

ARTICLE 28-7. **USE REGULATIONS**

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28-7-1. GENERAL PROVISIONS

A. All Uses Subject to Overlay District Provisions

In addition to the use regulations that pertain to the base districts designated within [Articles 28-3 through 28-5](#), certain regulations and procedures for overlay districts are set forth in [Article 28-8](#), Overlay Districts. Uses authorized in this Article may be further restricted or prohibited entirely if they are also located within one or more overlay districts. Wherever there is a conflict between the provisions of an overlay district and a base district, the provision imposing the greater restriction or the higher standard controls.

B. Multiple Principal Uses on a Single Lot

Multiple principal uses may be established on a single lot to the extent that such uses are authorized within in this Article for the district in which the lot is located. The establishment of multiple principal uses is subject to all the requirements of this Ordinance as they pertain to each individual use, including applicable development design and supplemental standards for each use, and to the granting of special exceptions or conditional use permits if such are required. Where multiple principal uses are developed on a single lot, each unit or facility must have a separate and distinct address and mail receptacle.

C. Use Classification

1. Classification of Uses

a. Principal Uses

- 1) In order to regulate a variety of similar uses, use groups have been established for principal uses. Use groups provide a systematic basis for assigning uses to appropriate groups with other similar uses. Use groups classify principal uses and activities based on common functional, product or physical characteristics.
- 2) Where a use group contains a list of included uses, the list must be interpreted as example uses, and not an all-inclusive list. The Code Administrator has the responsibility for grouping all uses.

b. Accessory Uses

- 1) An accessory use is any use that is subordinate in both purpose and size, incidental to and customarily associated with a permitted principal use located on the same lot.
- 2) Use definitions and limited use standards for accessory uses are specified in 28-7-4.

c. Temporary Uses

- 1) A temporary use is a use that is in place only for a limited period of time.
- 2) Temporary uses are specified in 28-7-5.

2. Principal Uses Not Listed

A principal use not specifically listed is prohibited unless the Code Administrator determines the use to be part of a use group as described below. Where a use not listed is found by the Zoning Director not to be similar to any other permitted use, the use is only permitted following a text amendment (See [x-ref](#)). When determining whether a proposed use is similar to a listed use, the Code Administrator must consider the following criteria:

- a. The actual or projected characteristics of the proposed use;
- b. The relative amount of lot area or floor area and equipment devoted to the proposed use;
- c. Relative amounts of sales;
- d. The customer type;
- e. The relative number of employees;
- f. Hours of operation;
- g. Building and site arrangement;
- h. Types of vehicles used and their parking requirements;
- i. The number of vehicle trips generated;
- j. How the proposed use is advertised;
- k. The likely impact on surrounding properties; and
- l. Whether the activity is likely to be found independent of the other activities on the lot.

3. Accessory Uses Not Listed

An accessory use not specifically listed is prohibited unless the Code Administrator determines the accessory use:

- a. Is clearly incidental to and customarily found in connection with an allowed principal use;
- b. Is subordinate to and serving an allowed principal use;
- c. Is subordinate in area, extent and purpose to the principal use served;
- d. Contributes to the comfort, convenience or needs of occupants, business or industry in the principal use served; and
- e. Is located on the same lot as the principal use served.

28-7-2. TABLE OF ALLOWED USES

A. Use Table Key

1. Uses Permitted by Right (P)

A use denoted by the letter "P" within a zoning district is a use permitted by right in that district, subject to all other applicable sections of this Ordinance and other local, state and federal laws, rules and regulations.

2. Uses Permitted With Supplemental Standards (L)

A use denoted by the letter "L" within a zoning district is a use that is authorized subject to supplemental use standards found in Sec. 28-7-3. A link to the applicable standards is in the right-hand column of the Allowed Use Table. The referenced standards apply when a use is permitted with supplemental standards (L), by special exception (SE), or as a conditional use (CU). Uses subject to supplemental standards are subject to all other applicable sections of this Ordinance and other local, state and federal laws, rules and regulations.

3. Uses Permitted by Special Exception (SE)

A use denoted by the letters "SE" within a zoning district is a use which may be authorized by special exception in that district. The use standards in Sec. 28-7-3 apply to all special exceptions. The Board of Adjustment may grant special exceptions in accordance with the procedures and conditions set forth in [x-ref], subject to all other applicable sections of this Ordinance and other local, state and federal laws, rules and regulations.

4. Uses Permitted by Conditional Use Permit (CU)

A use denoted by the letters "CU" within a zoning district is a use which may be authorized by conditional use permit in that district. The use standards in Sec. 28-7-3 apply to all conditional uses. The Planning Board may grant a conditional use permit in accordance with the procedures and conditions set forth in [x-ref], subject to all other applicable sections of this Ordinance and other local, state and federal laws, rules and regulations.

5. Uses Not Permitted

A use denoted by a dash (-) within a zoning district is a use which is not permitted in that district.

B. Table of Allowed Uses

Prohibited Uses. Within the WS District, the following principal uses, which are otherwise allowed within the underlying RO District, are prohibited: (1) Cemeteries; (2) Golf courses; (3) Raising of poultry; (4) Raising or keeping of livestock or swine; (5) Commercial stables and equestrian centers; (6) Commercial kennels; and (7) Veterinary hospitals.

TABLE OF ALLOWED USES	OS	R-WS	R-OS	R-10, -5, -2.5, -1.8, -1.6	R-1.5, -1.2, -1	R-MH	MX-T	MX-N	MX-U	MX-H	MX-CB	MX-OC	CIV	IS	IN	Definitions & Standards
PRINCIPAL USE																
RESIDENTIAL USES																28-7-3.
Household Living, as listed below:																28-7-3.A.
Detached, attached or divided units	-	L	L	L	L	L	L	L	L	L	L	L	L	L	-	28-7-3.A.1.
Cluster development	-	L	L	??	-	-	-	-	-	-	-	-	-	-	-	28-2-5.
Manufactured housing park	-	-	-	-	-	L	-	-	-	-	-	-	-	-	-	28-3-10.
Manufactured housing subdivision	-	-	-	-	-	L	-	-	-	-	-	-	-	-	-	28-3-10.
Group Living, as listed below:																28-7-3.B.
Assisted living residence	-	-	-	P	P	-	P	-	P	-	-	-	P	P	-	
Congregate dwelling	-	-	-	-	P	-	P	-	P	-	-	-	P	P	-	
Group home	-	-	-	L	L	-	L	-	L	-	-	-	P	P	-	
Monastery, convent	-	-	-	-	P	-	P	-	P	-	-	-	P	P	-	
Nursing home	-	-	-	-	P	-	SE	-	-	-	-	-	P	P	-	
Residential social service center	-	-	-	-	SE	-	CU	-	CU	-	-	-	P	CU	-	
Rooming house	-	-	-	-	SE	-	L	-	L	-	-	-	-	-	-	
PUBLIC AND INSTITUTIONAL USES																28-7-4.
Civic, except as listed below																28-7-4.B.
College/University	-	-	-	-	-	-	-	-	-	-	-	P	P	P	-	
Fraternal/social organization, non-profit	-	-	-	-	-	-	-	-	P	P	P	P	-	CU	-	
Historic property used as a visitor attraction	SE	SE	SE	SE	SE	-	P	P	P	-	P	P	P	P	-	
Place of worship	-	-	-	SE	SE	-	SE	-	SE	-	-	-	P	P	-	
School, elementary and secondary	-	-	-	L	L	-	L	-	-	-	-	-	L	L	-	
School, residential post secondary school/college with dormitories	-	-	-	-	-	-	-	-	-	-	-	P	P	P	-	
Parks/Open Space, except as listed below:																28-7-4.C.
Campground, youth camp, outdoor recreational facility	-	CU	CU	-	-	-	-	-	-	-	-	-	-	-	-	
Cemetery	P	P	P	P	P	-	-	-	-	-	-	-	-	P	-	
Community center	-	-	-	SE	SE	SE	SE	P	P	-	P	-	P	P	-	
Conservation area	P	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Environmental education or conservation, non-profit	CU	CU	CU	-	-	-	-	-	-	-	-	-	-	-	-	
Recreational facility, public indoor or outdoor	CU	P	P	P	P	-	P	P	P	-	P	P	P	P	-	
Institutional																
Social service center	-	-	-	-	-	-	SE	-	P	-	P	-	P	P	-	
Utilities																
Major utility	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	
Minor Utility	-	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
COMMERCIAL USES																

P = Permitted L = Limited Use (standards apply) SE = Special Exception required (BZA) CU = Conditional Use (PB)

TABLE OF ALLOWED USES																
PRINCIPAL USE	OS	R-WS	R-OS	R-10, -5, -2.5, -1.8, -1.6	R-1.5, -1.2, -1	R-MH	MX-T	MX-N	MX-U	MX-H	MX-CB	MX-OC	CIV	IS	IN	Definitions & Standards
Day care	-	-	-	-	SE	SE	SE	P	P	-	P	P	P	P	P	
Entertainment and Recreation																
Concert hall, indoor theatre	-	-	-	-	-	-	-	-	P	P	P	P	P	-	-	
Dance, music school/studio	-	-	-	-	-	-	SE	-	P	P	P	P	P	P	-	
Health/fitness center, private indoor	-	-	-	-	-	SE	-	-	P	P	P	P	P	P	P	
Recreational facility, private indoor	-	-	-	-	-	SE	-	-	P	P	P	P	-	-	-	
Recreational facility, private outdoor	CU	CU	CU	CU	-	-	-	-	-	-	-	P	-	CU	-	
Lodging/Hospitality																
Bed and breakfast	-	CU	CU	CU	-	-	SE	P	-	-	-	-	P	P	-	
Conference, trade or convention center	-	-	-	-	-	-	-	-	P	-	P	P	-	-	-	
Hotel or motel	-	-	-	-	-	-	-	-	P	P	P	P	-	-	-	
Inn	-	-	-	-	-	-	-	-	P	P	P	P	P	CU	-	
Medical																
Hospital	-	-	-	-	-	-	-	-	-	-	-	-	-	P	-	
Medical office, clinic	-	-	-	-	-	-	-	CU	P	P	P	P	P	P	-	
Medical, dental lab	-	-	-	-	-	-	-	-	P	P	-	-	-	P	-	
Alternative treatment center (non-cultivation location)	-	-	-	-	-	-	-	-	-	-	-	-	-	P	-	
Office																
Banking, and general business, financial	-	-	-	-	-	-	SE	CU	P	P	P	P	P	P	P	
Service																
Personal/business service	-	-	-	-	-	-	SE	P	P	P	P	P	-	CU	-	
Crematory	-	-	-	-	-	-	-	-	-	-	-	-	-	-	CU	
Mortuary, funeral home	-	-	-	-	-	-	-	-	CU	CU	-	-	-	-	-	
Restaurant	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Restaurant with no drive-through service or entertainment	-	-	-	-	-	-	-	CU	P	P	P	P	-	CU	-	
Restaurant with no drive-through service and with entertainment	-	-	-	-	-	-	-	-	P	P	P	P	-	-	-	
Restaurant with drive-through service	-	-	-	-	-	-	-	-	P	P	-	-	-	-	-	
Retail																
Sexually oriented business	-	-	-	-	-	-	-	-	-	P	-	-	-	-	-	
Garden center	-	-	-	-	-	-	P	P	P	P	P	P	-	-	-	
Outdoor storage	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Gasoline retail sales	-	-	-	-	-	-	-	CU	CU	CU	-	P	-	-	-	
Sales of construction materials and similar goods	-	-	-	-	-	-	-	-	-	CU	-	-	-	-	P	

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Sales of garden supplies	-	-	-	-	-	-	-	-	-	P	-	-	-	-	-	
Sales of goods and merchandise	-	-	-	-	-	-	SE	P	P	P	P	P	-	-	-	
Vehicle Sales and Service																
Automotive repair, service and towing, including body work	-	-	-	-	-	-	-	-	-	CU	-	-	-	-	P	
Automotive repair, service, and towing, excluding body work	-	-	-	-	-	-	-	-	CU	P	-	-	-	-	P	
Car wash	-	-	-	-	-	-	-	-	P	P	-	-	-	-	-	
Sale and installation of parts and accessories including tires, mufflers, and glass	-	-	-	-	-	-	-	-	CU	P	-	-	-	-	-	
Sale or rental of motor vehicles, other than construction equipment	-	-	-	-	-	-	-	-	P	-	-	-	-	-	-	
Sale or rental of recreational equipment	-	-	-	-	-	-	-	-	P	-	-	-	-	-	-	
Sales, rental or repair of construction equipment	-	-	-	-	-	-	-	-	-	-	-	-	-	-	CU	
INDUSTRIAL USES																
Transportation, Communications, Utilities																
Airport, passenger and air freight terminals	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	
Bulk fuel storage for distribution	-	-	-	-	-	-	-	-	-	-	-	-	-	-	CU	
Bus, shuttle, taxi, rideshare or railroad passenger station	-	-	-	-	-	-	-	-	P	P	P	P	-	-	-	
Essential public utility and appurtenances	CU	CU	CU	CU		CU	CU	CU	CU	P	P	P	P	CU	CU	
Heliport	-	-	-	-	-	-	-	-	-	-	-	-	-	-	CU	
Municipal and other governmental and public works facility	CU	CU	CU	CU		CU	CU	CU	CU	P	P	P	P	CU	P	
Public bus shelter	P	P	P	P		P	P	P	P	P	P	P	P	P	P	
Public or commercial parking lot as a principal use	-	-	-	-	-	-	-	-	P	P	-	P	P	P	-	
Public or commercial parking structure as a principal use	-	-	-	-	-	-	-	-	CU	P	P	P	P	CU	-	
Radio or TV station or studio, telecommunication building	-	-	-	-	-	-	-	-	P	P	P	P	-	P	-	
Truck or rail freight terminal	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	
Warehousing, wholesale storage and distribution facility	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	
Wireless telecommunications equipment	CU	CU	CU	CU		CU	CU	CU	CU	CU	CU	CU	CU	CU	CU	
Manufacturing and Construction																

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Alternative treatment center (non-cultivation location)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	
Biotechnology	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Building contractor yards including outside storage of equipment and materials	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	
Construction trades shop	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	
Dry cleaning plant	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	
Excavation of earth materials or quarrying of stone	-	CU	CU	-	-	-	-	-	-	-	-	-	-	-	CU	
Food processing, wholesale bakery, and bottling of beverages	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	
Manufacturing, fabrication, and assembly industries	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	
Materials recycling and processing	-	-	-	-	-	-	-	-	-	-	-	-	-	-	CU	
Materials research and testing laboratories	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	
Office/warehousing/industrial flex use	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	
Printing and publishing	-	-	-	-	-	-	-	-	P	-	-	-	-	-	P	
AGRICULTURAL USES																
Agricultural and horticultural operations except aquaculture	P	P	P	-	-	-	-	-	-	-	-	-	-	SE	-	
Commercial greenhouse, nursery	-	SE	SE	-	-	-	-	-	-	-	-	-	-	-	-	
Commercial kennel	-	SE	SE	-	-	-	-	-	-	CU	-	-	-	-	-	
Nursery	-	P	P	-	-	-	-	-	-	-	-	-	-	-	-	
Raising and harvesting of fish and other aquaculture products	SE	SE	SE	-	-	-	-	-	-	-	-	-	-	-	-	
Raising of poultry, and raising or keeping of livestock other than swine	P	P	P	-	-	-	-	-	-	-	-	-	-	-	-	
Raising or keeping of bees	-	P	P	-	-	-	-	-	-	-	-	-	-	-	-	
Raising or keeping of swine	SE	SE	SE	-	-	-	-	-	-	-	-	-	-	-	-	
Silvicultural operation, tree farm	P	P	P	-	-	-	-	-	-	-	-	-	-	P	-	
Stable, equestrian center	-	P	P	-	-	-	-	-	-	-	-	-	-	-	-	-
Veterinary hospital	-	SE	SE	-	-	-	-	-	-	P	-	-	-	CU	-	
P = Permitted L = Limited Use (standards apply) SE = Special Exception required (BZA) CU = Conditional Use (PB)																

28-7-3. RESIDENTIAL USES

A. Household Living

Residential occupancy of a dwelling unit by a household. Household living includes the following:

1. Detached, Attached or Divided Units

a. Definition and Examples

Small, Medium, Large or Extra Large unit types organized as detached, attached or divided units.

- 1) Detached Unit means a building, other than manufactured housing, designed or intended as a residence exclusively for one household, separated from any other building (except accessory buildings) by side and rear yards. Includes a detached residential dwelling unit conforming to the definition in RSA 674:31-a, Definition.

Examples:

- a) Single-unit dwelling.
- b) Pre-site built housing, modular housing.
- c) Individual manufactured homes conforming to the definition of manufactured housing in RSA 674:31, Definition.

- 2) Attached Unit means two or more dwelling units where each unit is separated vertically by a common side wall such that no unit is located over another unit.

Examples:

- a) Side-by-side duplex.
- b) Back-to-back duplex.
- c) Townhouse.

- 3) Divided Unit means two or more dwelling units in a single principal structure that do not meet the definition of Attached Unit above. Examples:

- a) Accessory unit within a detached principal structure.
- b) Up-and-down duplex.
- c) Triplex, fourplex.
- d) Apartment.

4) Use Standards

- a) Allowed residential floor area is based on the requirements of the each district and the provisions of [28-6-1.A](#).

- b) Individual manufactured homes must comply with construction and installation standards for manufactured housing units pursuant to the provisions of the National Manufactured Home Construction and Safety Standards Act (42 U.S.C. Sec. 5401), as well as the requirements of this Ordinance.
- c) [Apply Development Design Guidelines and Architectural Review??]

b. Cluster Development

1) Definition and Examples

Cluster Development permits greater flexibility and more creative design for the development of residential areas by allowing smaller lot sizes in trade for preservation of open space. Cluster Development provides for the efficient use of land, while providing for the preservation of the natural and scenic qualities of open spaces. Cluster Development is adopted pursuant to the provisions of RSA 674:21, Innovative Land Use Controls.

2) Use Standards

See 28-2-5.

c. Manufactured Housing Park

1) Definition and Examples

A shared facility for the lease of manufactured home lots that allows the placement of detached residential dwelling units conforming to the definition of manufactured housing contained in RSA 674:31, Definition.

2) Use Standards

See 28-3-10.

d. Manufactured Housing Subdivision

1) Definition and Examples

A subdivision of lots that allows the placement of detached residential dwelling units conforming to the definition of manufactured housing contained in RSA 674:31, Definition.

2) Use Standards

See 28-3-10.

B. Group Living

Residential occupancy of a structure by a group of people that does not meet the definition of household living. Generally, group living facilities have a common eating area for residents, and residents may receive care or training. Group living includes the following:

1. Assisted Living Residence

a. Definition and Examples

A residential facility for the elderly, developed and maintained in compliance with RSA 354-A:15, Housing for Older Persons, that contains individual rooming units, and may have common sanitary facilities and common dining facilities and certain personal services such as housekeeping and laundry services, assistance in personal care, as well as limited medical and nursing services, are provided to residents. Examples:

- 1) Residential care home.
- 2) Supported residential care home.

b. Use Standards

None.

2. Congregate Dwelling

a. Definition and Examples

A multi-unit dwelling for the elderly, developed and maintained in compliance with RSA 354-A:15, Housing for Older Persons, in which common dining facilities and certain personal services such as housekeeping, laundry, medical, or nursing services, are provided to residents. Examples:

- 1) Multi-unit Dwelling for the Elderly.
- 2) Hospice.

b. Use Standards

None.

3. Group Home

a. Definition and Examples

A residential dwelling unit containing up to 6 unrelated persons who are mentally or physically impaired who are protected under the Fair Housing Act, along with support or supervisory personnel or family members who may reside at the facility. The term mental or physical impairment includes conditions such as blindness, hearing impairment, mobility impairment, HIV infection, mental retardation, alcoholism, drug addiction, chronic fatigue, learning disability, head injury, and mental illness. Current users of illegal controlled substances, persons convicted for illegal manufacture or distribution of a controlled substance, sex offenders, and juvenile offenders, are not considered mental or physically impaired under the Fair Housing Act. The Fair Housing Act affords no protections to individuals with or without disabilities who present a direct threat to the persons or property of others. Determining whether someone poses such a direct threat must be made on an individualized basis, however, and cannot be based on general assumptions or speculation about the nature of a disability.

b. Use Standards

None.

4. Monastery, Convent

a. Definition and Examples

A place of residence providing group living accommodations to a community of persons living in seclusion under religious vows.

b. Use Standards

None.

5. Nursing Home

a. Definition and Examples

A facility that admits patients on medical referral only and for whom arrangements have been made for continuous medical supervision, maintains the services and facilities for skilled nursing care, rehabilitative nursing care, and has a satisfactory agreement with a physician and dentist who will be available for any medical or dental emergency and who will be responsible for the general medical and dental supervision of the home.

b. Use Standards

Where a nursing home is located in an open space or residential district, it is subject to the following standards:

- 1) Nursing homes must be located on lots that have direct access to and from a collector or arterial street, or access to a street that is physically improved in order to fulfill the function and meet the standards of a collector street.
- 2) Nursing homes must be served by municipal water and sewer systems. The water service must be adequate for both domestic use and fire protection.

6. Residential Social Service Center

a. Definition and Examples

A building, consisting primarily of dwelling units, or sleeping rooms with common sanitary facilities and common dining facilities, and including offices, meeting rooms, and such other spaces necessary for clinics, therapy sessions, group activities, or counseling services that are provided exclusively for the residents of the center.

b. Use Standards

Where a Residential Social Service Center is not comprised of dwelling units, but provides rooms for sleeping quarters together with common sanitary and dining facilities, the number of rooms used as sleeping quarters must not exceed the number of dwelling units that would otherwise be permitted on the premises.

7. Rooming House

a. Definition and Examples

A place of residence that contains individual rooms without cooking facilities that are rented to the general public to no more than 10 unrelated persons at any one time.

b. Use Standards

Rooms for sleeping quarters with common sanitary and dining facilities occupied by no more than 2 individuals count as 0.25 units.

28-7-4. PUBLIC & INSTITUTIONAL USES

A. Civic

Places of public assembly that provide ongoing governmental, life safety, educational and cultural services to the general public, as well as meeting areas for religious practice. Civic includes the following:

1. College/University

a. Definition and Examples

An institution of higher education having authority to award Associates, Bachelor's and higher degrees.

b. Use Standards

None.

2. Fraternal/Social Organization, Non-Profit

a. Definition and Examples

A facility used for an association or organization of educational, fraternal or social character, not operated or maintained for profit. Representative organizations include Elks, Veterans of Foreign Wars and Lions.

b. Use Standards

None.

3. Historic Property Used as a Visitor Attraction

a. Definition and Examples

Eligible for the National Register?

b. Use Standards

None.

4. Museum or Library

a. Definition and Examples

A facility having public significance by reason of its architecture or former use or occupancy, or a building serving as a repository for a collection of books, natural, scientific, literary curiosities or objects of interest, or works of art, and arranged, intended, and designed to be viewed by members of the public, with or without an admission fee, and which may include as an accessory use the sale of goods to the public as gifts or for their own use.

b. Use Standards

None.

5. Place of Worship

a. Definition and Examples

A building or structure that by design and construction is primarily intended for conducting organized religious services. Associated accessory uses include, but are not limited to, schools, meeting halls, indoor and outdoor recreational facilities, counseling and kitchens.

b. Use Standards

1) Access Requirements

All churches, synagogues, and places of religious worship, and community centers shall be located on lots that have direct access to and from a collector or arterial street, or access to a street which shall be physically improved in order to fulfil the function and meet the standards of a collector street.

2) Utility Service Requirements

All churches, synagogues, and places of religious worship, and community centers, shall be served by municipal water and sewer systems where available. Where municipal utilities are not available, a place of religious worship or a community center shall be adequately served by a private well for its exclusive use, and a subsurface waste disposal system or other such system as approved by the New Hampshire Department of Environmental Services (NHDES)-Water Division (WD).

3) Fire Protection and Life Safety Requirements

Where municipal water service is not available, on-site water storage, distribution facilities, and sprinkler systems shall be designed and installed to provide fire protection and suppression capabilities in compliance with life safety standards.

6. Public Use

a. Definition and Examples

Any building, structure, or use owned or operated by the federal government, State of New Hampshire, Merrimack County, the City of Concord or other municipality, or any authority, agency, board, or commission of the above governments, that is necessary to serve a public purpose, including but not limited to, government administrative buildings, post offices, police, fire and EMS stations, public health facilities, public works facilities, jails and correctional facilities.

b. Use Standards

None.

7. School, Elementary/Secondary

a. Definition and Examples

An educational facility for students in grades pre-kindergarten through 12 that has a curriculum at least equal to a State-accredited public school with regard to the branches of learning and study required to be taught in the public schools.

b. Use Standards

1) Access Requirements

All secondary schools and any elementary school located in the Institutional (IS) District or Residential Districts must be located on a lot that has direct access to and from a collector or arterial street, or access to a street physically improved in order to fulfil the function and meet the standards of a collector street.

2) Utility Service Requirements

All schools shall be served by municipal water and sewer systems where available. Where municipal utilities are not available, a school shall be adequately served by a private well for its exclusive use, and a subsurface waste disposal system or other such system as approved by the New Hampshire Department of Environmental Services (NHDES)-Water Division (WD).

3) Fire Protection and Life Safety Requirements

Where municipal water service is not available, on-site water storage, distribution facilities, and sprinkler systems shall be designed and installed to provide fire protection and suppression capabilities in compliance with life safety standards.

B. Parks and Open Space

Uses focusing on natural areas consisting mostly of vegetation, passive or active outdoor recreation areas, and having few structures. Parks and open space includes the following.

1. Campground, Youth Camp, Outdoor Recreation

a. Definition and Examples

[INSERT]

b. Use Standards

1) Permit Requirements

A conditional use permit shall be required for development, construction and expansion or alteration of campgrounds, youth camps and outdoor recreational facilities, with the exception of proposed outdoor recreation facilities in the OFP and OCP Districts, where these uses are permitted by right. The requirements of this Section shall be in addition to the requirements of Section 28-9-4(b), Conditional Use Permits.

2) Minimum Development Requirements

All campgrounds, youth camps and outdoor recreational facilities shall be subject to the following requirements:

- a) Adequate provision shall be made for access for emergency equipment by means of exclusive emergency access ways, private drives of a width sufficient to allow emergency equipment to pass on-coming vehicles, or by other means as deemed acceptable by the Chief of the Concord Fire Department.
- b) If available, municipal water service shall be provided to all campgrounds, youth camps and outdoor recreational facilities. If municipal water service is not available, campgrounds, youth camps and outdoor recreational facilities shall be served by a private well for its exclusive use, and copies of approvals, as applicable, from the New Hampshire Department of Environmental Services (NHDES)-Water Division (WD), shall be submitted as part of the conditional use permit process.
- c) If available, municipal sanitary sewer service shall be provided to all campgrounds, youth camps and outdoor recreational facilities. If municipal sanitary sewer service is not available, sanitary sewage disposal shall be by means of subsurface waste disposal systems or other such systems as approved by the New Hampshire Department of Environmental Services (NHDES)-Water Division (WD), and evidence of such approval shall be submitted as part of the conditional use permit process.
- d) All non-municipal utilities, both those existing on the tract and those proposed to serve a campground or youth camp shall be placed underground. All proposed non-municipal utilities to serve an outdoor recreational facility shall be placed

underground, however such requirement shall not apply to existing utilities. Such utilities include but are not limited to electricity, telephone, gas, cable television, and fiber optic cable.

3) Design Standards for Campgrounds and Youth Camps

Campgrounds and youth camps shall be subject to the following design standards:

- a) A minimum area of 1,200 square feet shall be provided for each camping site. Individual sites shall be graded so as to be free from mud or standing surface water.
- b) Each campground or youth camp shall be located on a tract that is a minimum of 10 acres in size.
- c) The density shall not exceed 15 camping sites per acre of buildable land.
- d) There shall be a minimum separation, consistent with the Building and Fire Codes, between all buildings including cabins, bunkhouses, toilet and shower facilities, and buildings used for common purposes such as dining, recreational, storage, and administrative facilities.

4) Additional Standards for Certain Campgrounds

Those campgrounds which include sites and facilities intended to accommodate recreational vehicles shall also comply with provisions of Chapter 29.1, Recreational Vehicle Park Code, of the Code of Ordinances. Where there are conflicts between the provisions of Chapter 29.1 and this Section, the higher standard or greater restriction shall govern.

5) Development Standards for Outdoor Recreational Facilities

- a) All outdoor recreational facilities shall have the primary access to and from a collector or arterial street, or if the primary access is not from a collector or arterial street the Planning Board may require submission of a traffic study to show the street is suitable for the proposed traffic generated by the outdoor recreational use.
- b) Outdoor recreational facilities shall not generate noise that is unreasonably audible from any dwelling not on the property nor shall any odor, light or dust related to the recreational activity be unreasonably perceptible beyond the boundaries of the property. The Planning Board may further limit the hours of operation and noise levels.
- c) Outdoor recreational facilities shall not be established on lots that do not meet the minimum lot size or frontage requirements as defined under **Section 28-4-1(h), Table of Dimensional Regulations**.
- d) The construction of accessory buildings and structures are permitted but the building or structure must be incidental and subordinate to the outdoor

recreational activity. Buildings and structures existing at the time of the adoption of this ordinance may be used in conjunction with the outdoor recreational use. Temporary structures such as tents are permissible in compliance with life safety and fire requirements.

6) Buffer Requirements for Campgrounds, Youth Camps and Outdoor Recreational Facilities

In order that adjacent land uses be visually and physically separated, a buffer area shall be observed along the perimeter of a tract of land proposed for development or expansion of a campground, youth camp or outdoor recreational facility and no camping sites, buildings, or parking facilities may be located within this buffer. The minimum width of the buffer shall be 100 feet for the R-OS District and 50 feet for the RM District. The Planning Board may permit streets and utilities to cross through the buffer, and may allow certain outdoor recreational facilities within the buffer, provided that such improvements are compatible with adjacent land uses and do not diminish the purpose of the buffer. The buffer shall incorporate existing natural features of the tract to the greatest extent possible. Existing vegetation including significant large trees shall be preserved, and the Planning Board may require landscape materials to be integrated with the existing vegetation in order to provide effective screening on a year-round basis between the development tract and adjacent land uses.

2. Cemetery

a. Definition and Examples

The use of property as a burial place. [include pet cemetery?]

b. Use Standards

None.

3. Community Center

a. Definition and Examples

A building or structure, together with accessory buildings, structures, and appurtenances, owned and operated by a unit of government or nonprofit organization for the provision of recreational, cultural, and social programs which may be oriented to a group of citizens of a specific range in age, or to all those citizens who reside in a specific neighborhood of the City.

b. Use Standards

1) Access Requirements

All churches, synagogues, and places of religious worship, and community centers shall be located on lots that have direct access to and from a collector or arterial street, or access to a street which shall be physically improved in order to fulfil the function and meet the standards of a collector street;

2) Utility Service Requirements

All churches, synagogues, and places of religious worship, and community centers, shall be served by municipal water and sewer systems where available. Where municipal utilities are not available, a place of religious worship or a community center shall be adequately served by a private well for its exclusive use, and a subsurface waste disposal system or other such system as approved by the New Hampshire Department of Environmental Services (NHDES)-Water Division (WD); and

3) Fire Protection and Life Safety Requirements

Where municipal water service is not available, on-site water storage, distribution facilities, and sprinkler systems shall be designed and installed to provide fire protection and suppression capabilities in compliance with life safety standards.

4. Conservation Area

a. Definition and Examples

A tract of land that is protected in order to ensure that natural features, cultural heritage or biota are preserved. May include recreation trails, greenways and nature preserves.

b. Use Standards

None.

5. Environmental Education or Conservation Center

a. Definition and Examples

A facility that includes the offices, meeting rooms, libraries, educational facilities, and display and demonstration areas, together with any adjacent environmentally sensitive or valuable land, of an organization devoted to conservation, wildlife preservation, or other natural environmental improvement, protection, or enhancement purposes.

b. Use Standards

1) Minimum Lot Size

An environmental education or conservation center shall be established on a lot that is not less than 5 acres in size.

2) Fire Protection Requirements

Where municipal water service is not available, on-site water storage and distribution facilities shall be designed and installed to provide fire protection and suppression capabilities for buildings containing offices, and educational, display, library, and public assembly areas.

3) Requirements for Emergency Equipment

Driveways from the adjacent street to the principal on-site buildings shall be of a width and material that will support an acceptable degree of access to the property by Fire Department apparatus.

4) Access Requirements

A center shall be located on a lot having direct access to and from a collector or arterial street, or access to a street which shall be physically improved in order to fulfil the function and meet the standards of a collector street.

5) Development Standards

Administrative offices shall not occupy more than 60% of the gross floor area of the center, and educational, display, library, and public assembly areas must not occupy less than 35% of the gross floor area of the center.

C. Institutions

1. Social Service Center

a. Definition and Examples

A building that includes offices, meeting rooms, and group activity areas necessary for the provision of such services as training, counseling, psychotherapy, and individual and family assistance programs.

b. Standards

None.

D. Utilities

1. Major Utilities

a. Definition and Examples

Major public or private infrastructure serving the general community and possibly having on-site personnel. Examples include electrical substation, electric or gas generation plant, water or sanitary sewer treatment plant. [solar or wind farm?]

b. Use Standards

None.

2. Minor Utilities

a. Definition and Examples

Public or private infrastructure, including but not limited to water, sewer, gas, electric, telephone, Internet, cable and other similar services serving a limited area with no on-site personnel. Examples include: [add Public Bus Shelter?]

- 1) On-site stormwater facility.
- 2) Neighborhood-serving cable, internet, telephone, gas or electric facility.
- 3) Water or wastewater pump or lift station.

b. Use Standards

- 1) Minor utility facilities must be essential to the service of the immediate area.
- 2) Materials storage is not permitted.
- 3) Vehicles must not access the site except for purposes of maintenance, repair and inspections.
- 4) All apparatus that are considered dangerous by the Code Administrator must be enclosed by a chain link fence of at least 8 feet in height, which must be screened with a [] buffer (see x-ref).
- 5) Public bus shelters may be located within the required front yard setback, provided the location is approved by the City Engineer.

3. Parking Structures

In the Central Business Performance (CBP), the Civic Performance (CVP), and the Opportunity Corridor Performance (OCP) Districts, the following standards shall apply to the construction of parking structures:

a. Accommodation of Nonresidential Uses

Each parking structure shall be designed to accommodate permitted principal nonresidential uses within that portion of the structure which is at street level adjacent to North or South Main Streets, North or South State Streets, Pleasant Street, or Storrs Street;

b. Exemption by Special Exception

The requirement of Section 28-5-21(a) of this Article for accommodation of nonresidential uses at the street level of a parking structure may be exempted on North or South State Streets, Pleasant Street, or Storrs Street as a Special Exception, in accordance with the provisions of Section 28-9-3(b), Special Exceptions, of this ordinance, where the Zoning Board of Adjustment (ZBA) finds that the extent of the street frontage to be occupied by the parking structure is minimal and will not represent a significant void in the continuity of adjacent attractions for pedestrians; and

c. Architectural Design

Within or directly adjacent to the CBP District, where a parking structure is directly adjacent to a street or public park, the building elevations of the parking structure which face a street or park, or are visible therefrom, shall incorporate materials and design features of a style and appearance that is compatible with the CBP District's vernacular commercial architecture.

4. Wireless Telecommunications Equipment

[Not reviewed]

a. Definition and Examples

Any antenna, satellite dish, microwave dish or equipment used for the receiving, relaying or transmitting of radio, telephone, television or any other electromagnetic based communication or data transfer; or any tower, pole or structure supporting such equipment.

b. Purpose

The purpose of this Section is to provide for the appropriate location and development of communications towers, antennae and equipment which will allow comprehensive service to all residents, businesses and visitors to the City of Concord in a manner which minimizes adverse visual, environmental, safety, and health impacts through the careful design, siting, landscaping, and camouflage of such towers and equipment.

c. Permit Requirements

1) Permits for Installation, Expansion, or Alteration

The Planning Board is authorized to administer and grant conditional use permits for the installation, expansion, or alteration of wireless telecommunications equipment, communications towers, and antennae. The requirements of this Section shall be in addition to the requirements of Section 28-9-4(b), Conditional Use Permits, of this ordinance. Each permit granted by the Planning Board pursuant to this Section shall

be valid for a period three (3) years, and a permit and any renewal thereof shall not be assignable or transferable without the approval of the Code Administrator.

2) Renewal of a Permit

A permit may be renewed for a similar term by submittal of an application to the Code Administrator, including a new performance guarantee and the inspection report as required pursuant to Sections 28-5-23(i) and (j), Financial Guarantee and Inspections, of this ordinance, together with a record of any requests for co-location. The renewal application shall be submitted prior to the expiration date of the valid permit and the Code Administrator shall render a decision on the application within sixty (60) days thereafter. In reaching a decision on a renewal application, the Code Administrator shall consider the extent of action by the applicant pursuant to the findings of the inspection report, as well as the extent of compliance with the terms and conditions relative to co-location as established by the Planning Board. A finding by the Code Administrator of a failure to provide co-location opportunities in accordance with the permit granted by the Planning Board shall result in denial of a renewal application.

d. Exemption from Permit Requirements

The following wireless telecommunications equipment and communications tower installations shall not be subject to the requirement for application and receipt of a conditional use permit pursuant to this Section, but shall comply with Sections 28-5-23(d), Compliance With Other Regulations; 28-5-23(f)(4) and (7), Minimum Installation Requirements; and 28-5-23(k)(1) and (2), Abandonment and Removal, of this ordinance:

- 1) Any antenna supporting structure or tower that complies with the height limitations of the district in which it is located, and does not exceed four (4) square feet in cross sectional area at any height greater than sixteen (16) feet above ground level, and is owned and operated exclusively as an accessory use by an amateur radio operator who is licensed as such by the Federal Communications Commission;
- 2) Any satellite earth station antenna four (4) feet or less in diameter located in a residential district or twelve (12) feet or less in diameter located in a nonresidential district, and which functions exclusively as an accessory use;
- 3) Any receive-only antennae that complies with the height limitations of the district in which it is located, has a cross sectional area less than four (4) square feet, and is owned and operated exclusively as an accessory use; and
- 4) Antennae support structures and towers that are exempt from permit requirements shall not be located within fifty (50) feet of a residential district boundary, and where located within a residential districts, shall be constructed or erected only within the rear yard of a lot.

e. Compliance With Other Regulations

All wireless telecommunications equipment installations shall comply with all City, state and federal laws, ordinances and regulations including but not limited to those related to RF emissions, aviation, and communications. All applicable state and federal permits shall be obtained prior to the installation of any equipment, including any required approvals of the type, size, and location of the equipment.

f. Application Requirements

Applications for a conditional use permit filed pursuant to this Section shall contain the following information in addition to the requirements of Section 28-9-4(b), Conditional Use Permits, of this ordinance:

- 1) A statement of the engineering justification of the need, location, and height of the wireless telecommunications equipment installation;
- 2) A description and map of the geographical coverage of the intended equipment, of prominent natural and of man-made features, and of the land use within one thousand (1,000) horizontal feet surrounding the proposed installation site; an analysis of the site location and the height of the installation relative to scenic vistas and natural or pastoral views; and elevations or other renderings of the installation sufficient for the Planning Board to evaluate the visual and environmental impacts of the proposed installation;
- 3) A statement describing the proposed compliance with the requirement for maximizing the opportunities for co-location, including the number and type of co-location options that will be available as part of the installation, and the terms and conditions under which other providers of wireless telecommunication services will be allowed to co-locate at the installation; and
- 4) A description and plan of landscaping and other screening which is designed to minimize visibility of the installation.

g. Minimum Installation Requirements

All wireless telecommunications equipment installations shall comply with the following requirements:

- 1) All reasonable siting and layout options that are consistent with the intent of this ordinance shall be considered for the installation;
- 2) The installation shall provide the broadest possible service to all areas and all potential users within the City;
- 3) Towers, antennae, poles, dishes and other equipment shall be the least size and height necessary to perform their intended functions and to maximize opportunities for co-locations, thereby minimizing new wireless telecommunications site developments;

- 4) All wireless telecommunications equipment shall be finished, or painted, or treated with architectural materials, to be as inconspicuous as possible;
- 5) In the case of an installation involving a freestanding tower, antenna, or pole, all minimum required yard dimensions as specified in Section 28-4-1(h), Table of Dimensional Regulations, of this ordinance, shall be increased to a dimension equal to the height of the tower, antenna, or pole, except where the Planning Board finds that a lesser yard dimension will provide for a more visually inconspicuous location for the tower, antenna, or pole, but in no case shall this dimension be less than the minimum yard requirements of Section 28-4-1(h);
- 6) No signs or other advertising shall be placed on any wireless telecommunications equipment or site except for a single identification sign not exceeding one square foot in area located on an equipment enclosure, on a site's fencing or at the entrance to a site, except for signs otherwise allowed for uses sharing the site, and such other signs allowed pursuant to Section 28-6-3, Signs Allowed and Exempted from Permit Requirements, of this ordinance; and
- 7) All towers, antennae, poles and other similar equipment shall be protected by fencing, anti-climbing devices or other measures to protect the public.

h. Design Standards

Every reasonable effort shall be taken to design a wireless telecommunications equipment installation so as to minimize its visual impact. Except as may otherwise be permitted pursuant to Section 28-5-23(h), Alternative Design Standards in Certain Circumstances, of this ordinance, all wireless telecommunications equipment installations shall be designed to be incorporated into the architectural appearance of new or existing buildings, existing poles, tanks, towers, signs, or into the visual fabric of other man-made or natural structures or features so as to make the equipment inconspicuous and the installation indistinguishable from those buildings or features when viewed at any point beyond the limits of the host property. All wireless telecommunications equipment shall be aesthetically and architecturally compatible with surrounding buildings, structures, and features, all as determined by the Planning Board pursuant to Section 28-9-4(f), Architectural Design Review, of this ordinance.

i. Alternative Design Standards in Certain Circumstances

In certain districts, where an applicant for a conditional use permit can provide evidence as part of the application to the Planning Board that the proposed wireless telecommunications equipment installation cannot be inconspicuous and made indistinguishable from the buildings or features when viewed at any point beyond the limits of the host property, the following alternative design standards may be allowed:

- 1) In the Open Space Residential (RO) District, wireless telecommunications equipment installations may be allowed to extend not more than twenty (20) feet above the average tree height within a two hundred-foot radius of the installation; and

- 2) In the General Commercial (CG) and Industrial (IN) Districts, wireless telecommunications equipment installations may be placed upon roofs or immediately adjacent to buildings or features such that not more than twenty (20) feet of the installation is visible from any adjacent street or property.

j. Financial Guarantee

A permit shall not become effective until the applicant furnishes the City with a financial guarantee in a form satisfactory to the City Solicitor, and in an amount based on the cost of removal or demolition and disposal of the wireless telecommunications equipment, communications towers, and antennae, as estimated by the City Engineer. The guarantee shall have a term of one year in excess of the period of validity of the permit, and shall remain in effect for the full term unless exercised by the City, released in writing by the City, or replaced by a new guarantee as part of a permit renewal application.

k. Inspections

To insure structural integrity, towers, antennae, poles and other similar equipment shall be inspected at least every three (3) years by a structural engineer licensed by the State of New Hampshire. A copy of the inspection report shall be submitted as part of an application for renewal of a permit for a wireless telecommunications equipment installation. Any such equipment which the licensed engineer finds to be structurally deficient shall be repaired or removed within thirty (30) days of the filing of the report with the Code Administrator, or the permit renewal application shall be denied, the financial guarantee exercised, and the equipment installation removed.

l. Abandonment and Removal

All existing and proposed wireless telecommunications equipment shall be subject to the following provisions:

- 1) During the period of validity of the permit, if the applicant or owner of a wireless telecommunications equipment installation issues a declaration of intent to abandon the use of the installation, it must be removed or demolished and the materials properly disposed of by the applicant or owner within ninety (90) days of said declaration;
- 2) During the period of validity of the permit, if a wireless telecommunications equipment installation remains unused for a period of twelve (12) consecutive months, it shall be deemed to be abandoned and shall be removed or demolished and the materials properly disposed of within ninety (90) days of notification to the applicant or owner by the Code Administrator;
- 3) When a permit for a wireless telecommunications equipment installation expires and an application for renewal has not been filed prior to the expiration date, or when an application for renewal of a permit is denied, the wireless telecommunications equipment installation shall be deemed to be abandoned and shall be removed or

demolished and the materials properly disposed of by the applicant or owner within ninety (90) days of the expiration date; and

- 4) In the event that the applicant or owner fails to remove or demolish a wireless telecommunications equipment installation and properly dispose of the materials within ninety (90) days of abandonment, the financial guarantee may be exercised by the City and the City will use the proceeds to enter upon the site and remove or demolish the wireless telecommunications equipment installation and properly dispose of the materials.

28-7-5. COMMERCIAL USES

A. Entertainment/Recreation

1. Places of Entertainment

a. Definitions and Examples

_____ Includes concert halls, indoor theaters, and restaurants with entertainment facilities.

b. Use Standards

- 1) Places of entertainment must provide sound insulation that minimizes any noise impacts to adjacent properties.
- 2) Places of entertainment must comply with the standards and requirements of Article 13-6, Noise, of the Code of Ordinances.

B. Lodging/Hospitality

1. Lodging Facilities

a. Definitions and Examples

A building or any part of a building containing rooming units without individual cooking facilities, used for transient occupancy on a temporary basis. Includes hotels, motels, inns and bed and breakfast. [short-term rentals, vacation rentals?]

b. Use Standards

1) Utility Service Requirements

All lodging facilities shall be served by municipal water and sewer services. The water service shall be adequate for both domestic use and fire protection;

2) Minimum Lodging Unit Size

Each lodging unit shall contain not less than 180 square feet of habitable floor space;

3) Additional Requirements for Inn

- a) The facility must contain no more than 40 lodging units.
- b) Food service, meeting space and recreational uses are to be provided exclusively for the use of lodgers or guests and their visitors, and are not to be operated as commercial establishments open to, or for the use of, the general public.
- c) Inns must be located on lots that have direct access to and from a collector or arterial street, or access to a street physically improved in order to fulfill the function and meet the standards of a collector street.

4) Additional Requirements for a Bed and Breakfast

- a) The dwelling in which the Bed and Breakfast operates shall be the principal residence of the operator or owner.
- b) The facility shall contain no more than 6 lodging units.
- c) Meals shall be offered and available only to lodgers or guests.

C. Medical

1. Hospitals

a. Increased Height Allowed

Hospitals may exceed the maximum height limit for the district as provided in Section 28-4-1(h), Table of Dimensional Regulations, of this ordinance, subject to the following conditions:

1) Increase in Yard Dimensions

Where a building or a portion thereof exceeds the maximum height limit for the district, all minimum required yard dimensions as specified in Section 28-4-1(h), Table of Dimensional Regulations, of this ordinance, shall be increased two (2) feet for each one foot of height that the building, or the portion thereof, extends above the maximum height limit as specified said Section 28-4-1(h) for the district in which the building is located. The increased yard dimensions shall not apply to those buildings or portions thereof which do not exceed the maximum height limit for the district; and

2) Height Limitations

No building shall exceed the lesser of a height of seventy-five (75) feet or a height at which the water system can maintain the minimum pressure necessary to sustain a fire suppression system and to be suitable for fire protection purposes.

b. Use Classification

Where a hospital includes both in-patient, and out-patient or day services, it shall be considered and treated as two principal uses. In that event, all shared or common facilities such as administrative offices, laboratories, cafeteria, gift shop, employee lounge and locker rooms, and mechanical, maintenance, and support facilities, shall be considered to be part of the in-patient services for purposes of compliance with the parking standards in Section 28-7-2(e), Table of Off-street Parking Requirements, of this ordinance. The parking requirements for the out-patient and day services shall be deemed to include those areas devoted solely to direct out-patient care.

D. Office

E. Retail

1. Commercial Kennels and Veterinary Hospitals

Outdoor facilities such as animal yards and runs are permitted only in the RM and RO districts and shall not be located closer than one hundred fifty (150) feet to any property boundary.

2. Garden Centers

Garden supplies may be displayed and sold in a garden center provided that the area devoted to such display and sales does not exceed twenty-five (25) percent of the total area of the garden center including indoor and outdoor display, sales, and production areas.

3. Commercial Greenhouses and Nurseries

A retail sales area, consisting of both indoor and outdoor space, may be established in conjunction with commercial greenhouses and nurseries, subject to the following standards:

a. Maximum Floor Area for Retail Sales

The maximum amount of gross floor area that may be established for indoor retail sales is five thousand (5,000) square feet;

b. Plant Materials That May be Sold

Only plant materials that are grown on the premises or on other land of the owner, or that are sold on a wholesale basis from the premises, may be made available for sale in the retail sales area;

c. Accessory Sales of Garden Supplies

A maximum of one thousand (1,000) square feet of indoor retail sales area, and two thousand (2,000) square feet of outdoor retail sales area, may be devoted to the accessory sales of garden supplies; and

d. Access Requirements

A commercial greenhouses or nursery with a retail sales area shall be located on a lot having direct access to and from a collector or arterial street, or access to a street which shall be physically improved in order to fulfill the function and meet the standards of a collector street.

4. Retail Sales of Gasoline

a. Use Classification

All retail sales of gasoline shall be considered and treated as a principal use.

b. Architectural Design

Architectural elevations of all buildings and structures proposed for the retail sales of gasoline and any accessory uses or secondary principal uses sharing the premises, shall be submitted for review and approval by the Planning Board pursuant to Section 28-9-4(f), Architectural Design Review, of this ordinance. Where the lot on which the retail sales of gasoline will occur is within one hundred (100) feet of a residential district, architectural design of buildings and

structures shall recognize and respect the architectural character of the existing adjacent neighborhood in terms of scale and proportion. The review by the Planning Board shall be conducted with attention to proposed architectural features, details, materials, and colors of buildings and structures, and the Board may require modification of designs and may impose conditions in granting approval.

c. Outdoor Lighting

Outdoor lighting, whether mounted on poles or affixed to a building or canopy, shall direct the light away from adjacent properties and away from traffic on adjacent streets. Lighting shall be designed to limit any increase in off-site illumination to a maximum of two-tenths (0.2) of a footcandle as measured at the side and rear lot lines. Lighting fixtures mounted on a canopy shall be recessed in the ceiling of the canopy so that the lens cover is recessed or mounted flush with the ceiling of the canopy or is shielded by the fixture or edge of the canopy. The area under the canopy shall be subject to a four (4) to one-one uniformity ratio, which is the ratio of average illumination to minimum illumination. Lights shall not be mounted on the sides or top of the canopy, and the sides or fascias of the canopy shall not be illuminated. Pole-mounted lighting on the premises shall conform to the standards of Section 28-7-7(j), Illumination of Parking Areas.

d. Prohibition of Location in the Gateway Performance (GWP) District

The retail sales of gasoline shall not be permitted in the GWP District at the easterly end of Loudon Road, and includes portions of Sheep Davis Road (Route 106). This area lies within a Source Water Protection Area, as defined by the New Hampshire Department of Environmental Services, for a well field that is part of the City's public water supply, and any leak from an underground gasoline tank represents a potential hazard to this public water supply.

F. Service

1. Day Care

a. Definition and Examples

All child care facilities shall comply with the requirements of this Section as well as the provisions of RSA 170-E, Child Day Care, Residential Care, and Child-placing Agencies.

b. Use Standards

- 1) All child day care facilities shall be located on lots that have direct access to and from a collector or arterial street, or access to a street which shall be physically improved in order to fulfil the function and meet the standards of a collector street;
- 2) All child day care facilities shall be served by municipal water and sewer systems where available. Where municipal utilities are not available, a child day care facility shall be adequately served by a private well for its exclusive use, and a subsurface waste disposal system or other such system as approved by the New Hampshire Department of Environmental Services (NHDES)-Water Division (WD);

- 3) Where municipal water service is not available, on-site water storage, distribution facilities, and sprinkler systems shall be designed and installed to provide fire protection and suppression capabilities in compliance with life safety standards; and
- 4) Outdoor activity areas for child day care facilities shall be enclosed by fences and shall not be located in the front yard of a residential district. Where the lot is located within or adjacent to a residential district, the enclosure shall be a solid fence not less than four (4) feet in height which shall be erected and maintained in good condition around the outdoor activity area.

G. Heavy Commercial

1. Heliports

A heliport, whether as a principal or accessory use, shall be subject to the following regulations:

a. Permit Requirements

A conditional use permit shall be required for construction and operation of a heliport, as follows:

- 1) In the case of a heliport as a principal use, once a conditional use permit has been granted, it is valid only for the site, equipment, flight frequency, and flight patterns as specified in the application, subject to any conditions and stipulations imposed by the Planning Board. A new conditional use permit shall be required for any proposed changes in the site, equipment, flight frequency, and flight patterns; or
- 2) In the case of a heliport as an accessory use, the conditional use permit may be granted for a period of time not to exceed three (3) years. At the end of any permit period, the operation of the heliport may be renewed for an additional three-year period. At the time of renewal, if all of the information contained in the prior application for the heliport remains the same, the permit may be renewed by like application to the Code Administrator. If there are any proposed changes to the location or operation of the heliport, the renewal of a permit shall require the filing of another application for a conditional use permit. A permit and any renewal thereof shall not be assignable or transferable without the approval of the Planning Board. An application for renewal of a permit shall be filed at least thirty (30) days in advance of the permit termination date.

b. Application Requirements

Applications for a conditional use permit filed pursuant to this Section shall contain the following information in addition to the requirements of Section 28-9-4(b), Conditional Use Permits, of this ordinance:

- 1) A description of the type of helicopters that will use the heliport and the noise levels associated with the same;

- 2) A statement of the frequency of use of the heliport including the number of take-offs and landings per day and the times of day during which these actions will occur;
- 3) A description of the location and type of any hazardous materials stored on the property or on any properties within one thousand (1,000) feet of the heliport; and (4) A description of the flight path to and from the heliport.

c. Dimensional Requirements

All new heliports shall be located only on sites that are at least five (5) acres in size and must be setback at least two hundred (200) feet from all property lines and five hundred (500) feet from any residence; and

d. Locational Standards

In the case of a heliport as a principal use, a heliport shall be located only on or adjacent to, and with direct and legal access to and from, the Concord Airport. (e) Emergency Helicopter Ambulance Service. Heliports existing at the time of adoption of this ordinance that are used for emergency helicopter ambulance services shall be permitted to continue by right and shall not be subject to any of the above requirements of Section 28-5-22, unless the location of the heliport is changed to make it less conforming under this ordinance.

2. Motor Vehicle and Recreational Equipment Sales

The outdoor display area for the sale or leasing of motor vehicles, recreational vehicles, and recreational equipment shall comply with the parking lot design standards for surfacing, drainage, landscaping, illumination and curbing in accordance with the provisions of Sections 28-7-7(g), Setbacks and Restrictions; 28-7-7(h), Surfacing and Drainage; 28-7-7(i), Curbing and Guardrails; 28-7-7(j), Illumination of Parking Areas; and 28-7-10, Parking Area Landscaping Standards, of this ordinance. [\[Move to parking\]](#)

H. Sexually Oriented Business

a. Definition and Examples

The following definitions relate to a Sexually Oriented Business as a permitted principal use:

1) Adult arcade

Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image producing devices are maintained to show images to 5 or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas".

2) Adult bookstore or adult video store

An establishment which, as one of its principal business purposes, offers for sale or rental, or for any other form of consideration, any one of the following:

- a) Books, magazines, periodicals, or other printed matter, photographs, films, motion pictures, video cassettes, or other video reproductions, slides, computer software, or other visual representations which depict or describe "specified sexual activities" or "specified anatomical areas"; or
- b) Instruments, devices, or paraphernalia, which are designed for, use in connection with "specified sexual activities".

3) Adult cabaret

A nightclub, bar, restaurant, or similar commercial establishment, or a private membership, fraternal membership, or social club which regularly features:

- a) Live performances, which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or
- b) Films, motion pictures, video cassettes, or other video reproductions, slides, computer software, or other visual representations, which depict or describe "specified sexual activities" or "specified anatomical areas".

4) Adult motion picture theater

An establishment where, for any form of consideration, films, motion pictures, video cassettes, or other video reproductions, slides, other photographic representations are regularly shown which depict or describe "specified sexual activities" or "specified anatomical areas".

5) Adult theater

A theater, concert hall, auditorium, or similar place of public assembly which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities".

6) Nude model studio

A commercial establishment where a person who appears and displays "specified anatomical areas" and is observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money and any other form of consideration.

7) Principal business purpose

A principal business purpose shall be deemed to exist, for the purposes to this ordinance, if ten (10) percent or more of the gross floor area of a business is devoted to the sale, display, depiction, or expression of "specified sexual activities", "specified anatomical areas", or instruments, devices, or paraphernalia which are designed for use in connection with "specified sexual activities".

8) Specified anatomical areas

Human genitals and anus.

9) Specified sexual activities

Specified sexual activities means and includes any of the following:

- a) Human masturbation, sexual intercourse, oral copulation or sodomy, actual or simulated, whether alone or between members of the same or opposite sex or between humans and animals;
- b) Fondling or erotic touching of human genitals, anus, pubic region, buttocks, or females breasts; or
- c) Excretory functions, flagellation or torture as part of or in conjunction with any of the activities set forth in a) and b) above.

b. Purpose and Intent

It is the purpose of this Section to establish reasonable and uniform regulations for the location of sexually oriented businesses in the City of Concord. These regulations are intended to promote the public health, safety, and welfare by limiting the concentration of such businesses, thereby preventing problems brought about by the concentration of such businesses including increase in crime, diminution of property values, proliferation of urban blight, and endangerment of children.

c. Locational Requirements

The location, placement, and separation of sexually oriented businesses shall be in accordance with the following standards:

1) Minimum Setbacks from Certain Uses

A sexually oriented business shall not be located within five hundred (500) feet of any property line of any of the following:

- a) A public or private school;
- b) A child day care facility or nursery school;
- c) A publicly owned indoor or outdoor recreational facility; or
- d) A church, synagogue, or place of religious worship.

2) Minimum Setbacks from Certain Zoning Districts

Sexually oriented businesses shall not be located within five hundred (500) feet of any of the following zoning district boundaries:

- a) Any Open Space or Residential District;
- b) The Institutional (IS) District;
- c) The Civic ~~Performance (CVP)~~ (CIV) District; or
- d) The Mixed Use - Central Business ~~Performance (CBP)~~ (MX-CB) District.

3) Minimum Separation Between Sexually Oriented Businesses

There shall be a minimum of 1,000 feet of separation between the locations of sexually oriented businesses.

d. Design Standards

Sexually oriented businesses shall comply with the following design standards:

1) Sign Design

A sexually oriented business shall be limited to one sign which shall not exceed 40 square feet in area. Signs shall not include graphic images of nudity, or include images or copy which references to specified sexual activities, whether actual or simulated, or specified anatomical areas, or instruments, devices, or paraphernalia which are designed for use in connection with specified sexual activities; and

2) Screening of Certain Activities and Images

Specified sexual activities or specified anatomical areas, including instruments, devices, or paraphernalia which are designed for use in connection with specified sexual activities, or any images of the same, shall not be visible in any fashion whatsoever from the exterior of the building in which the business is located.

1. Central Business Performance (CBP) District Standards

The following standards shall apply to principal and accessory uses within the CBP District:

a. Multifamily Dwellings

Multifamily dwellings are permitted in the CBP District provided that such dwelling units are located on or above the second story of a building, and further provided that the first floor of a building is used for a permitted principal nonresidential use in accordance with Section 28-4-5(e)(4) of this Ordinance.

b. Off-street Parking Requirements, Off-Street Loading Requirements, and Off-Street Loading Area for Refuse Containers

The requirements for off-street parking, off-street loading areas, and off-street loading area for refuse containers are not applicable to the CBP District in accordance with Section 28-7-12(a)(1), of this Ordinance.

c. Parking Lots and Structures

Parking lots shall not be permitted within one hundred (100) feet of North and South Main Streets and Storrs Street in the CBP District in accordance with Section 28-7-12(a)(2), of this Ordinance. Parking structures located on North Main Street, South Main Street, North State Street, South State Street, Pleasant Street, or Storrs Street shall accommodate permitted principal non-residential uses at street level, and shall meet certain architectural design standards, in accordance with Section 28-5-21, Parking Structures, of this Ordinance

d. Driveway Access

No new driveway access is allowed to either North or South Main Street in the CPB District in accordance with Section 28-7-12(a)(2), of this Ordinance.

e. Dimensional Regulations

There are no minimum yard requirements, no maximum lot coverage, and no minimum lot size requirement in the CBP District. There is a minimum lot frontage requirement of twenty-two (22) feet and a maximum height limit of eighty (80) feet in the CBP District. These dimensional standards are in accordance with Section 29-4-1(h), Table of Dimensional Regulations, of this Ordinance.

f. Views of the State House Dome

View of the State House Dome from the I-93 and I-393 corridor shall not be obstructed by a building, structure, or sign in the CBP District, in accordance with Section 28-4-1(g)(3), of this Ordinance.

g. Build To Lines

Except as otherwise specified herein, buildings along North Main Street, South Main Street, Pleasant Street, Pleasant Street Extension, Village Street, Warren Street, School Street, and Storrs Street shall be built with no front yard setback and with the front wall of the building being located at the front lot line or street right-of-way line for the ground floor and all stories above the ground floor to a height of sixty-five (65) feet above street level. For each story of a building for which the floor level is at an elevation of more than sixty-five (65) feet above street level, the front wall of those stories shall be set back a minimum of ten (10) feet from the front lot line or street right-of-way line. Buildings shall occupy a minimum of eighty (80) percent of the length of the front lot line. Upon the granting of a conditional use permit pursuant to Section 28-9-4(b), Conditional Use Permits, of this Ordinance, buildings may be set back from the front lot line or street right-of-way line behind a widened sidewalk, or set back in part to allow for outdoor or covered public plazas or pedestrian access ways, or private arcades, terraces, or balconies.

- 1) An applicant for a conditional use permit for a widened sidewalk or public plaza space shall provide adequate documentation in order for the Planning Board to make a finding that the proposed improvements will be of adequate size to accommodate public use of the same, will be of a design that will enhance the public use and enjoyment of the space, and will not adversely impact adjacent public and private property or public safety. In no event shall a public plaza space occupy more than twenty (20) percent of the street frontage of a property.
- 2) An applicant for a conditional use permit for private arcades, terraces, or balconies shall provide adequate documentation in order for the Planning Board to make a finding that the proposed improvements will occupy no more than the minimum space necessary to accomplish the purposes of the private improvements, that the improvements will provide a positive contribution to the overall urban design

of the streetscape, that the improvements will enhance the land uses proposed to occupy the ground floor of the building, and that the improvements will enhance the pedestrian activity in the adjacent public way.

h. Building Entrances at Street Level

No door providing entry to or exit from a building shall swing into, open or otherwise intrude into the public sidewalk. Building entrances shall be recessed into the facade to allow for ingress and egress under cover, and to allow the swing of a door to occur outside of the street right-of-way.

i. Ground Floor Occupancy and Transparency

A high level of ground floor transparency shall be provided along North Main Street, South Main Street, Pleasant Street, Pleasant Street Extension, Village Street, and Warren Street, as well as in Eagle Square and Bicentennial Square in the CBP District, in order to encourage and maintain a high level of pedestrian activity in the City's downtowns. Traditional storefront window patterns shall be preserved and enhanced. A minimum of sixty (60) percent of the length of the front of a building at ground level shall be glazed or transparent to the inside along said street frontages. A minimum of sixty (60) percent of the occupancy of a building at the ground level shall be comprised of uses which include the sales of goods and provision of services and entertainment to customers who come to the building to obtain the goods, services, and entertainment.

28-7-6. INDUSTRIAL USES

1. Manufacturing, Testing, Processing or Storage of Goods or Materials

Any and all cinders, dust, fumes, gases, odors, smoke, vapor, refuse matter resulting from the manufacturing, fabrication, assembly, testing, processing, reprocessing, recycling, or storage of goods or materials shall be confined to the premises or disposed of in a manner that does not create a nuisance or hazard to the public health or safety, or cause the degradation of air and water quality. Any and all resultant vibration, excessive noise, flashing, and excessive light shall be confined to the premises. Any use involving disposal or incineration of biomedical wastes is prohibited.

a. Biotechnology

1) Locational Requirements

Biotechnological businesses, including research, testing, development, production, storage, and distribution shall be located only within the Office Park Performance (OFP) District southerly of Manchester Street.

2) Development Standards

(Reserved)

2. Offices in the Industrial (IN) District

In the Industrial (IN) District, the following standards shall apply to the construction of office uses:

- a. The development of all tracts for office use shall be subject to a minimum floor area ratio of one-fourth (0.25); and
- b. All buildings constructed for office use shall be at least two (2) stories in height and contain at least two (2) floors of office use.

3. Manufacturing Uses in the Office Park Performance (OFP) District

In the Office Park Performance (OFP) District, the following standards shall apply to manufacturing uses:

- a. All buildings constructed for manufacturing use shall be designed to be aesthetically and architecturally compatible with surrounding buildings and structures, and in accordance with the OFP District purpose of achieving a unified office park or campus-style setting;
- b. Permitted exterior finishes and surfaces for manufacturing buildings and structures shall include but not be limited to wood, glass, vinyl, brick, masonry, and decorative but not plain concrete masonry units or nondecorative metal finishes;
- c. Mechanical equipment and appurtenances used in the operation or maintenance of a manufacturing use, including such equipment and appurtenances that are mounted on the roof or walls or located on the ground, shall be concealed or made indistinguishable from the building when viewed from adjacent buildings, properties, and streets; and

- d. Site plans and building designs for proposed manufacturing uses shall include facilities for the safe delivery, storage, handling, usage, and disposal of regulated chemicals, as well as spill prevention and collection devices to address potential accidents involving the same. No such regulated chemicals used in any manufacturing process shall be discharged into the natural environment or into the municipal sanitary sewer system. Manufacturing uses shall at all times be in compliance with all applicable State and Federal laws, rules, and regulations.

4. Alternative Treatment Center

In the Industrial (IN) District, an Alternative Treatment Center shall be located on lots that have direct access to and from a collector or arterial street, or access to a street which shall be physically improved in order to fulfill the function and meet the standards of a collector street.

28-7-7. **AGRICULTURAL USES**

1. **Earth Materials Removal**

a. **Applicability**

The removal of clay, loam, sand, borrow, gravel, stone or any earth product, earth constituent or earth material from any land in the City of Concord shall be subject to the regulations contained in this Section and which are adopted in accordance with the provisions of RSA 155-E, Local Regulation Excavations.

- 1) The provisions of this Section shall not be applicable to the removal of earth materials as required for the purposes of:
 - a) Site development for which a site plan has been approved by the Planning Board in accordance with Section 28-9-4(d), Site Plan Review, of this ordinance, and construction or alteration of a building or structure including construction of foundations, parking lots, and driveways, and the installation of utilities for a permitted use for which a building permit has been issued;
 - b) Construction of streets in accordance with the lines and grades approved by the City Engineer, or the construction and installation of utilities; and
 - c) Excavation incidental to agricultural or silvicultural activities, normal landscaping, or the operation of a sod farm.
- 2) Pursuant to RSA 155-E, the Planning Board is designated as the "regulator" and is authorized to administer and grant conditional use permits for the excavation of earth materials. All excavations require the issuance of a conditional use permit from the Planning Board except those excavations that are specifically exempted from permit requirements pursuant to RSA 155-E:2, Permit Required, which includes the continuation of any excavation operating as of August 24, 1979.
- 3) Each permit granted by the Planning Board pursuant to this Section shall be valid for a specified period of time not to exceed three (3) years, and shall not be assignable or transferable without the approval of the Planning Board. Such permit may be renewed for a similar term following approval of subsequent conditional use permits for the use by the Planning Board.
- 4) When the scope of an existing permitted excavation is to be altered so as to affect the size or location of the excavation, the rate of removal of earth, or the plan for restoration, an application shall be submitted for amendment of the existing excavation permit.
- 5) All active excavations, regardless of whether a permit is required, shall be subject to the operational standards of this Section.

- 6) All excavation sites, whether newly authorized, existing, or abandoned shall be subject to the reclamation requirements of this Section.

b. Prohibited Excavations

No permit shall be granted where the Planning Board finds that the excavation:

- 1) Would be unduly hazardous or injurious to the public welfare due to excessive noise, traffic, dust, fumes, or danger from operations;
- 2) Would substantially damage an aquifer identified by the United States Geological Survey;
- 3) Can not comply with the reclamation provisions of this Section and of RSA 155-E:5, Minimum and Express Reclamation Standards;
- 4) Has not, or can not, receive other necessary state or federal permits; or
- 5) Is otherwise prohibited by RSA 155-E.

c. Operational Standards

All existing excavation sites as well as excavations permitted in accordance with this Section shall comply with the following minimum operational standards:

- 1) All property corners shall be staked and every property line shall be clearly marked at one hundred (100) foot intervals to prevent encroachment of the excavation operations on abutting properties;
- 2) No excavation shall be conducted within fifty (50) feet of a property line or one hundred fifty (150) feet of an existing dwelling, and existing vegetation shall be maintained within these setbacks;
- 3) No excavation shall be conducted within the Shoreland Protection (SP) District or within one hundred (100) feet of a wetland;
- 4) No excavation shall exceed a depth of four (4) feet above the annual average water table;
- 5) No fuels, lubricants, or other toxic or polluting chemicals shall be stored on the property except in compliance with all applicable state statutes and regulations;
- 6) No excavation shall exceed five (5) acres in area at any one time;
- 7) Where temporary slopes will exceed a grade of one foot horizontally for each one foot of vertical change, a fence or barricade shall be erected to warn of danger and to limit access to the excavation site;
- 8) All loam and topsoil to be stripped from the excavation site shall be stockpiled on the property to be replaced during reclamation;

- 9) No equipment or vehicles shall be operated between the hours of 8:00 p.m. and 7:00 a.m., nor at any time on Sunday or holidays;
- 10) All vehicles transporting excavated material shall utilize dust covers or sideboards to prevent any spillage and dust; and
- 11) Spilled material shall be cleaned from all streets on hauling routes at the end of each day.

d. Reclamation Standards

All existing excavation sites, including abandoned excavations, as well as excavations permitted in accordance with this Section, shall comply with the following minimum reclamation standards:

- 1) A reclamation plan that meets the standards of Section 28-5-26(e)(2), Reclamation Plan, of this ordinance, shall be submitted for all existing and abandoned excavations;
- 2) Reclamation of excavated areas must be initiated prior to the excavation of more than five (5) acres of the site at any one time, and shall be accomplished within the period of validity of the permit;
- 3) All debris shall be removed and all stumps shall be chipped or removed from the site, and disposed in accordance with applicable statutes and regulations. All rocks are to be removed, buried, or used for landscaping in accordance with the restoration plans;
- 4) No slope shall be left at a grade steeper than three (3) feet horizontally for each one foot of vertical change unless it can be demonstrated by the applicant that a steeper slope can be adequately vegetated and stabilized. In no event shall any slope be left at a slope steeper than two (2) feet horizontally for each one foot of vertical change;
- 5) Ground levels and grades shall be established as shown on the approved reclamation plan as soon as practical during site excavation but not later than one year after excavation has been completed;
- 6) Stockpiled loam and topsoil shall be spread over the completed excavation area to a minimum depth of four (4) inches to allow for the establishment of vegetation;
- 7) The site shall be limed, fertilized, and seeded with a grass or grass-legume mixture;
- 8) Trees and shrubs shall be planted and mulched in accordance with the approved reclamation plan; and
- 9) Abandoned entrance roads or entrances to depleted deposits shall be regraded and restored to a natural condition.

e. Application Requirements

An application for a permit for an excavation shall be subject to the requirements as specified in Section 28-9-4(b), Conditional Use Permits, of this ordinance, as supplemented by the

provisions and standards of this Section. An application for amendment to a permit shall be subject to the same requirements and approval procedures as provided herein for a new excavation permit. Each application shall include an excavation plan and a reclamation plan, prepared by a licensed engineer, and drawn at a scale of one inch equals one hundred (100) feet, with both plans showing the boundaries of the entirety of the property to be excavated, as well as the side lines of existing public and private rights-of-way through or adjacent to the property.

1) Excavation Plan

The excavation plan shall include the following additional information:

- a) Existing topography at a contour interval of two (2) feet;
- b) Existing wetlands and surface waters, and any aquifers that have been identified by the United States Geological Survey;
- c) Existing vegetation, and an indication of that which is to be permanently retained for screening purposes;
- d) The location and limits of existing and proposed excavation including the maximum depth and slope during operation;
- e) The location, width, and material of access roads;
- f) The location, size, type, and use of any structures or areas of impervious surfacing, and the location of any utilities, underground storage tanks, septic systems, or wells within two hundred (200) feet of the perimeter of the excavation;
- g) Proposed landscaping and fencing intended for screening purposes;
- h) A log, soil data, and location plan of borings or test pits the depth of which shall be to the average annual water table, to ledge, or to a minimum of six (6) feet below the maximum depth of excavation;
- i) A statement of the volume of material proposed to be removed, the duration of the project, and proposed phasing of the same;
- j) A description of the stormwater drainage improvements, and the sedimentation and erosion control measures;
- k) A description of the hauling operations, including the routes to be utilized, the type and weight of motor vehicles to be utilized, and the frequency and schedule of the operation of said vehicles;
- l) Copies of federal and/or state permits received for the proposed activity in accordance with Section 404 of the Clean Water Act, with RSA 482-A, Fill and Dredge in Wetlands, and with RSA 485-A:17, Terrain Alteration; and

- m) Where applicable, proof of compliance with all other relevant state and federal regulations.

2) Reclamation Plan

The reclamation plan shall include the following additional information:

- a) The proposed finished grades of the reclamation area at a contour interval of two (2) feet;
- b) The proposed final surface drainage features and improvements;
- c) The location, number, type, and size of plant materials, and the areas to be seeded together with the seeding mixture specifications and application rates, and mulching materials; and
- d) Plan details and a description of sedimentation and erosion control measures.

f. Fees and Financial Guarantee

- 1) The Planning Board may charge a permit application fee for each application, and an inspection fee to cover the costs of inspections deemed necessary to verify compliance with a permit; and
- 2) A permit shall not become effective until the applicant furnishes the City with financial guarantees in a form satisfactory to the City Solicitor. The guarantees shall have a term of one year in excess of the period of validity of the permit, and shall remain in effect for the full term unless exercised or released in writing by the City. The financial guarantees are required as follows:
 - a) A guarantee in an amount based on the cost of reclamation as estimated by the City Engineer; and
 - b) A guarantee in an amount based on the cost of reconstruction or restoration of the adjacent streets as estimated by the City Engineer. The guarantee shall provide for the specified streets to be repaired at any time during the permit period that the City Engineer finds the condition of the streets to represent a hazard to the public health and safety.

g. Appeal of Decision of the Planning Board

Following the approval, disapproval, modification of an approval, or revocation of an approval of an excavation permit, any interested person may seek a rehearing or appeal the decision of the Planning Board in accordance with the provisions of RSA 155-E:9, Appeal.

h. Inspections and Enforcement

- 1) The Code Administrator shall have the right to enter upon the property for a period beginning with the date of the granting of the permit and ending one year after the expiration of the permit to inspect the excavation and reclamation operations

and to ensure compliance with the terms and conditions of the permit. The Code Administrator may suspend operations found to be in violation of a permit pending a compliance hearing by the Planning Board concerning any violation;

- 2) Upon recommendation of the Code Administrator, or the receipt of a valid complaint which in the opinion of the Planning Board warrants investigation and a hearing, the Planning Board may order a public hearing to review the conditions of, or the extent of compliance with, a permit. After a hearing, an excavation permit may be modified or revoked by the Planning Board if the Board finds that the operation is being carried on in violation of any of the terms and conditions of the permit. The modification or revocation of a permit shall not relieve the applicant from any of obligations under the permit; and
- 3) Pursuant to RSA 155-E, the Planning Board may initiate proceedings to require the completion of the reclamation of an existing or abandoned excavation whether or not subject to permitting requirements.

2. Raising or Keeping of Livestock or Poultry

a. Generally

Where livestock or poultry is kept or raised and is intended to be housed, the buildings for such purposes, as well as animal feedlots and manure storage areas, shall be located not less than one hundred fifty (150) feet from any property boundary of an adjacent property which is not in the same ownership as the premises on which the livestock or poultry is intended to be raised.

b. Additional Provisions for the Raising or Keeping of Livestock

The following additional regulations shall apply to farms where livestock are kept or raised:

- 1) Buildings for the raising or housing of swine shall be designed and constructed to provide a minimum of forty-eight (48) square feet per animal. In addition, there shall be one hundred (100) square feet of exercise yard per animal, and thirty-one hundred (3,100) square feet of pasture area provided per animal kept or raised;
- 2) Buildings for the raising or housing of horses and other equines, shall be designed and constructed to provide a minimum of ninety-six (96) square feet per animal. In addition, there shall be two hundred (200) square feet of exercise yard per animal, and two (2) acres of pasture area provided per animal kept or raised;
- 3) Buildings for the raising or housing of cattle, shall be designed and constructed to provide a minimum of seventy-five (75) square feet per animal. In addition, there shall be one hundred (100) square feet of exercise yard per animal, and two (2) acres of pasture area provided per animal kept or raised;
- 4) Buildings for the raising or housing of sheep and goats, shall be designed and constructed to provide a minimum of twenty (20) square feet per animal. In addition,

there shall be thirty (30) square feet of exercise yard per animal, and ten thousand (10,000) square feet of pasture area provided per animal kept or raised;

- 5) Buildings for the raising or housing of poultry, shall be designed and constructed to provide a minimum of six (6) square feet per animal. In addition, there shall be twenty (20) square feet of exercise yard per animal, and one hundred (100) square feet of pasture area provided per animal kept or raised; and
- 6) The raising or housing of all other livestock shall require the granting of a special exception pursuant to Section 28-9-3(b), Special Exceptions, of this ordinance, and the design of buildings, and the size of exercise yards and pasture areas to be provided shall be as determined by the Zoning Board of Adjustment (ZBA) based on information submitted as part of the application as well as standards and information provided by the Cooperative Extension Service or other source of appropriate technical expertise.

3. Residence for Seasonal Agricultural Employees

An accessory residence for seasonal employees of a principal agricultural use shall be subject to the following standards and requirements:

- a. The residence shall be comprised of sleeping accommodations, individual or common sanitary facilities, and common kitchen and dining facilities;
- b. The residence shall accommodate a maximum of ten (10) individuals and have a maximum of one hundred fifty (150) square feet of floor space for each individual to be housed;
- c. The residence shall be served by the municipal sewer system, or an on-site subsurface disposal system as approved by the New Hampshire Department of Environmental Services (NHDES)-Water Division (WD);
- d. The residence shall be located on the premises of the principal agricultural use, and the parcel on which the residence is located shall meet the standards for minimum lot size and minimum lot frontage for the district in which it is located, as specified in Section 28-4-1(h), Table of Dimensional Regulations, of this ordinance;
- e. The residence shall be subject to the minimum yard requirements, maximum lot coverage, and maximum height limitations for the district in which it is located, as specified in Section 28-4-1(h), Table of Dimensional Regulations, of this ordinance; and
- f. Parking spaces shall be provided in such number and locations as determined by the Planning Board upon consideration of information submitted as part of the application for a conditional use permit.

4. Keeping of Bees

The keeping of bees and the maintenance of apiaries shall be in accordance with current New Hampshire Department of Agriculture regulations and the following provisions:

a. Purpose

It is the purpose of this section to permit the keeping of bees and apiaries and to establish certain requirements of sound beekeeping practices, which are intended to prevent problems that may otherwise be associated with the keeping of bees in populated areas.

b. Establishment and Applicability

- a) Beekeeping is permitted as a principal agricultural use in those zoning districts designated under Section 28-2-4(j)(M), Table of Principal Uses, Agricultural;
- b) Beekeeping is permitted as an accessory use to a single-family detached dwelling in those zoning districts designated under Section 28-2-4(k)(A), Table of Accessory Uses, Accessory to a Principal Residential Use;
- c) Beekeeping is permitted as an accessory use to any principal nonresidential use in those zoning districts designated under Section 28-2-4(k)(B), Table of Accessory Uses, Accessory to a Principal Nonresidential Use;
- d) Notwithstanding compliance with the various requirements of this section of the Zoning Ordinance, a beekeeper shall be prohibited from keeping any colony or colonies of bees in such a manner or of such disposition as to create a nuisance or menace to the public health and safety or to interfere with the normal use and enjoyment by persons and animals of any public or private property.

c. Development Standards

1) Allowed Densities

It shall be unlawful to keep more than the following number of colonies on any tract of land:

(Reserved - table of hives/acre)

2) Location of Hives on a Lot

Any structure used for apiculture shall comply with the following yard and setback requirements:

- a) Hives shall be located in the side or rear yard and shall not be located in the front yard.
- b) In the absence of a principal structure, hives shall be located behind the front setback line as defined for each Zoning District in the Zoning Ordinance.
- c) Hives shall be located at least fifteen (15) feet from any property line, subject to the requirements of subsection (3) below.

3) Flyway Barriers

In each instance in which a hive is situated within 30 feet of a property line, as measured from the nearest point of a hive to the property line, the beekeeper shall establish and maintain a flyway barrier in the following manner so that all bees are forced to fly at an elevation of at least six (6) feet above ground level over the property lines in the vicinity of the apiary:

- a) Height shall be no less than six (6) feet in height
- b) Material shall consist of a solid wall, fence, dense vegetation or combination thereof.
- c) Location shall be parallel to the property line, within fifteen (15) feet of the colony and extending at least ten (10) feet beyond the colony in each direction.

4) Screening

Hives shall be visually screened from roads, private ways, sidewalks, paths and other areas where people normally pass or congregate.

5) Hive Type

All hives shall be of the movable frame type, as accepted by the State of New Hampshire Department of Agriculture, Markets and Food, Division of Plant Industry.

6) Identification

If a hive belongs to a beekeeper that is not the owner of the property on which it is located, the name, mailing address and phone number of the beekeeper maintaining the hive shall be clearly displayed on each hive using letters not less than one inch in height.

7) Water

Each beekeeper shall ensure that a convenient and consistent source of fresh water is available to the bees at all times during the year. Water shall be located within twenty (20) feet of all hives or no more than one-half (½) the distance to the nearest property line, whichever distance is less.

5. Single Family Dwelling in a Conventional Major Subdivision

The Planning Board shall have the authority to grant or deny a conditional use permit to allow a conventional residential subdivision in the Open Space Residential (RO) District for major subdivisions, subject to the following conditions:

- a. A comparable amount of open space will be protected on the premises by deed or easement as would otherwise be required for a Cluster Development pursuant to Section 28-4-7; or
- b. A comparable amount of open space will be protected on another parcel in the RO District by deed or easement as would otherwise be required for a Cluster Development pursuant to Section 28-4-7.

28-7-8. ACCESSORY USES

A. Table of Accessory Uses

In the base districts established under Section 28-2-2, Zoning Districts Established, of this ordinance, no accessory building or structure shall be constructed, used, or occupied, and no accessory use of land shall be established except as set forth hereinafter in the Table of Accessory Uses, subject to all other provisions and standards of this ordinance, and other local, state and federal laws, rules and regulations. The Table of Accessory Uses is organized according to a functional relationship to principal uses, as follows:

1. Accessory to a Principal Residential Use
2. Accessory to a Principal Nonresidential Use
3. Accessory to Any Principal Use

(Reserved - table of accessory uses)

a. CHILD CARE

b. As an Accessory Use to a Principal Residential Use

Child day care facilities located within a dwelling unit and providing care for more than three (3) children, shall be subject to the following standards and requirements:

- 1) The child day care facility is subordinate to a single-family detached dwelling;
- 2) The maximum capacity of a child day care facility shall be twelve (12) children;
- 3) A child day care facility providing care for six (6) or more children shall be located on a lot which conforms to the minimum dimensional standards established in Section 28-4-1(h), Table of Dimensional Regulations, of this ordinance;
- 4) A dwelling within which a child day care facility is located shall be served by the municipal sewer system, or a certificate shall be obtained from the New Hampshire Department of Environmental Services (NHDES)-Water Division (WD) indicating that the on-site subsurface disposal system has adequate capacity and is functioning properly to allow for use by the child care facility in addition to the principal residence;
- 5) There is on-site parking for the principal residential use in accordance with the requirements of Article 28-7, Access, Circulation, Parking and Loading Requirements, of this ordinance;
- 6) The facility is located on a street on which on-street parking is allowed within two hundred (200) feet of the premises and the street is of a width and capacity such that on-street parking will not represent a safety hazard; and

- 7) Outdoor activity areas for child day care facilities shall not be located in the front yard and shall be enclosed by a solid fence not less than four (4) feet in height which shall be erected and maintained in good condition around the outdoor activity area.

c. As an Accessory Use to a Principal Nonresidential Use

Child day care facilities accessory to, and for the primary use and benefit of the owners and employees of, a principal nonresidential use shall be subject to the following standards and requirements:

- 1) All child day care facilities shall be served by municipal water and sewer systems. The water service shall be adequate for both domestic use and fire protection;
- 2) Where the child day care facility is located in a separate building more than five hundred (500) feet from the building in which the principal nonresidential use is located, parking shall be provided for the child day care facility in accordance with Section 28-7-2(e), Table of Off-street Parking Requirements, of this ordinance, in addition to the parking required for the principal nonresidential use; and
- 3) Outdoor activity areas for child day care facilities shall be enclosed by fences. Where the facility is located within or adjacent to a residential district, the outdoor activity area shall be enclosed by a solid fence not less than four (4) feet in height which shall be erected and maintained in good condition around the outdoor activity area. Where the abutting residential district is the Open Space Residential (RO) District, and the adjacent lots in the RO District are undeveloped and less than half of the area of the lots is comprised of buildable land area, the fence may be non-opaque.

4. Home Occupations

a. Purpose

The purpose of establishing conditions and limitations on home occupations is to recognize the increasing role of electronics and telecommunications in enabling individuals to work from their homes, and the growing use of computer and related equipment in the home which may have both personal and business applications. These regulations recognize that certain types of home-based businesses may be carried on without an adverse impact on the residential property or the neighborhood, but that limitations are necessary to preclude uses of a scale or type which may be incompatible in a residential context. This Section provides supplemental standards for two (2) levels of business use within a dwelling unit, and which are permitted where authorized by Section 28-2-4(k), Table of Accessory Uses, of this ordinance. The two (2) levels of accessory use are classified as minor home occupation; and major home occupation.

b. Minor Home Occupation

Minor home occupations include small scale business uses of a dwelling unit which are subordinate to the principal residential use of the property and that are indistinguishable in

appearance and level of traffic generation from other dwelling units in a neighborhood. No minor home occupation shall be permitted which would be incompatible with traditional residential uses in the surrounding neighborhood. To be considered compatible with a residential neighborhood, a minor home occupation must meet all of the following conditions:

- 1) No goods, stock in trade, or other commodities may be visible from outside the dwelling unit;
- 2) No goods, stock in trade, or other commodities may be visible from outside the dwelling unit;
- 3) There are no on-premises retail sales of goods or merchandise from inventory held on the premises, with the exception of sales made via mail order or via telecommunication;
- 4) The home occupation shall not employ persons who are not residents of the dwelling unit;
- 5) The use shall not create excessive noise, fumes, odor, dust, vibration, heat, glare, or electrical interference;
- 6) Uses related to teaching and instruction to pupils shall be limited to those which accommodate not more than one pupil at a time;
- 7) Not more than twenty-five (25) percent, not to exceed two thousand five hundred (2,500) square feet, of the habitable floor area of the dwelling unit may be utilized by the home occupation, or not more than a comparable amount of floor space in an existing accessory building existing at the time of the adoption of this ordinance;
- 8) There shall be no external evidence of the occupation which differentiates the residence in appearance from other residential properties similarly situated; and
- 9) The total number of daily vehicle trips to and from the property shall not exceed twelve (12);
- 10) The use is not one of the following, which are expressly prohibited as minor home occupations:
 - a) Barber and beauty shops;
 - b) Real estate or insurance offices;
 - c) The boarding of animals or the operation of commercial kennels or stables and similar uses;
 - d) Uses involving the parking or storage of commercial vehicles; or

- e) Automobile or small engine repair or maintenance, welding, or other uses which involve the visible storage on the property of automobiles or the parts thereof.

c. Major Home Occupation

A major home occupation is a home-based business which may involve limited external evidence of business use such as the use of a portion of accessory buildings for business use, the employment of persons not residing on the property, or light shipping and delivery of manufactured, assembled or repaired products. A major home occupation shall not be permitted if it is determined that it may have a significant adverse impact on the surrounding neighborhood. In order to avoid adverse impacts on a neighborhood, a major home occupation shall not be authorized unless it meets all of the following standards and conditions:

- 1) The use is subordinate to a single-family detached dwelling, and is primarily a non-retail use;
- 2) Not more than twenty-five (25) percent of the habitable floor area of the dwelling unit, plus not more than two hundred fifty (250) square feet of floor area within an accessory building or structure (except those portions required to provide adequate off-street parking), may be devoted to such use;
- 3) The proprietor of the major home occupation is the owner-occupant of the property;
- 4) Not more than four (4) persons may be employed in the business use, only one of whom may not be an occupant of the residence;
- 5) The lot on which the major home occupation is established shall conform to the minimum dimensional standards established in Section 28-4-1(h), Table of Dimensional Regulations, of this ordinance;
- 6) Retail sales shall be limited to incidental sales of goods which are manufactured, assembled, or grown on site, or products which are directly related to the goods or services rendered by the major home occupation;
- 7) The use shall not create excessive traffic, noise, fumes, odor, dust, vibration, heat, glare, or electrical interference. To assure that such conditions are met, additional conditions limiting the hours of operation may be established as a further condition of the approval of a major home occupation;
- 8) Parking shall be provided as specified in Article 28-7, Access, Circulation, Parking, and Loading Requirements, of this ordinance;
- 9) A single on-premises sign is allowed which identifies the business and which conforms to the sign area limits and design requirements of Article 28-6, Sign Regulations, of this ordinance;

- 10) The use is not one of the following uses, which are expressly prohibited as major home occupations:
- a) The boarding of animals or the operation of commercial kennels or stables and similar uses;
 - b) Uses involving the parking, dispatching, or storage of commercial vehicles, or the delivery and shipping of materials or goods by such vehicles on a more than once each day basis;
 - c) Automobile or small engine repair or maintenance, welding, or other uses which involve the visible storage on the property of automobiles or the parts thereof;
 - d) Warehousing and distribution uses; and
 - e) Uses which generate more than twenty (20) vehicle trips per day based upon criteria published in the latest edition of Trip Generation by the Institute of Transportation Engineers (ITE) [Appendix D of this ordinance].

5. **Use of a Portion of a Dwelling in Conjunction with an Off-Premises Occupation**

The use of a portion of a dwelling, or an accessory building thereto, in conjunction with an off-premises occupation by a resident carpenter, painter, plumber, mason, or other person skilled in industrial arts is permitted subject to the following conditions:

a. No External Changes Permitted

There shall be no external change to the residential appearance of the building related to the occupation.

b. Outdoor Storage Not Allowed

There shall be no outdoor storage of parts, tools, materials, goods, equipment, and mechanical components used in the pursuit of the off-premises occupation or any other evidence of the same.

c. Limitation on Parking of Commercial Vehicles

A commercial vehicle used in the pursuit of the off-premises occupation may only be parked on the property in accordance with the provisions of Section 28-7-17, Parking and Storage of Commercial Vehicles, of this ordinance.

d. Prohibition of Certain Activities

- 1) The fabrication, manufacturing, repair, sales, delivery, or shipping of goods or products is specifically prohibited; and
- 2) The property shall not be used as a base of operations for employees to report for work, or as a point of dispatch for persons employed or for equipment used in conjunction with the off-premises occupation.

6. Accessory Buildings and Facilities

Accessory buildings, including but not limited to toolsheds and greenhouses, and accessory facilities, including but not limited to swimming pools, or tennis courts, shall be located in the side or rear yard of a lot. The required side or rear yards as specified in Section 28-4-1(h), Table of Dimensional Regulations, of this ordinance, may be reduced to a minimum of five (5) feet for accessory buildings and accessory facilities provided that they are located more than fifty (50) feet from any street and that accessory buildings shall be detached one-story structures which shall not exceed twelve (12) feet in height or two hundred fifty (250) square feet in gross floor area.

7. Keeping of Pets

Animals kept as pets by the residents of a dwelling unit shall be kept in accordance with all applicable City ordinances and regulations as well as the following provisions, except as permitted under Section 28-5-50, Keeping Chickens as Pets Accessory to a Residential Use:

a. Purpose

It is the intent of this Section to allow for the keeping of pets for the sole use and enjoyment of the residents of the lot on which such animals are kept, while at the same time to protect and promote the health, safety, and welfare of residents of neighborhoods by not allowing pets of a number and type that would otherwise constitute a nuisance or menace to the public health and safety or cause a disturbance of the peace in neighborhoods;

b. Keeping of Household Pets

Animals that may be kept within a residence as household pets include domestic dogs and cats, tropical birds, hamsters, guinea pigs, gerbils, white mice, fish, rabbits, and turtles;

c. Keeping of Wild or Exotic Animals as Pets

Except for those wild and exotic animals specifically recognized as household pets in Section 28-5-33(b), the keeping of wild or exotic animals as pets is prohibited; and

d. Keeping of Livestock or Poultry as Pets

Livestock and poultry may only be kept as an accessory use to, and on the premises with, a single-family residence. The following regulations shall apply to the keeping of livestock or poultry as pets:

1) Enclosure or Structure Required

All livestock or poultry kept or raised as pets shall be kept within an enclosure or structure and not be permitted to roam free. Enclosures or structures for livestock or poultry, and manure storage areas shall not be located within fifty (50) feet of any lot line.

2) Minimum Lot Size

- a) A lot where livestock is kept or raised as pets shall be a minimum of two (2) acres in size for the first animal, except in the Open Space Residential (RO) District where one acre is required for the first animal. In all districts there shall be an additional one acre of lot area provided for each additional animal, and

- b) A lot where poultry is kept or raised as pets shall be a minimum of one acre in size and up to five (5) fowl may be accommodated on the minimum lot. There shall be an additional one-fifth (1/5) acre of lot area provided for each additional fowl.

8. Outdoor Storage of Recreational Equipment

In all residential districts, recreational equipment belonging to the resident owner or occupant of the premises may be stored outdoors on the premises except in the front yard, or the required side yards as specified in Section 28-4-1(h), Table of Dimensional Regulations, of this ordinance. No such recreational equipment shall be used for living, sleeping, or housekeeping purposes.

9. Dwelling Unit for Resident Caretaker

A dwelling unit for a resident caretaker or for security personnel may be permitted as an accessory use to a principal nonresidential use subject to the following regulations:

a. Floor Area Requirements

The floor area of the principal nonresidential use shall have a floor area greater than the floor area of the dwelling unit;

b. Dwelling Unit Standards

The dwelling shall be limited to one bedroom unit and shall be constructed so as to be separate from any storage, assembly or sales area; and

c. Yard and Parking Requirements

A yard area of at least three hundred (300) square feet and designated parking shall be provided for the accessory dwelling unit.

10. Keeping of Chickens as Pets Accessory to a Residential Use

Chickens kept as pets by the residents of a dwelling unit shall be kept in accordance with all applicable City Ordinances and regulations, RSA 644:8, Cruelty to Animals, as well as the following provisions:

1) Purpose

It is the intent of this Section to allow for the keeping of domestic female chickens on a lot less than one acre in size for the sole use and enjoyment of the residents of the lot on which such animals are kept, while at the same time to protect and promote the health, safety, and welfare of residents of neighborhoods by not allowing chickens of a number and type that would otherwise constitute a nuisance or menace to the public health and safety or cause a disturbance of the peace in neighborhoods.

2) Number and Type of Chickens Allowed

Up to five (5) chickens of any breed may be kept on a lot less than one acre in size. Only female chickens are allowed to be kept. Male chickens are prohibited.

3) Limitations

The keeping of chickens shall be accessory to and on the premises of a single-family detached dwelling and shall be for personal use only. No person shall sell eggs or engage in chicken breeding or any commercial activity related to the keeping of the chickens. On-site slaughtering of chickens is prohibited.

4) Henhouses and Fenced Areas Required

All chickens kept or raised accessory to a residential use shall be kept within structures and fenced areas and not be permitted to roam free. Structures and fenced areas for chickens, and manure storage areas must be located in side or rear yards and shall not be located within thirty (30) feet of any lot line and must meet the following standards:

- a) Henhouses and enclosures must provide adequate ventilation, be kept in a neat and sanitary condition at all times, and in a manner that will not disturb the use or enjoyment of neighboring lots due to noise, odor or other adverse impact.
 - b) Henhouses and enclosures shall be enclosed on all sides and shall provide adequate protection for the chickens from weather and wild or domestic animals.
 - c) The materials used in making the henhouse shall be uniform for each element of the structure and the use of scrap material shall be prohibited.
 - d) All stored manure shall be covered by a fully enclosed structure or container. No more than three (3) cubic feet of manure shall be stored. All other manure not used for composting or fertilizing shall be removed from the property.
- a. Outside Display and Sales of Merchandise Accessory to a Principal Retail Use**

1) Purpose

The purpose of this Section is to permit limited outside display and sales of merchandise as an accessory use to a principal retail use in a manner which minimizes adverse visual, environmental, safety and health impacts.

2) Minimum Size of Principal Retail Use

Accessory outside display and sales of merchandise shall not be permitted unless the principal retail use shall occupy at least five thousand (5,000) square feet of gross floor area.

3) Design Standards

All merchandise placed on outside display, and the outside sales of merchandise, shall be subject to the following design standards:

- a) Such merchandise shall be placed within fenced enclosures, walled enclosures, or roofed areas, which shall be visually screened from the side and rear lot lines, and

which shall not be located within any of the yards as required in Section 28-4-1(h), Table of Dimensional Regulations, of this ordinance;

- b) Such merchandise shall be located upon areas which are surfaced and maintained with concrete, asphalt, or other durable and dust free surfaces and which are graded and drained to the satisfaction of the Code Administrator;
- c) The space occupied by such merchandise shall not exceed an area equal to fifteen (15) percent of the area of the building occupied by the principal retail use;
- d) When placed within a fenced or walled enclosure, the maximum height of the displayed merchandise shall not exceed the height of the fence or wall. When not placed within a fenced or walled enclosure, the maximum height of the displayed merchandise shall not exceed six (6) feet; and
- e) No merchandise shall be placed or located so as to interfere with pedestrian or building access or egress, with required vehicular parking, aisles, access or egress, with loading space parking or access, with public or private utilities, services or drainage systems, with fire lanes, alarms, hydrants, standpipes, or other fire protection equipment, or with emergency access or egress.

b. Outside Storage of Materials and Inventory

Uses that involve the outdoor storage of inventory, materials, parts, or equipment shall comply with the following standards for outdoor storage:

1) Required Setbacks

Outdoor storage shall not be located within a required front yard as specified in Section 28-4-1(h), Table of Dimensional Regulations, of this ordinance or closer than fifty (50) feet to any street or any residential district boundary line;

2) Screening Requirements

Outdoor storage shall be screened from view from adjacent streets and properties by the installation of solid and opaque fences, walls, or enclosures, which shall be maintained in good condition. Where buildings on the premises are located so as to screen views from adjacent streets and properties, such buildings may be considered to be part of the required screening in lieu of fences, walls, and enclosures to the extent that the buildings provide such visual screening. Inventory, materials, and parts or materials stored outdoors shall not be stacked higher than the height of the surrounding fence, wall, enclosure, or building, and in no case shall be stacked higher than twenty (20) feet vertical distance; and

3) Buffer for Residential Districts and Offices Within Industrial (IN) Districts

Where the storage area abuts a residential district boundary line or a lot within an IN District for which the principal use is offices, a landscaped buffer shall be established in addition to the required screening. The landscaped buffer shall be established between the screening enclosure around storage area and the adjacent residential district boundary line or the lot lines of an office use. The landscaped buffer shall be a year-round visual

barrier that is created at a minimum height of six (6) feet and a width of at least ten (10) feet from and parallel to each residential district boundary line or to the lot lines of an office use.

4) Maximum Area of Lot to be Used or Designated for Outside Storage

The maximum area of a lot that may be used or designated for outside storage shall be determined by the application of a ratio of one and three-tenths to one (1.3:1) which is the ratio of the area of outside storage to the gross floor area of the buildings which house the principal use of the lot.

11. Farm Markets or Stands

The following regulations shall apply to accessory sales of agricultural, horticultural, or silvicultural products at farm markets or stands:

a. Minimum Yard Requirements

A farm market or stand shall have a minimum front yard setback of fifty (50) feet and shall conform to the side yard requirements of the district in which the farm stand is located;

b. Maximum Floor Area

The gross floor area of the farm stand shall not exceed two thousand five hundred (2,500) square feet;

c. Products Permitted to be Sold

Products for sale at the farm stand shall be native New Hampshire products with at least thirty-five (35) percent of the product sales in dollar value on an annual basis attributable to products grown or produced on the site, or on other land of the owner of the farm stand; and

d. Outdoor Display of Products

Outdoor display of products may be provided on the site, but storage of equipment and produce containers shall be enclosed or otherwise screened from view.

12. Retail Sales Accessory to a Principal Manufacturing or Wholesale Use

An accessory retail sales area may be established within a building occupied by a principal manufacturing or wholesale use subject to the following conditions:

a. Maximum Floor Area

The maximum amount of gross floor area that may be used for retail sales is two thousand five hundred (2,500) square feet; and

b. Merchandise That May be Sold

At least seventy-five (75) percent of the merchandise that is made available for sale in the retail sales area must be either manufactured on the premises or sold on a wholesale basis from the premises.

13. Small Wind Energy Systems

These supplemental standards for small wind energy systems are enacted in accordance with RSA 674:62-66, and the purposes outlined in RSA 672:1. The purpose of this regulation is to accommodate small wind energy systems in appropriate locations, while protecting the public's health, safety and welfare. In addition, these regulations provide a permitting process for small wind energy systems to ensure compliance with the provisions of the requirements and standards established herein.

a. Building Permit

Small wind energy systems and meteorological towers (met towers) are an accessory use permitted in all zoning districts where structures of any sort are allowed. A person shall not erect, construct, or install a small wind energy system or a meteorological tower without first receiving a building permit from the Code Administrator. A building permit shall be required for any physical modification to an existing small wind energy system. Building permits for meteorological towers shall be permitted on a temporary basis not to exceed three (3) years from the date the building permit was issued.

b. Roof-Top Units

Small wind energy systems to be installed on buildings shall be reviewed and approved by the Planning Board pursuant to Section 28-9-4(f), Architectural Design Review, and for those systems which are proposed to exceed the height restriction within the zoning district they are to be installed, wind energy systems shall be reviewed and approved as a conditional use pursuant to Section 28-4-1(f)(3), Appurtenant Structures. The proposed roof-top systems shall comply with subsections (3) through (10) in Section 28-5-47(g), Standards for Review.

c. Multiple Unit

Where multiple small wind energy systems are proposed on a site or lot, no single unit or combination of units shall exceed a rated capacity of one hundred (100) kilowatts.

d. Wind Units Exceeding 100 KWH Capacity

Wind energy systems exceeding a rated capacity of one hundred (100) kilowatt, either singly or in combination, shall be defined as Essential Public Utilities in the Table of Principal Uses in Section 28-2-4(k)K.11. Wind units exceeding one hundred (100) KWH capacity shall also comply with subsections (3)–(10) in Section 28-5-47(g), Standards for Review.

e. Applications

Applications submitted to the Code Administrator shall contain a site plan with the following information in addition to the information required for building and electrical permits required for the installation.

- 1) Property lines and physical dimensions of the applicant's property.
- 2) Location, dimensions, and types of existing major structures on the property and immediately adjacent properties within fifty (50) feet of the property line.

- 3) Location of the proposed small wind energy system, foundations, guy anchors and associated equipment.
- 4) Tower foundation blueprints or drawings.
- 5) Tower blueprints or drawings.
- 6) Setback requirements as outlined in this Section.
- 7) A plan showing the height of nearby trees within three hundred (300) feet and the height of the proposed tower.
- 8) The right-of-way of any public road that is contiguous with the property. (9) Any overhead utility lines.
- 9) Small wind energy system specifications, including manufacturer, model, rotor diameter, tower height, tower type, nameplate generation capacity.
- 10) Small wind energy systems that will be connected to the power grid shall include a copy of the application for interconnection with their electric utility provider.
- 11) Sound level analysis prepared by the wind generator manufacturer or qualified engineer.
- 12) Electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the New Hampshire State Building Code, with local amendments adopted by the City of Concord.
- 13) Evidence of compliance or nonapplicability with Federal Aviation Administration requirements.
- 14) List of abutters to the applicant's property.
- 15) A shadow flicker analysis including a plan showing the seasonal shadow patterns of the proposed facility, showing the occupied buildings on the abutting properties, showing building setback lines on the abutting properties, and including an evaluation of the shadow flicker impacts on the abutting properties including the extent and length of shadow flicker impacts.

f. Abutter and Regional Notification

In accordance with RSA 674:66, the Code Administrator shall notify all abutters and the local governing body by certified mail upon application for a building permit to construct a small wind energy system. The public will be afforded thirty (30) days to submit comments to the Code Administrator prior to the issuance of the building permit. The Code Administrator shall review the application for regional impacts per RSA 36:55. If the proposal is determined to have potential regional impacts, the Code Administrator shall follow the procedures set forth in RSA 36:57, IV.

g. Standards for Review

The Code Administrator shall evaluate the application for compliance with the following standards prior to the issuance of a building permit.

1) Setbacks

The setback shall be calculated by multiplying the minimum setback requirement number by the system height and measured from the center of the tower base to property line, public roads, from the nearest overhead public utility line conductor or edge of easement whichever is closer to the tower, and the nearest point on the foundation of an occupied building or the nearest building setback line of the abutting property whichever is closer to the tower. In addition, small wind energy systems must meet all setbacks for principal structures for the zoning district in which the system is located. Small wind guy wires used to support the tower are exempt from the small wind energy system setback requirements.

(Reserved - table of minimum setback requirements)

2) Tower

The maximum tower height shall be restricted to thirty-five (35) feet above the tree canopy within three hundred (300) feet of the small wind energy system. In no situation shall the tower height exceed one hundred fifty (150) feet.

3) Sound Level

The small wind energy system shall not exceed fifty-five (55) decibels using the A scale (dBA), as measured at the site property line, except during short-term events such as severe wind storms and utility outages. In addition, at the closest operable window(s) on abutting residential property the small wind energy system shall not exceed fifty-five (55) decibels or the sound levels contained in Article 13-6, Noise, of the City of Concord Code of Ordinances, whichever is less.

4) Shadow Flicker

Small wind energy systems shall be sited in a manner that does not result in significant shadow flicker impacts. Significant shadow flicker is defined as more than thirty (30) hours per year on abutting occupied buildings. The applicant has the burden of proving that the shadow flicker will not have significant adverse impact on neighboring or adjacent uses. Potential shadow flicker will be addressed either through siting or mitigation measures.

5) Signs

All signs including flags, streamers and decorative items, both temporary and permanent, are prohibited on the small wind energy system, except for manufacturer identification or appropriate warning signs.

6) Code Compliance

The small wind energy system shall comply with all applicable sections of the New Hampshire State Building Code, with local amendments adopted by the City of Concord.

7) Aviation

The small wind energy system shall be built to comply with all applicable Federal Aviation Administration regulations including but not limited to 14 C.F.R. part 77, subpart B regarding installations close to airports, and the New Hampshire Aviation regulations, including but not limited to RSA 422-b and RSA 424.

8) Visual Impacts

It is inherent that small wind energy systems may pose some visual impacts due to the tower height needed to access wind resources. The purpose of this Section is to reduce the visual impacts, without restricting the owner's access to the optimal wind resources on the property.

- a) The applicant shall demonstrate through project site planning and proposed mitigation that the small wind energy system's visual impacts will be minimized for surrounding neighbors and the community. This may include, but not be limited to, information regarding site selection, wind generator design or appearance, buffering, and screening of ground-mounted electrical and control equipment. Except in the RO, Open Space Residential District, all electrical service shall be underground leading from the wind energy system.
- b) The color of the small wind energy system shall either be the stock color from the manufacturer or painted with a non-reflective, unobtrusive color that blends in with the surrounding environment. Approved colors include, but are not limited to, white, off-white or gray.
- c) A small wind energy system shall not be artificially lit unless such lighting is required by the Federal Aviation Administration (FAA). If lighting is required, the applicant shall provide a copy of the FAA determination to establish the required markings and/or lights for the small wind energy system.

9) Approved Wind Generators

The manufacturer and model of the wind generator to be used in the proposed small wind energy system must have been approved by the California Energy Commission or the New York State Energy Research and Development Authority, or a similar list approved by the State of New Hampshire, if available.

10) Utility Connection

If the proposed small wind energy system is to be connected to the power grid through net metering, it shall adhere to RSA 362-A:9.

11) Access

All towers, antenna, poles and other similar equipment shall be protected by fencing, anti-climbing devices or other measures to protect the public. All ground-mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.

12) Clearing

Clearing of natural vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the small wind energy system and as otherwise prescribed by applicable laws, regulations, and ordinances.

h. Abandonment

At such time that a small wind energy system is scheduled to be abandoned or discontinued, the owner will notify the Code Administrator by certified U.S. mail of the proposed date of abandonment or discontinuation of operations.

- 1) Upon abandonment or discontinuation of use, the owner shall physically remove the small wind energy system within ninety (90) days from the date of abandonment or discontinuation of use. This period may be extended at the request of the owner and at the discretion of the Code Administrator. "Physically remove" shall include, but not be limited to:
 - a) Removal of the wind generator and tower and related above-grade structures.
 - b) Restoration of the location of the small wind energy system to its natural condition, except that any landscaping, grading or below-grade foundation may remain in its same condition at initiation of abandonment.
 - c) In the event that an owner fails to give such notice, the system shall be considered abandoned or discontinued if the system is out-of-service for a continuous twelve-month period. After the twelve (12) months of inoperability, the Code Administrator may issue a notice of abandonment to the owner of the small wind energy system. The owner shall have the right to respond to the notice of abandonment within thirty (30) days from notice receipt date. After review of the information provided by the owner, the building inspector shall determine if the small wind energy system has been abandoned. If it is determined that the small wind energy system has not been abandoned, the Code Administrator shall withdraw the notice of abandonment and notify the owner of the withdrawal.
 - d) If the owner fails to respond to the notice of abandonment or if, after review by the Code Administrator, it is determined that the small wind energy system has been abandoned or discontinued, the owner of the small wind energy system shall remove the wind generator and tower at the owner's sole expense within three (3) months of receipt of the notice of abandonment. If the owner fails to physically remove the small wind energy system after the notice of abandonment

procedure, the building inspector may pursue legal action to have the small wind energy system removed at the owner's expense.

28-7-9. **TEMPORARY USES**

(Reserved)