currently doing and it's kind of an ad hoc case by case basis but it's really only working for larger projects. We pretty much did this with the Mohawk Tannery. While we have an IZ ordinance, it was applied in part to Mohawk and, you know, I think there's obviously a nexus between the environmental remediation, you know, very unique situation in furthering other community goals beyond just providing affordable housing. This, there's a lot more involvement from the administrative standpoint where, you know, this is kind of an ongoing negotiation with a large project to determine appropriate number of affordable units looking at the other community benefits that the development may be providing. You know so in the context of the new Code is there significant off-site contributions to the traffic network, the street network, large park, or other civic space that's being provided, and how does that balance with the community goals of affordable housing and those as well. So three options chasing payment in-lieu.

Chairman Gouveia

Alderman Clemons.

Alderman Clemons

I guess what I am wondering, it seems like there's two options which is A and B and then C is how you determine whether A and B get approved.

Sam Durfee, Planning Manager

That's a good observation. So I would say that they all could be active tools in the toolbox at the same time. The discretionary approval of, you know, a conditional use permit is already there. So I mean this Option C, it's almost a nod to both a process, and a tool, and they're separate things but this would be appropriate for the larger Mohawk level projects whereas, you know, something that's just okay, it's a 12-14 unit conversion, you know, in the downtown area well, you know, well maybe a flat square footage fee is more appropriate, you know.

I think that that discretionary aspect there, we would want to define standards. You know, at what thresholds is a project eligible for one or more or not the others within this and that's something that we would need to pull on. But this is just to present kind of some options, and solicit feedback and, you know, different ways to approach it but I think they're all viable but just in different cases.

Chairman Gouveia

I think when I look at these I think, I mean when we're looking at discretionary approval, I see that kind of as case by case basis. When a big project happens, I mean we're not going to say no. We'll work with the developer whoever wants to bring it forward. So I don't really see that as a full-time kind of option. I definitely like the square foot because I think it's very cut and dry. That's just you're taking the price that we come up with, you're multiplying it by square feet, and you get a number, and I think adjusting that number is much easier as we look at what the cost of building is. I think that one kind of streamlines the process more and I mean looking at this, I don't think we would want to do discretionary approval on every project. I think that just would be a logistical and logistical nightmare in my opinion.

Alderman Clemons.

Alderman Clemons

Yeah, well but to that point though and I thought you mentioned though that it would be discretionary no matter what. So in other words …

Sam Durfee, Planning Manager

There's a first level of discretion you have to get through and that is a conditional use permit to even allow a payment in lieu, right? Because first option, you know, we always want to see units delivered on site as part of the project. However for whatever reason you can't do that, you go through the discretionary process of a conditional use permit and then we're presented with these three options of how we handle a payment in-lieu.

Alderman Clemons

Okay. So, alright. Can you go back to the first Option A?

Sam Durfee, Planning Manager

The first option you said?

Alderman Clemons

Yeah.

Sam Durfee, Planning Manager

Sure.

Alderman Clemons

And then B. If we can just see B.

See, I guess I agree with Alderman Gouveia. I don't like A because A to me is only getting the - even if with the multiplier, it's only getting the difference between what the market rate and affordable unit costs.

Sam Durfee, Planning Manager

Yup.

Alderman Clemons

Even with the multiplier. This on the other hand could get us more.

Sam Durfee, Planning Manager

Well I want to pause for a moment. You know, I think let's throw a number out there of a range, right. New construction, $300 a square foot. Fifteen to 22 is not close to that. So it's how do you slice it, right? You can do it on a square footage basis or you look deeper at the market to understand the cost differences between affordable and the market. In the end, you may get the same payment number but they move with the market differently and it's a different way of approaching it. I'm not explaining it very well, but …

Alderman Clemons

No, you are but the difference is, is that you can more, in my opinion, you can more easily adjust this for inflation.

Sam Durfee, Planning Manager

I would agree with that.

Alderman Clemons

And yes, you are looking for the cost difference, right, because that's what you're going to subsidize and I understand that.

Sam Durfee, Planning Manager

Right.

Alderman Clemons

But this is, I think, more easily predictable. You can look at what those cost differences are. You can add in a future index, if you will, of where we think inflation is going to go. Who knows in the next few years, right?

Sam Durfee, Planning Manager

Sure.

Alderman Clemons
And then you can adjust based on that in, you know, every five years or so you can go back to the table and say okay it's time to relook at this. But I think overall, I think this is the - I wouldn't even offer Option A if it was up to me.

Sam Durfee, Planning Manager

Okay.

Alderman Clemons

I would just do this or and up to a certain size.

Sam Durfee, Planning Manager

Yep.

Alderman Clemons

And then C.

Sam Durfee, Planning Manager

Yup, understood. Alderman Gouveia I know you expressed some concern about C. The reason why we would want to have it on the books as an option because, you know, say well of course we'll work with you all.
Well if we don't have the legal authority to do it.

Chairman Gouveia

Oh no, I'm not saying so that we go against it. I think we have to have it.

Sam Durfee, Planning Manager

Okay.

Chairman Gouveia

I'm thinking just on its face, I'd rather push towards Option B but if we have a big project and they want to bring to the table and figure it out, like let's have at it.

Sam Durfee, Planning Manager

Right.

Chairman Gouveia

But I do think - sorry..

Sam Durfee, Planning Manager

So, go ahead continue.

Chairman Gouveia

If I continue a second. So just going looking at even this price, 15 to 22 per square foot. I mean I have no problem with really raising that amount. If building is going to cost 300 a square foot on a good day, I mean if we were charging in the hundreds on a square foot, I mean the point of this isn't to make it cheaper for the developer. It's to make affordable housing in the City of Nashua and if that can help our trust fund or expandable account - I forget what it's called right now off the top of my head - if that can bring more money in by having it a higher per square foot, then I'm going to be in favor of that.

To me when we look at payment in-lieu, it's not to get a nice discount and not provide low income. If you're charging market rate, fine. I mean, sure, the developer might take a little bit of a hit on it but they're recovering it back by doing full scale anyway.

Sam Durfee, Planning Manager

Yeah, and that where we end up on a number on a, you know, per square footage basis is going to be the result of testing, right. You know, the goal would be, you know, the cheaper option is always going to be deliver the units on site as part of the project. There will be various reasons why developers can't or would prefer not to do that. So then this number would need to be reflective of that cost plus a little bit more.

Chairman Gouveia

Yeah, yup.

Sam Durfee, Planning Manager

I'm not sure where that ends up but we wouldn't want to make it so much that just, you know, they see it like well we're not going to do anything here, right, because we still want the project to happen. But if you're going to buy out of the units, it's not that they're getting a discount. They're going to pay for it meaningfully but we want to make sure that the project still happens and there's meaningful amount of money going into the affordable housing.

Chairman Gouveia

So I guess where's that 15 to 22 per square foot coming from?

Sam Durfee, Planning Manager

They're just being pulled from other markets throughout the nation, you know, averages.

Chairman Gouveia

So if a building is 300 a square foot and we're proposing that 15 to 22, how does that become even?

Alderman Clemons

I think I can…

Chairman Gouveia

Yeah, sure.

Alderman Clemons

I think what we're looking at there is the difference in the amount that it costs to build a affordable unit …

Chairman Gouveia

Compared to a ..

Alderman Clemons

We need $15 - $22 per square foot more …

Chairman Gouveia

Okay.

Alderman Clemons

…than it would be a regular unit. Is that correct?
Sam Durfee, Planning Manager

Yeah, yes, that’s a fair way to look at it.

Chairman Gouveia

Oh, so that would be on top. You’re adding the 15 or 22 on top of that base cost already?

Sam Durfee, Planning Manager

So the developer would be paying that, right? It's the cost of construction plus, you know, your square footage increment on top of that.

Chairman Gouveia

Okay, okay. So there's that cost and then you're adding on the 15 to 22 per square foot?

Sam Durfee, Planning Manager

Exactly. Yes, yes.

Chairman Gouveia

Okay, yeah.

Alderman Clemons

So if it costs for market rate unit $300 per square foot. For an affordable unit, it costs $315 per square foot.

Chairman Gouveia

That makes sense. Okay.

Alderman Clemons

So the $15 is what they're paying us.

Chairman Gouveia

It’s the penalty if you will.

Alderman Clemons

So, but I, again, I think we have to find out what that number exactly is.

Sam Durfee, Planning Manager

Exactly.

Alderman Clemons

And then we have to - because what we want to do on the affordable trust fund is be able to go to another developer who's maybe developing something and say, hey, the cost difference is that $15 - $22 or whatever. If we threw that money at you, how many units could you do in this project and maybe they'd be amenable to doing that knowing that they'd get a subsidy from the city, right? So that's kind of where that would go.

Chairman Gouveia

That makes more sense. I thought we were just charging 15 to 22 per square foot and I'm like that math just does not add up of why you would take out the 300 plus per square foot, okay.

Sam Durfee, Planning Manager

Oh yes, we're subsidizing the cost of construction. No, that would not be the approach.

Chairman Gouveia

That’s why I was talking about having that delta. I’m like the math isn’t adding up for me right now but, okay, that makes more sense.

Sam Durfee, Planning Manager

Alderman Clemons that was an excellent segway into off site, right? So now we're putting money into this fund, right? So now we have another option, which is also a good option because it's still delivery of units in real time as close to the building of the primary project. You know, it's not that we're just collecting money and letting it sit. It's being deployed as part of this. Now that can either, you know, work with and incentivize partnership with affordable housing developers so you're leveraging tax credit dollars. Again, there's a role for the Housing Trust Fund to potentially come in as gap financing if appropriate and deemed so by the Committee. But so we have a number of options here for the off-site unit construction.

Option A is really just like we remain strictly, you know, you got to build on site. But again, we have this, you know, conditional use permit carves out where we look at the unique characteristics of a property. So we have maybe this transit investment, civic space creation, environmental remediation, you know, these other factors that we need to consider that, you know, render this eligible, you know, to explore the option of off-site and then there's other standards we can apply to that. Okay, well if you're going to go off site, you need to do either more units, or deeper level of affordability, and again, just like in our payment in-lieu, these options can play together. They're all tools in the toolbox at the same time.

We can look at proximity, you know, so getting at that, you know, concentration concern. We can apply a radius. You know, all right, this off site has to happen within half a mile, a mile, two miles, whatever it is of the primary project. You know, comparable construction quality, we recognize that, you know, maybe affordable units don't need the marble countertops. But still, you know, we wanted a very livable unit.

And then we even talked about the idea of requiring financial securities. So in the event that they're ready to get their CO, well we can hold that financial surety until the affordable project has broken ground. They've been issued a building permit, right, so we have some leverage there.

And then Option C, again, kind of wishy washy like our Option C in the payment in-lieu but basically, come to us with a proposal. Solve your problem for yourself. Don't let us tell you but, you know, we would then evaluate is whether or not that is, you know, meets the spirit and intent of the ordinance in terms of delivery of, you know, meaningful affordable units elsewhere in the city. We would want to provide some guidance around that, you know, proximity to job centers, transit options, you know, various ways where we can say okay yes, no this is a good location for these off-site units or you've just found very cheap land in the city and that's where you're building these. You know, we should be able to make a determination of whether or not, you know, this is a good location for your required IZ units.

Chairman Gouveia

Alderman Clemons.

Alderman Clemons

Thank you. I actually just prefer to be honest with you. Option C with a little bit more teeth in the sense of like, you know, it has to be within a certain amount of - it has to be easily accessible to our bus system.

Sam Durfee, Planning Manager

Sure.

Alderman Clemons

It has to be, you know, a place where people can get services. You know, that that kind of thing.

Sam Durfee, Planning Manager

Yup.

Alderman Clemons

But I think it makes more sense to just do it to anywhere in the city rather than restricting it to like a half a mile or whatever it is to the regular project, as long as it's meeting some of the other requirements right that we would want to see in general.

Sam Durfee, Planning Manager

Yup.

Alderman Clemons

You know, because I think of this and it could be - you could have it almost be like a way to get two projects done, you know, that maybe otherwise wouldn't have come around at all because the developer just because of where the projects happening if we did, you know, a restriction of a half mile, maybe there's just nothing available for that to happen. So I think it just makes more sense to do this with a little bit more guidance in there as far as like what we want to see. Yes, it has to be on a bus line. It has to be, you know, I don't know what the other ones would be but.

Sam Durfee, Planning Manager

Yeah, I think there's so many gradients that you could add into this. You know, you can enter into a scoring matrix where if it is a half mile away, you get extra points. If it's …

Alderman Clemons

Right.

Sam Durfee, Planning Manager

…10 miles away, you know, fewer points if that's a value statement that we want to perpetuate into regulation. You know, there's many ways that we could kind of stack and mix and match all these different options but all this is really good feedback. Thank you.

Chairman Gouveia

Alderman Thibeault.

Alderman Thibeault

Thank you, Mr. Chair. We're not picking one, right, necessarily. I mean we could have all three of these going and …

Sam Durfee, Planning Manager

Exactly.

Alderman Thibeault

…someone they, you know, depending on what the case is …

Sam Durfee, Planning Manager

We're just introducing these.

Alderman Thibeault

…could go for each one of those, right? Oh, B makes more sense because I know there's a place, you know, 10th of a mile or whatever, which I think B is gonna just gonna be tough just because in the city, there's nothing like that close to anybody that where you could build stuff on. But I do like the fact that, you know, A is, you know, put it in the building where you building it. I mean that to me is a good choice.

C is also a good choice to Alderman Clemons' point. You may be able to find some land that is just sitting there that no one's done anything with and you can put something on there as well as where you're building. So I do like those two options. I think, I mean, B is fine staying in there but I just don't think it's going to be used very often because you're not going to find anything. That's my opinion of it.

Chairman Gouveia

I got to agree. I think B is kind of unrealistic in this situation and I think by using C and city discretion in case by case, I think that I mean that puts it on you and your department to do what's best for the city, which I think puts it in the best hands of all of us.

Obviously, I do agree. I think Option A is probably your best bet but if that just doesn't work, then it doesn't work. So it's kind of - I see it very different than what we were just talking about where it's like maybe we go to like a flat rate system instead of a case by case but in this situation where we're talking about the construction of where you put them, to me, an affordable unit is an affordable unit. Put it on Lake Street, put it on Pine Street. I don't - it doesn't really matter to me as long as, you know, and I think that would be the case by case discretion here is as long as you're not like you said, buying the cheapest plot of land you possibly can and doing just a mediocre job at it.

We still want a quality product but if you want to put it somewhere else in the city, be my guest. I mean I have no issue with that happening. So I think when it comes to the case by case, I think that's kind of the developer can solve the problem, and come to us with your proposal, and we'll tell you yes or no, and we'll somehow get there.

Sam Durfee, Planning Manager

Thank you. All right, let's get into penalties. We wield this great motivator, the certificate of occupancy. We use it in final inspections all the time. You need to do X, Y, and Z before you can finally, you know, begin lease up, right? So that's a key piece here. So the idea would be you don't get your CO until you either make the payment in-lieu or deliver the affordable units off site. Again, we can mix and match. We can use this with other options here.

Daily fines. I personally don't love this one as much because well, you know, not having a CO and the carrying costs associated is its own daily fine but then also carrying a level of financial surety in the form of a bond or something else, you know, we hold that at building permit and then we release it at CO. We can adjust the time frames. Basically, we need to be holding cash at some point through the process to ensure that they deliver on what was approved from the Planning Board and obviously if they don't, you know, the cash guarantee would need to be in the amount that is equivalent to the appropriate payment in-lieu, which is going to be a huge amount of money, probably difficult for someone to post a bond of that size potentially.

We talked about exploring letter of credit. I think it'd be very difficult to get a letter of credit from a financial institution to cover this unusual affordability obligation where there's no real deliverable other than the CO for the project. But who knows, the financial markets could mature to offer such a product. But I think just the power of that CO is pretty absolute and I think it makes a lot of sense not to make my personal preference too clear, but it is a wonderful tool that we're already very comfortable using.

Chairman Gouveia

I think that's the big hammer. I mean just dropping the hammer of a no CO will scare people straight. Then I guess I'm okay with Option C as well. I mean if they can somehow come up with the money, and they want to hold it until they finish, then by all means. So I kind of feel like threatening with Option A, settling with Option C, and see where they come from there.

Alderman Clemons

I actually think it needs to be a combination of A and C and the reason being is that you approach every project with A.

Sam Durfee, Planning Manager

Yes.

Alderman Clemons

Every single one.

Sam Durfee, Planning Manager

Yup.

Alderman Clemons

And then you say if there's something comes up in the construction, something happens, whatever, right. Who knows? Okay, so you built the market rate ones first or whatever, right, or you just want to get the market rate ones out first for whatever reason. Well, A says you can't have that certificate of occupancy, right? Well you can apply for an exception and the exception would be C, which is that cash security, and you can come up with that, and give us that, and then we'll allow you to open. We'll take away A but not till that money's in hand from Option C and I think that's the approach to go with because that way you're not completely shutting off anything but we're also not - we're also making sure that like you're not just telling us that you're going to do it and we're allowing you to now have a certificate of occupancy without anything, without holding any leverage. So I think, my opinion, that would be the way we would go.

Sam Durfee, Planning Manager

If I may expand on that a little further. Not an unusual thing for us to issue CO's on a floor by floor basis. So rather than ponying up financial surety for the entire project amount, you essentially buy your CO's by floor to ensure that, you know, we are holding a sizable amount of money that you are going to want back but say you need these CO's for various reasons, you know, at least we have the ability to work with you and I think you're totally right Alderman Clemons, it is a mix of A and C here.

Alderman Clemons

If I could though. I don't think we offer C though up front. Like in other words, that has to be something that the project has gone on and in the middle of it, something happens. Like so in other words, everybody's under the assumption that we're going with A until something happens and they apply for C. Because giving them the option to do the bond up front, that cash might not mean anything to them. I mean it probably does but depending on how large the corporation is, it may not. And so I think A gives us the teeth and C gives us the power to negotiate and say, okay, you're doing this in good faith.

Chairman Gouveia

I agree with you, Alderman Clemons. I also do think that there's a degree of also your department making a decision as well. I mean I think there's developers and construction companies we're all very familiar with and comfortable with and I mean if they come to us and say, hey, we're breaking ground immediately after doing this part of the project, I mean I think there's definitely some loyalty and some good credit with these developers and where I'm willing to work, I'm not going to be like, no, we're not doing this. We've done 20 projects before, and it's all been fine, and you've always delivered but no, this time we're holding your CO until it's done. I think there's also a level of, okay, we're comfortable with you. We know you're going to get there just for whatever reason, you want to get one thing done before the other. I think that can be worked in certain situations.

But I think to your point with some outside, big conglomerates who just want to dump money into a project, yeah, I think you're right. You could find people who that's just a rounding error that money. They just give it to us and all right, yeah, well good luck.

Sam Durfee, Planning Manager

Not eligible on the front end, right? So say they uncover a need to utilize this bond. Would it be your preference that they come back to the Planning Board through a Conditional Use Permit and unlock Option C and demonstrating a need or is that more of an administrative, you know, because we would write the conditions in the Planning Board, you know, decision letter accordingly to ensure that either you have to come back to the Board if you want to utilize C or, you know, you can work with staff to work it out?

Chairman Gouveia

Alderman Clemons.

Alderman Clemons

Yeah, I mean having heard what Alderman Gouveia said, I mean maybe, maybe you do offer C but I think you'd have to apply for it. I think you should make them have to apply to use that option if they want to use it whether it's at the beginning of the project or somewhere in between.

Sam Durfee, Planning Manager

Would it change your mind if that bond amount was an amount that was greater than the payment in-lieu by, you know, a factor of two or something like that where you're paying a premium for that option?

I think really getting at the, you know, the large project, you know, it's rounding error, you know, mitigating against that concern. You know, you have the luxury of proceeding with getting your CO but in the end, you're paying double what the payment in-lieu would have been. I mean I don't think anyone, regardless of size, would make such a - would see that as a reasonable approach and they would obviously say, okay, we'll get underway with the affordable project before we ask you for CO. Just trying to find where the lines are.

Alderman Clemons

I think having thought about this, I think you apply for C. If you want to do C, you go and get a Conditional Use Permit for C or you proceed with - you don't have to do anything if you proceed with A.

Sam Durfee, Planning Manager

Thank you.

Chairman Gouveia

Alderman Clemons, a question for you. Do you see this as an administrative procedure or a Board procedure?

Alderman Clemons

I don't know.

Chairman Gouveia

I personally think I lean towards administrative personally but I can probably be swayed either way. I think if we bring it administratively, it will go quicker than oh well, we'll meet again in two weeks. Let me see what the Board wants. Oh and then they table it and then we're another two weeks out. So I think I see it a little bit more administratively.

Sam Durfee, Planning Manager

We have a six-week lead time on Planning Board applications. So I would imagine that …

Alderman Clemons

So yeah, I could say administratively.

Chairman Gouveia

Okay. Alderman Jette.

Alderman Jette

So a couple of things. So, you know, this is, you know, this is nothing unique to Nashua. I mean there are places all over the country that have dealt with this. And, you know, I'm a great believer in learning from other people's experiences and not just, you know, my little mind thinking about different scenarios, and how it ought to go, and how this ought to go. You know how different alternatives and stuff and I have no experience in this field. So can you help us? What have other places that have administered this type of program successfully how have they done it?

Sam Durfee, Planning Manager

All of these. All of these are examples pulled from across the country.

Alderman Jette

And is there anything, you know, when someone proposes a project like this, does the city have any kind of protection that, you know, if they go belly up halfway through the project and they've got a half-built project is there anything that protects the city? You know is there any kind of a bond that they provide ahead of time that says that they're going to be able to finish this so we end up with finished buildings?

Sam Durfee, Planning Manager

The bonds that we hold are for right of way. So if they are …

Alderman Jette

For what?

Sam Durfee, Planning Manager

For a right of way. If they are cutting into the street, if for utilities, or driveway, you know, we want to protect our assets, utility lines, pavement, roadway, all of that. But on site, you know, it's private property. The city is not going to come in and say, okay, you know, your $100 million dollar project you got $20 million into it. Well, the city's got an extra, you know, $80 million of free cash flow flowing around. So, you know, we're going to come in and snatch up your project and finish it for you.

The free market comes in and steps in and someone sees, oh, there's an opportunity here. This is improved project, it's already underway, I'm going to buy the land, buy the approvals, and carry on and finish it. I am speaking personal opinion, I don't believe that's the role of the city to step in and do that. Frankly, you know, at any scale, I don't think it's really something for us. I mean I think the market itself is a safety net alone in that there is so much demand and need for housing here that even if a developer went belly up halfway through a project, someone else would come and step in and finish it because there's money to be made.

Alderman Jette

Yeah, I understand what you're saying but there are also safety things, you know, like if they've got a half finished building there, somebody's got to put a fence around. I'm just imagining you'd have to put a fence around it. You'd have to, you know, keep it from people wandering in there, and falling into a hole, and that type of thing.

Sam Durfee, Planning Manager

Well, the fence is one of the first things you put up at any job site and, you know, our building inspectors are constantly monitoring projects while they are under construction. So in a perfect world, and I'm sure this is the situation that we experience day to day in Nashua where a project is underway, there is an inspector that puts eyes on that almost every day, if not every day, and safety issues like what you're talking about get flagged before they become a real problem and present a hazard to the public.

Alderman Jette

Okay, thank you.

Chairman Gouveia

Alderman Thibeault.

Alderman Thibeault
Thank you, Mr. Chair. I always have questions after Alderman Jette asks his. For example, there's a big hole over at the Boys and Girls Club right now but there is a fence around it where they're building the new court there that we approved. So his question about the different cities that had these and you said all of them. So when you looked at that is there a city over here that just does A, a city over here does B and C? This city does all three. Is there one that did all three, or they're all that way, or?

Sam Durfee, Planning Manager

No. So there's this menu of options. No one city does all of them. They've all selected the ones that really work for them and I think as we've discovered this evening, some of them don't quite work together. I think it would be infeasible to really run all nine of these options at the same time. It's, you know, one kind of leads into the next, and there's a rational way of thinking, you know, how they are related together, and then we just, you know, we kind of chart our own course using, you know, pathways that others have tried before. You know, we're not reinventing the wheel here. We're just shaping it to Nashua's size.

Alderman Thibeault

Follow up?

Chairman Gouveia

Absolutely.

Alderman Thibeault

Thanks. So in the penalty section here when you looked at other places, what was the one that came up most often? Was it A?

Sam Durfee, Planning Manager

Yeah.

Alderman Thibeault

Okay. I tend to agree with Alderman Clemons and Alderman Gouveia about A and C. As far as that goes, you know, I was more with Alderman Gouveia about having C as that option, but I'm A and C. I'm good with both of those. Just, I don't think B's gonna work, so.

Sam Durfee, Planning Manager

Yeah, and I think this matrix kind of explains a little bit. The B's falling in what we call the "moderate category". You know, it's trying to get the best of both worlds where, you know, you try straddling, you know, find the grass is green on either side, and well you fall in the river in the process.

You know, there's some really obvious, pardon the terminology. I don't think conservative the right - these are the more obvious like less administrative burden required but then the flexible side, you know, this really does allow for quick adaptations to market forces but also being able to work with developers as needed and I think that we can, you know, apply both sides of that table as needed. We just write them into the ordinance as options, and then we use them with consultation with developers, and, you know, with the guidance of the Planning Board as the situation calls for.

Chairman Gouveia

And I think that kind of sums up nicely what our Committee has looked at, which is kind of to drop the hammer but also be flexible. To be firm but also let's work together and come to a conclusion. So I think that it kind of makes sense why we were picking things in the first column as well as that third column. It's we want to be firm on stuff like this but we also understand that there's times where we're going to need to have wiggle room on both sides. So I think that kind of fits nicely with what at least I've been hearing of our Committee as we've worked through this whole process.

Unidentified Speaker

Thank you.

Sam Durfee, Planning Manager

This was my last slide.

Alderman Clemons

That's it? Wow.

Chairman Gouveia

Well, thank you. Appreciate it. Any questions from the Committee? Yeah, Alderman Thibeault.

Alderman Thibeault

Thank you, Mr. Chair. So I assume that once - say we approve this down the road or whoever is here approves this, will it be easy to be amended if you're finding out that something's not working, you come to one of these committees, or the Board of Aldermen and say, hey, this particular thing, of any of the Code or the whole book this isn't working. At that point, will we create an ordinance and we could change it? It's not like …

Sam Durfee, Planning Manager

Yup.

Alderman Thibeault

The Charter or anything

Sam Durfee, Planning Manager

Yes.

Alderman Thibeault

Or anything crazy like that? Okay.

Sam Durfee, Planning Manager

Same process as exists today.

Alderman Thibeault

Okay.

Chairman Gouveia

Alderman Jette.

Alderman Jette

So speaking of payment in-lieu of, are we doing anything? I mean I've heard it said that the payment in-lieu for sidewalks there's really nothing wrong with that. It's just that the amount that we're charging is too little. So are we increasing that to correct/rectify that situation?

Sam Durfee, Planning Manager

That is under the guise of the Department of Public Works and I've had conversations with Engineer Hudson about that. We just need to get down and do it.

Alderman Jette

So that's under the Board of Public Works the sidewalk? Yeah, they're sidewalk people, right?

Sam Durfee, Planning Manager

Yeah, yep. Planning Board grants approval to or requirements to build them but, you know, cost and construction details, that is under Public Works.

Alderman Jette

Okay.

Alderman Thibeault

Just curious if anybody was online? We had a Zoom. For some reason we had a Zoom so I'm just curious if anybody came online. We never looked to see if there were any questions now. Although Director Sullivan might join us.

Sam Durfee, Planning Manager

Yeah, maybe.

Chairman Gouveia

Perfect. Any other questions from the Committee? Alderman Clemons.

Alderman Clemons

I just want to say your first slide said that you, I think, that this started back in October of '24. At least when you came first to this Committee and it's almost a year later. So it's a lot …

Sam Durfee, Planning Manager

Time flies when you're having fun.

Alderman Clemons

Yeah, it's a lot of work and there's a lot of time, and energy, and effort that that goes into all of this and I want to thank you and everybody else who's worked on this. It's, you know, I don't think the job will ever be 100% done, right. because things change, you know, and you've got to have a living document but, you know, to say that we're what would say we're 80% there, 85% there?

Sam Durfee, Planning Manager

Yeah, no I think that's reasonable. You know where we are right now is good. I think we're in the fine-tuning stage.

Alderman Clemons

Yeah.

Sam Durfee, Planning Manager

And I think we have a number of groups individuals to speak to that have different perspectives to make sure that, you know, we're really capturing all viewpoints. Yeah, it's an iterative process and we will continue to carry on with it.

Alderman Clemons

Great. Thank you.

Chairman Gouveia
Anybody else? Any more topics you would like to present or do you think we're at the stage now where we should wait for some more community input?

Sam Durfee, Planning Manager

Well at our last session, Alderman Moran had spoken about a session to summarize changes that reflected some of the things that we heard at these sessions. You know, we tried to do that this evening with the IZ update. That's a big part of the Code. That's definitely a strong community value so we really wanted to hit home with that.

You know, I think that we've gotten even some further refining commentary this evening that I think that we could then start writing code with and really present, you know, document sheets rather than slides. Obviously, those don't really show well on a presentation but we can start getting into, you know, finer levels of detail.

But looking further out, I'm going to be stepping away just for a couple of months on paternity leave. Very, very, very shortly. I'm glad my phone hasn't rung while I've been here, but that time is going to allow our co- consultants to get into our site plan and subdivision regulations. Basically at the audit phase, understanding, you know, what is in there? How does it relate back to the code that we've just written and the idea when I come back, and my staff is going to be working with them while I'm absent, we're going to work into writing that. There's going to be a really great time where the two inform each other back and forth as we refine and unify the Land Use Code from the zoning ordinance to the site plan subdivision side of the Code, and then the idea is we will bring them together as a unified Land Use Code Q1 of next year, run it through the adoption process, and hopefully we'll go live July 1 of next year that coincides with the number of State laws that were passed this past section but go into effect then. That's always a moving target. Like you said, living document. The State is always going to throw us a curve ball that we have to adapt to. So that's the outline.

One of the future topics will be site plan subdivision regulations and how those tie back to all this.

Chairman Gouveia

Alderman Thibeault.

Alderman Thibeault

Thank you, Mr. Chair. I look forward to bothering Director Sullivan while you're out.

So this slide, this will go to Donna, right, and Donna will put it in the meeting notes for the week so we can access it?

Sam Durfee, Planning Manager

Yes.

Alderman Thibeault

Okay, thank you.

Sam Durfee, Planning Manager

And all of these recordings, while they are on YouTube, were also directly linking them on the project website. So if you want to go back and watch yourself on camera, by all means.

Alderman Thibeault

I do not.

Chairman Gouveia

So if I think what I'm hearing here is we probably, unless we have legislation in this Committee and I'll bring this up with the Chairman and see what he wants to do, we probably won't meet in October unless we want to bring up another topic. We won't probably be meeting on this is what I'm saying. If we have some legislation, we'll obviously meet on that but if not, I'll see if the Chairman has any other ideas or if we'll cancel that meeting. But thank you very much.

Sam Durfee, Planning Manager

You're welcome.

Chairman Gouveia

It's been a - I definitely feel like I am much more educated on everything since the inception of this re-code. So I think we're almost there. I think there's still some work to be done but I think we're definitely making great strides.

Sam Durfee, Planning Manager

Thank you.

COMMUNICATIONS - None

PETITIONS - None

UNFINISHED BUSINESS - None

NEW BUSINESS – RESOLUTIONS - None

NEW BUSINESS – ORDINANCES – None

TABLED IN COMMITTEE - None

GENERAL DISCUSSION - None

PUBLIC COMMENT - None

REMARKS BY THE ALDERMEN - None

ADJOURNMENT

MOTION BY ALDERMAN CLEMONS TO ADJOURN
MOTION CARRIED

The meeting was declared closed at 8:41 p.m.

Alderman Derek Thibeault
Committee Clerk

NASHUA re-CODE

Planning & Economic Development Committee
September 29, 2025
Session 7: Use Table & Site Standards & IZ Update

InvestNH HOUSING OPPORTUNITY PLANNING GRANTS

CITY OF NASHUA

PRINCIPLE

Recap and Forecasting

What we have covered so far and what is/could be next

- October 9, 2024: General introduction to re-CODE
- April 15, 2025: Building Types, Density, Test
- June 5, 2025: Redevelopment Overlay Districts
- August 21, 2025: Mobility & Parking
- August 26, 2025: Inclusionary Zoning
- September 16, 2025: Zoning Map & Green Score
- **September 29, 2025: Use Table & Site Standards *& IZ Update***

Use Variance History

53 Use Variances since January 2020

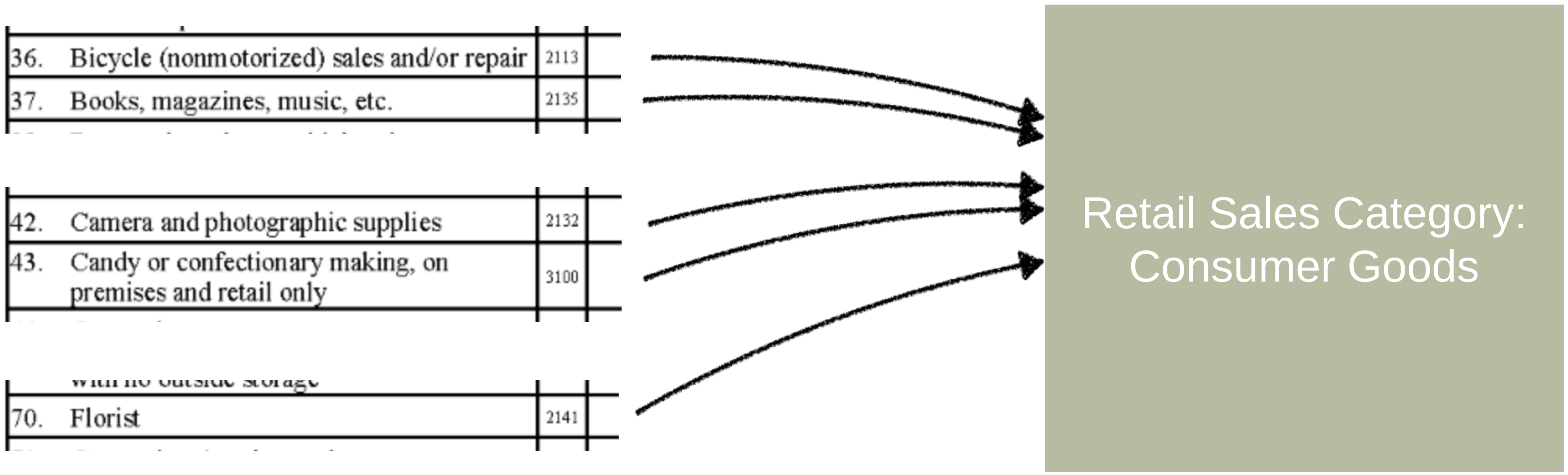
- 45 for uses not permitted in districts
  - 22 for commercial uses in residential districts
  - 10 for Multifamily in Single-family zones or Single-family/duplex in Comm/Ind.
  - 9 for estheticians in industrial zones
  - 4 for daycare uses (legislative fix coming)
- 6 for uses not in the use table
  - 4 for transitional housing and shelters
  - 1 detached ADU
  - 1 Federal firearm permit, not a gunshop or gunsmith
- 2 for exceeding 25% limit on non-industrial uses in an industrial building

Regulation of Uses

What is changing and why?

- Use Table is being simplified. Currently 293 uses. ~124 proposed.
- New use category approach. 11 categories.
  - Some uses within those categories are called our for additional regulation as warranted.
  - Provides flexibility in the classification of uses that may be new to Nashua.

Consolidation into Use Categories



Key: "P" means permitted By Right. "C" means permitted as a conditional use. "S" means permitted as a special exception. "-" means prohibited.																						
Use Category Specific Use	**R40**	**R30**	**R18**	**R9**	**R7.5**	**NR**	**UR**	**MR3**	**MR4**	**MR5**	**MR6**	**UC**	**UM**	**US**	**CB**	**CI**	**FAB**	**SD-CON**	**SD-AI**	**SD-CIV**	**SD-IND**	**SD-INS**
Educational Services	-	-	-	-	-	-	-	P	P	P	P	P	P	P	P	P	P	-	-	-	-	
Maintenance or Repair Services	-	-	-	-	-	-	-	P	P	P	P	P	P	P	P	P	-	-	-	-	P	
Personal Services (except as follows)	-	-	-	-	-	C	P	P	P	P	P	P	P	P	P	P	-	-	-	-	-	
Body Art Services	-	-	-	-	-	-	-	P	P	P	P	P	P	P	P	P	P	-	-	-	-	
Fitness Services	-	-	-	-	-	C	P	P	P	P	P	P	P	P	P	P	P	-	-	-	-	
Funeral Services	-	-	-	-	-	C	C	C	C	C	C	C	C	C	P	P	-	-	P	-	P	
Health Care Services	-	-	-	-	-	-	-	C	C	C	C	C	C	C	C	C	-	-	-	-	-	

Residential Use Classification

Accessory Dwelling Units	Single room occupancy units
Conservation Subdivisions	Multifamily dwelling, 3 or more units
Condominium	Overnight camping trailers
Duplex (two-family dwelling)	Business residence/residential hotel
Dwelling, manufactured home, on an individually owned lot	Dormitories for the students of college, commercial schools, staff of hospitals
Dwelling, manufactured home park	Halfway houses
Dwelling, modular home	Hotel, motel, and tourist court
Dwelling, room renting, no more than four roomers, no separate cooking facilities	Bed-and-breakfast inn
Dwelling, room renting, no more than four roomers, separate cooking facilities	Lodging house, including guest homes and tourist homes
Elderly housing, with residents in single-family detached housing only	Orphanages, children's homes, and similar uses
Single-Family detached dwelling	Boardinghouse/room renting

Residential (separate facilities)

Co-living (shared facilities)

Co-living with services

Commercial lodging

State Laws and Other Codes

- HB 457: municipalities can no longer regulate on the basis of familial, marital, employment, or educational status.
- Building and Fire Codes

Site Standards

- Driveways & Access
  - Widths, location, materials
- Loading Facilities
  - Design, location, drive-throughs
- Accessory Structures
  - Screening, setbacks
- Fences & Walls
  - Height & opacity
- Sustainable Development
  - Build and site performance
- Screening
  - Industrial exemption
- Landscaping
  - Installation, maintenance, buffers
- Hardscape
- Stormwater Management
  - Performance, easements, maintenance
- Green Score
  - Quantity & quality of landscaping
- Outdoor Seating
  - Dimensions, safety, materials
- Lighting
  - Lighting zones, shielding, brightness, temp.
- Signs
  - Types, location, size, lighting
- Mechanical Equipment
  - Screening & location
- Communication Towners
- Transit Station Site Design

Signs

~~M.~~N. Awning or Canopy Sign

(1) A commercial sign on the surface of an awning or attached above, below, or to the face of an entry canopy. Awning or canopy signs are intended to be viewed by pedestrians on the opposite side of street.

(2) Standards

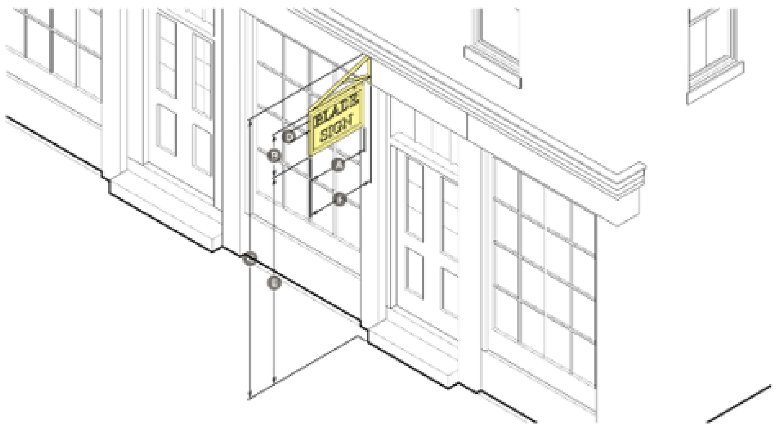
(a) Awning or canopy signs located on the sloping portion of an awning are only permitted for storefronts where the typical area for a wall sign is missing.

(b) Awning or canopy signs are prohibited on upper story awnings.

(3) Dimensions

Quantity	One sign is allowed per each canopy and two signs per each awning, provided one of the signs is located on the awning's valance
Area	No greater than 50% the area of the awning's face
Width (B)	12 ft min
Projection (A)	6 ft min
Clearance (C)	8 ft min
Letter Height (D)	Awning face - 18 in max. Awning valance - 10 in. max. Letters projecting upward from a canopy - 12 in max. Letters affixed or painted to the face of a canopy - 10 in max.

~~P.~~Q. Blade Sign



~~( )~~(1) A two-sided sign that is attached to and projecting perpendicularly from the front elevation of a building. Blade signs are intended to be viewed by pedestrians on the same side of the street.

~~(1)~~(2) Standards

(a) Blade signs may be used for primary or secondary signs.

(b) Blade signs must be located within 10 feet of the principal entrance for the business it identifies.

(c) Blade signs may have no more than 2 faces.

(d) When a projecting sign is closer than 12 feet to the corner of a building, its projection shall be no more than a distance equal to 1/2 the horizontal distance from the sign to that building corner.

(e) Blade signs may be oriented at a 45 degree angle from a building corner.

(f) Blade signs must be mounted below the sills of the second story windows of a multi-story building or below the roof line, parapet wall, or cornice of a single-story building.

(g) Blade signs are prohibited for upper story establishments.

~~(2)~~(3) Dimensions

Quantity	1 per commercial tenant
Area	6 sf max
Length (A)	4 sf max
Width (B)	4 sf max
Height (C)	See standard (g) above
Letter Height (D)	8 in max
Clearance (E)	8 ft min
Projection (F)	6 ft max

IZ Update

What we heard:

- Preference for required IZ units to be built on-site
  - Alternatives are not an automatic option
- Payment-In-Lieu and Off-Site options need to be properly calibrated
- Penalties for non-compliance
- Concerns regarding concentration of low-income housing

Three approaches for PIL, Off-Site, and Penalties

Payment In-Lieu

- Not a default option—Conditional Use Permit required.
- Fees to be set high enough that on-site provision is financially competitive.
- Fees must be proportional to actual housing costs, indexed to market trends, and updated regularly.

Payment In-Lieu
Option A: Formula-Based Payment

- Fee based on affordability gap: difference between market-rate cost and affordable cost for required units.
- The formula typically multiplies the gap by 2×–2.5× to reflect the public subsidy needed to build affordable housing elsewhere. The fee is designed to provide capital to fill this gap in other housing projects, not to cover the entire unit cost.
- Funds directed to the Affordable Housing Trust.
- Ensures fees are proportional to actual housing costs and indexed to market trends.

Payment In-Lieu
Option B: Flat Fee Per Square Foot

- Projects pay a set fee (e.g., $15–22 per sq. ft. of residential development) instead of building units.
- Clear to administer and predictable for projects.
- Fee levels can be updated annually to reflect inflation and changes in construction costs.
- Can generate large funds for other Affordable housing projects, though less directly tied to actual unit affordability gaps.

Payment In-Lieu
Option C: Discretionary Approval

- Approval is subject to the determination that the in-lieu payment advances Affordable housing goals better than the on-site provision.
- Provides project-to-project flexibility, but may reduce the predictability of Affordable housing production.
- Considers other community benefits delivered by the project.
- Appropriate only for large projects

Off-Site IZ Unit Construction

- Off-site is an alternative compliance tool, not the norm.
- Developers must demonstrate why off-site delivery produces a better overall public benefit.
- Goal: Prevent concentration of affordable units in already low-income neighborhoods.
- Require that off-site housing be located in areas with access to transit, schools, jobs, and amenities.
- Encourages partnering with affordable housing developers to scale projects – leverages LIHTC programs

Off-Site IZ Unit Construction
Option A: Strict On-Site (Exception Only)

- Require all Affordable units to be built on-site.
- Construction of off-site Affordable units is only permitted in exceptional circumstances, such as when a significant community benefit (e.g., transit investment, civic space, environmental remediation) offsets the impact.
- Must be discretionarily approved (CUP).
- An exception could be paired with heightened affordability requirements or additional contributions.

Off-Site IZ Unit Construction
Option B: Nearby Radius + Guarantee

- Off-site units must be within ½ mile of the principal development to maintain neighborhood integration.
- Off-site project must be comparable in construction quality, amenities, and affordability standards.
- Require the Project to post a performance bond or a cash deposit equivalent to the cost of providing units or the in-lieu payment.
- Guarantee held until financing and construction are secured for the off-site project.

Off-Site IZ Unit Construction
Option C: City Discretion, Case-by-Case

- A project may propose an off-site alternative anywhere in the city.
- Approval contingent upon demonstrating equal or greater community benefit—such as producing more total affordable units or serving lower-income households.
- The review considers location, accessibility to transit and jobs, and whether the off-site units enhance housing in areas of need.

Penalties for Failing to Deliver Off-Site Units

Penalties
Option A: No Certificate of Occupancy

- Developers cannot occupy or lease any units in the primary project until affordable housing obligations are met (on-site, off-site, or payment).
- Creates substantial leverage to ensure compliance.
- Provides certainty that Affordable units or payments are secured before market-rate units are occupied.

Penalties
Option B: Daily Fine for Non-Compliance

- Each day that a project fails to meet requirements counts as a separate violation.
- Fines escalate over time to increase pressure for resolution.
- Revenue from fines can be directed into the Affordable Housing Trust.
- Useful for projects already occupied but not yet in compliance.

Penalties
Option C: Cash Guarantee Held Until Delivery

- Developers required to post cash or bond equal to in-lieu payment or construction cost of off-site units.
- Funds remain with city until off-site units are completed.
- If project fails, city may use guarantee to directly finance equivalent affordable housing.
- Provides financial security while allowing developer flexibility.

Summary

Policy Element	Conservative	Moderate	Flexible
In-Lieu Payment	Rare; case-by-case	Formula-based fee tied to affordability gap	Flat fee per sq. ft. or Council discretion
Off-site Units	On-site required; exceptions only	Off-site allowed within ½ mile + guarantee	Off-site allowed anywhere with City approval
Penalty	No occupancy until compliance	Daily fines	Cash guarantees until delivery

- Conservative: Maximizes on-site units, ensures strongest enforcement.
- Moderate: Balances developer flexibility with enforceability.
- Flexible: Provides widest compliance alternatives, requires strong monitoring and administration.