


From: Ken Folsom kfolson@canterburynh.gov 
Subject: FW: Proposed changes to Zoning
Date: August 2, 2023 at 11:06 AM
To: Kevin Bragg kbragg@live.com



Hi Kevin,
Here is the email from our attorney and the highlighted regulations.

We have you on the agenda for Sept. 11 at 6:15. Feel free to discuss this with the HDC and if you have any questions or clarifications let me know.

Thanks,
Ken

Ken Folsom
Town Administrator
PO Box 500
Canterbury, NH 03224
603-783-9955
kfolson@canterburynh.gov

**Effective June 17, 2022 my email address has changed to
kfolson@canterburynh.gov**

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From: Michael P. Courtney <mcourtney@uptonhatfield.com>
Sent: Wednesday, July 12, 2023 7:33 AM
To: Ken Folsom <kfolson@canterburynh.gov>
Subject: RE: Proposed changes to Zoning

Ken:

Hope you are drying out from all this rain.

Ordinance Section 13.3 D states: “The Commission may adopt and amend regulations and prepare amendments to this ordinance.” While RSA 675:6 allows the HDC to adopt regulations after a public hearing, RSA 675:3, it still requires Town Meeting approval where the Zoning Ordinance is being amended. Ordinance Section 13.3 D is drafted so amendments are only “prepared” by the commission, but it is the Town Meeting who must vote on those amendments of the Zoning Ordinance pursuant to RSA 675:3. The key is that the Regulations cannot contradict the Ordinance.

In this case, there are instances where the adoption of certain Regulations may be reasonably interpreted as also changing the Zoning Ordinance. For instance, 13.

(II)3.D of the Regulations explains what criteria the BOS should use when selecting members. That is contrary to the authority given to the BOS to appoint on page 59 of the existing Ordinance. Also, the Regulations at 13 (II) defines architectural style to pre-1900, is that defined in the Ordinance? If not, the Regulations should not add this requirement.

Moreover, Regulation 13 (II).6 adds substantial responsibilities to owners in the district outside the current Ordinance and thus there is a reasonable argument that these changes should go to town meeting for a vote. If the proposed Regulations are adopted as-is and then are enforced against an applicant, that could be overturned by the Superior Court or Housing Appeals Board. I have attached highlighted sections that should be considered for a town meeting vote. I understand that the Ordinance lacks detail in some areas and the regulations are trying to fill in the gaps. I am happy to answer any questions or work through additional revisions if the Town would like.

Lastly, I have not highlighted the "Guidelines" section as requiring Town Meeting approval because these are evaluated on a case-by-case basis and thus are flexible and can be complimentary of the Ordinance when implemented.

Thanks,

MICHAEL P. COURTNEY

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From: Ken Folsom <kfolsom@canterburynh.gov>

Sent: Monday, July 10, 2023 12:20 PM

To: Barton L. Mayer <bmayer@uptonhatfield.com>; Michael P. Courtney <mcourtney@uptonhatfield.com>

Subject: Proposed changes to Zoning

Good morning Bart and Mike,
Hope all is well with you.

Our Historic District Commission is proposing some significant changes to their regulations. They had a public hearing on these proposed changes. They feel that these changes are allowed under the current zoning ordinance in section

13.3 Paragraph D.

Since these regulations are spelled out in our Zoning Ordinances, shouldn't these changes have to go to Town Meeting for approval?

The attached includes both the current and proposed language.

Thanks,
Ken

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