

## ARTICLE I. - IN GENERAL

## Sec. 22-1. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Accessory building or structure* shall mean a detached building or structure located on the same lot as the use to which it is incidental and subordinate to that of the main building, structure or use of the land.

*Accessory use* shall mean a land use located on the same lot that is incidental, subordinate and bears a reasonable relationship to the primary use.

*Alteration* shall mean, as applied to a building or structure, a change or rearrangement in the structural parts or in exit facilities, or an enlargement on a side or by increasing the height.

*Area of special flood hazard* shall mean the land in the floodplain within the city subject to a one (1) percent or greater chance of flooding in any given year. The area is designated as zones A and AE on the flood insurance rate map (FIRM).

*Base flood* shall mean the flood having a one (1) percent chance of being equaled or exceeded in any given year.

*Basement* shall mean any area of a building having its floor subgrade on all sides.

*Bed and breakfast* shall mean an owner-occupied, residential dwelling where short-term (thirty (30) days or less) guest lodging rooms and meals are provided for compensation. Each bed and breakfast must have no more than ten (10) guest lodging rooms.

*Boarding house* shall mean a residential building, other than a bed and breakfast, motel, inn or other lodging in which rooms are rented or otherwise made available for compensation to more than two (2) but no more than eight (8) unrelated individuals and where such rooms do not contain separate cooking or bathroom facilities.

*Building* shall mean any structure intended for supporting or sheltering any use or occupancy.

*Building height* shall mean the vertical distance from the grade plane to the average height of the highest roof surface. Chimneys, spires, towers and other necessary accessory features required above roofs not designed or intended for occupancy shall not be included in determining building height.

*Building inspector* shall mean the administrative official authorized by the city manager to administer and enforce the city building codes.

*Building line* shall mean the line parallel to the front lot line and at a distance not less than the required setback measured between the side lot lines through the building, structure or construction site.

*Campground* shall mean a parcel of land with specific sites, either with or without water, electricity or sewage hookups, with provision for the pitching of tents or the parking of any recreational vehicle or trailer designed to be used as sleeping quarters on a temporary or seasonal basis.

*Child care facilities* shall mean child day care, a child day care agency, family day care, family group day care, a group child day care center, a day care nursery, a preschool program and a school age program as defined by RSA 170-E:2, as may be amended.

*Clubs* shall mean an establishment operated for social, recreational or educational purposes, but open to members and not the general public.

*Development* shall mean any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures thereon, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

*Duplex* shall mean a single residential structure containing two (2) dwelling units or two (2) dwelling units separated by a common wall.

*Dwelling* shall mean a building designed or used exclusively as the living quarters for one (1) or more families.

*Dwelling, multifamily*, shall mean a residential building designed for, or occupied by, three (3) or more families, with the number of families in residence not exceeding the number of dwelling units provided.

*Dwelling unit* shall mean a building or part of a building providing complete residential housekeeping facilities for one (1) family.

*Dwelling unit, single-family*, shall mean a residential building providing complete housekeeping facilities for one (1) family, excluding manufactured housing, containing a minimum of five hundred fifty (550) square feet of area.

*Efficiency apartment* shall mean a dwelling unit comprised of one (1) living area with kitchenette or separate kitchen and bathroom, with no separate room allocated for bedroom use.

*Family* shall mean any number of individuals living together as a single residential housekeeping unit occupying a dwelling unit, provided that a group of not more than five (5) individuals not necessarily related by blood, marriage, or adoption may be considered a family.

*Family daycare home.* See "child care facilities."

*Family group daycare home.* See "child care facilities."

*FEMA* shall mean the Federal Emergency Management Agency.

*Flood or flooding* shall mean a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland waters and/or
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

*Flood boundary and floodway map* shall mean the flood insurance rate map (FIRM) for the City of Claremont.

*Flood elevation study* shall mean an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards and which provides the basis for the flood insurance rate map (FIRM).

*Flood insurance rate map (FIRM)* shall mean the official map on which the federal insurance administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

*Flood insurance study.* See "flood elevation study."

*Floodplain or flood-prone area* shall mean any land area susceptible to being inundated by water from flooding any source (see definition of "flooding").

*Floodproofed* shall mean structures which have been constructed watertight with walls impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydromatic loads and effects of buoyancy and as may be further defined by chapter 5 of this Code and RSA 155-A:1, as may be amended.

*Floodproofing* shall mean a combination of structural provisions, changes, or adjustments to properties and structures subject to flooding primarily for the reduction or elimination of flood damages to properties, water and sewage facilities, structures, and contents of buildings in flood hazard areas and as may be further defined by chapter 5 of this Code and RSA 155-A:1, as amended.

*Floodway* shall mean the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

*Foster family home* and *foster family group home* shall mean a facility as defined by RSA 170-E:25, as may be amended.

*Frontage* shall mean the linear distance measured along a lot line having a common boundary with a city class II, IV or V street, state highway, or street approved by the planning board as part of a subdivision plat. Where there is frontage along more than one (1) such common boundary, frontage shall mean only one (1) of the common boundaries.

*Grade plane* shall mean a reference plan representing the average of finished ground level adjoining a building at its exterior walls.

*Group child care centers.* See "child care facilities."

*Group home.* See "child care facilities."

*Hazardous materials* shall mean those substances or materials in such quantity and form which may pose an unreasonable risk to health, safety or property when transported in commerce by all modes, which may include, but are not limited to, explosives, radioactive materials, etiologic agents, flammable liquids or solids, combustible liquids or solids, poisons, oxidizing or corrosive materials and compressed gases, which are listed by the Materials Transportation Bureau of the United States Department of Transportation, 29 CFR Title 49, as amended.

*Hazardous waste* shall mean a solid, semisolid, liquid or contained gaseous waste, or any combination of these wastes, which, because of either quantity, concentration, physical, chemical or infectious characteristics, may cause or contribute to an increase in or irreversible or incapacitating reversible illness; or pose a present or potential threat to human health or environment when improperly treated, stored, disposed of or otherwise mismanaged; or which has been defined using the criteria established or as listed under RSA 147-A. Such wastes do not include radioactive substances that are regulated or controlled by the Atomic Energy Act of 1954, as amended.

*Historic structure* shall mean any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminary determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminary determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminary determined by the secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4)

Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

- a. By an approved state program as determined by the Secretary of the Interior; or
- b. Directly by the Secretary of the Interior in states without approved programs.

*Home office* shall mean a business, profession or occupation, or the administrative functions of a business located elsewhere conducted within a residential building by residents of the dwelling; such an office having no on-site employees not resident in the building but allowing incidental visiting customers and occasional deliveries.

*Home occupation* shall mean any business, profession or occupation which is conducted at a residential property, and for which a client or customer comes to the property for ordering or receiving advice, a product, a repair or service, or which receives or sends deliveries in any vehicle of more than two (2) axles.

A home occupation shall be conducted entirely within a dwelling or within an accessory building to a dwelling by the owner and must be incidental and subordinate to the residential use of the building by the owner, and may have not more than two (2) persons who are not residents of the premises. Such use must not change the residential character of the dwelling or the property, and must create no nuisance, odor, noise, glare, vibration noticeable off premises, or safety hazard. There shall be neither outside storage of materials nor display of stock in trade. A home occupation may not occupy an area equivalent to a maximum of greater than twenty (20) percent of the usable square foot area of the residential building. On premises retail sales are not permitted except those that are incidental and accessory to the home occupation, such as hair care products by a beauty salon. Off-premises retail sales, such as over the internet, are permitted. A home occupation relates to the activity of a specific occupant and does not run with the land.

*Hotel* shall mean a building in which the primary use is lodging on a temporary basis for compensation and where access to the sleeping room is primarily through an inside lobby supervised by a person in charge at all hours and incidental hotel services are provided.

*Junk, junkyard, junk motor vehicle dealer, automobile recycling yard, machinery junkyard, motor vehicle junkyard and motor vehicle recycling yard* shall have the meanings as defined by chapter 8, article VI of this Code and RSA 236:112, as may be amended.

*Lot* shall mean a parcel of land occupied or capable of being occupied by one (1) building or use, and any buildings or uses accessory thereto, including such open spaces and yards at least sufficient to meet dimensional requirements as are required by this chapter.

*Lot area* shall mean the area enclosed by property lines of adjoining owners and/or by established highway lines or by a street approved by the planning board as part of a subdivision plat.

*Lot coverage* shall mean the area of a lot occupied by the principal buildings or structures, and accessory buildings or structures, and expressed as a percent of the lot area.

*Lot line* shall mean property lines bounding a lot.

*Lot width* shall mean the distance between the side lines measured in a straight line at right angles to the mean direction of such side lot lines, which line of measurement shall be parallel to the front lot line at the front yard depth required by these regulations.

*Lowest floor* shall mean the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area, is not considered a building's lowest floor; provided, that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter.

*Manufactured home*, for the purpose of floodplain management and [in] addition to the definition of "manufactured housing," shall mean a structure, transportable in one (1) or more sections, which is built on a permanent chassis and which is designed for use with or without a permanent foundation when attached to the required utilities. For floodplain management purposes, the term "manufactured home" includes such vehicles placed on site for greater than one hundred eighty (180) consecutive days. This includes manufactured homes located in a manufactured home park or subdivision.

*Manufactured home park or subdivision*, in addition to the definition of "manufactured housing park" in RSA 205-A:1, means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

*Manufactured housing*, in addition to the definition of "manufactured housing park" in RSA 250-A:1, shall mean any structure, transportable in one (1) or more sections, which, in the traveling mode, is eight (8) body feet or more in width and forty (40) body feet or more in length, or, when erected on site, is five hundred fifty (550) square feet or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to required utilities, which include plumbing, heating and electrical heating systems contained therein. Manufactured housing shall not include presite built housing as defined in RSA 674:31-a. All manufactured housing must bear a label certifying that it is built in compliance with the Federal Manufactured Housing Construction and Safety Standards, 1976, as amended, and the International Building Code, latest adopted edition for the foundation.

*Mean sea level* shall mean the National Geodetic Vertical Datum (NGVD) of 1929 or other datum to which base flood elevations shown on a community's flood insurance rate map are referenced.

*Mixed uses* shall mean a mix of different permitted uses within a single building.

*Modular building* shall mean any building of closed construction which is made or assembled in manufacturing facilities off the building site for installation, or assembly and installation, on the building site. "Modular building" does not include any structure labeled in accordance with the Federal Manufactured Housing Construction and Safety Standards Act of 1974, as amended, nor shall it include single-wide structures under seven hundred fifty (750) square feet unless intended for residential or classroom use, nor shall it include any recreational vehicle or park trailer as defined by the American National Standards Institute, nor any building type not subject to the requirements of the most recent edition of the applicable model building code. Modular buildings must meet all requirements of RSA 205-C:2 and any applicable regulations, as may be amended.

*Motel* shall mean a building providing lodging for persons, with or without meals, on a temporary basis for compensation and so designed that access to the rooms is primarily from the out-of-doors or individually from interior corridors. Motel shall also include "motor hotel" and "motor inn."

*Neighborhood* shall mean a grouping of buildings with a clearly evident relationship to one another than to the other parts of the community.

*Neighborhood commercial* shall mean a small-scale retail or personal service use that is intended to serve the surrounding neighborhoods.

*New construction* shall mean, in addition to the provisions of article V [chapter 5] of the Claremont City Code, for the purposes of determining insurance rates, structures for which the start of construction commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by the city and includes any subsequent improvements to such structures.

*Nonconforming use* shall mean any use of land or buildings which is not permitted by any provisions of the zoning ordinance for the district in which such use is conducted but which was legally in existence at the effective date of any provision of this chapter, or any amendment thereto.

*Nonconforming building* shall mean a structure or any part thereof not in compliance with the zoning ordinance covering building size, dimensions, height, area, yards, density or other such regulation where such structure conformed to all applicable laws, ordinances, and regulations as of the effective date of this chapter, or any amendment thereto.

*One-hundred-year flood (100-year flood)*. See "base flood."

*Ordinary high water mark* shall mean the highest point on the bank of the floodplain of a watercourse at which the water level has been for a sufficient period of time and frequency to leave a definite mark as determined by the city engineer.

*Parking, off-street*, shall consist of space for parking motor vehicles including space for turning movements, maneuvering, and access to the street located entirely on the lot of the use which it serves or with the approval of the planning board on nearby property owned or leased by the use.

*Personal service business* shall mean commercial businesses that primarily render services, rather than the sale of products. "Primarily" means that less than fifty (50) percent of the business is from the sale of products.

*Presite built housing* shall mean any structure designed primarily for residential occupancy which is wholly or in substantial part made, fabricated, formed or assembled in off-site manufacturing facilities in conformance with the United States Department of Housing and Urban Development minimum property standards and local building codes, for installation, or assembly and installation, on the building site. For the purposes of this definition, presite built housing shall not include manufactured housing as defined in this section.

*Recreational vehicle* shall mean a vehicle which is used for personal pleasure or personal travel and not in connection with any commercial endeavor and means any of the following vehicles:

- (1) Motorhome or van, which is a portable, temporary dwelling to be used for travel, recreation and vacation, constructed as an integral part of a self-propelled vehicle;
- (2) Pickup camper, which is a structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation, and vacation;
- (3) Recreational trailer, which is a vehicular, portable structure built on a single chassis, four hundred (400) square feet or less when measured at the largest exterior horizontal projections, calculated by taking the measurements of the exterior of the recreational trailer including all siding, corner trim, molding, storage space and area enclosed by windows but not the roof overhang. It shall be designed primarily not for use as a permanent dwelling but as a temporary dwelling for recreational, camping, travel or seasonal use; and
- (4) Tent trailer, which is a canvas or synthetic fiber folding structure, mounted on wheels and designed for travel, recreation, and vacation purposes.

*Recycling facility* shall mean collection, storage and transfer facility which collects, stores and prepares recyclable materials for market and transfers processed recyclable materials to markets for recycling. The term includes "recycling center." The collection of hazardous waste, as defined in this section, is expressly prohibited.

*Regulatory floodway* means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

*Retail* shall mean the sale of goods or merchandise to the public for personal, household or business consumption, and rendering of services incidental to the sale of such goods or merchandise in a store or similar facility maintained for that purpose.

*Service establishment* shall mean a nonresidential building and/or other structure used principally for providing commercial services to the public, such as a beauty shop, shoe repair shop, dry cleaner, laundry, electrician, plumber, repair service, installation service, general contractor, rental shop and the like. No accessory use for residential purposes shall be permitted.

*Setback* shall mean the distance from a public or private right-of-way or lot line to the wall of that part of the structure, building or use nearest said line, not including handicap accessibility features when reasonable accommodation is required to allow a person with a recognized physical disability to reside in the building, steps, stairs or landings that provide means of egress, including emergency means of egress, marquees, or unenclosed porches and roof overhangs that are open to light, air and visibility. In computing setbacks, chimneys which do not exceed six (6) feet in width and thirty (30) inches in depth are permissible adjacent or attached to the wall. Additional structures are allowed within setbacks as provided in sections 22-389.2 and 22-389.4.

*Shrubbery* shall mean a planting or growth of shrubs.

*Sign* shall mean any permanent or temporary advertisement, direction or communication produced whole or in part by the construction, erection, affixing, or placing of the structure, device, letter, banner, or placing any printed, lettered, pictured, figured or colored materials on any building, structure or surface or which is designed to be seen from outside a building, including lighted signs in windows, or doors, but excluding: window displays of merchandise and signs incidental to the display of this merchandise; signs placed or erected for the purposes of showing street names or traffic directions or regulations; signs erected by any governmental or civic agency.

*Sign, exterior affixed*, shall mean a sign attached to or erected against the wall of a building with the face in a parallel plane to the plane of the building wall, and projecting no more than fourteen (14) inches from the building wall.

*Sign, freestanding*, shall mean a sign erected on a freestanding frame, mast or pole which is permanently anchored and embedded into the ground and not attached to any building.

*Sign, frontage*, shall mean the length along the ground floor of a building site, having frontage on a street, which is occupied by a separate and distinct principal use which occupies the front of such building.

*Sign, hanging*, shall mean a sign attached to a building with the plane of the sign at an angle to the plane of the wall of the building.

*Sign, identification*, shall mean an outdoor sign displaying the name or address of the occupant or identifying a permitted use or an accessory use.

*Sign, nonconforming*, shall mean a sign which does not comply with regulations of this chapter but was in existence at the time of adoption of this chapter and was lawful at the time it was erected, constructed or placed in its present location.

*Special exception* shall mean a use of land or buildings not permitted by this zoning chapter, subject to approval by the zoning board of adjustment, granted under authority of this chapter when specific conditions stated in this chapter are found to exist.

*Special flood hazard area*. See "area of special flood hazard."

*Start of construction* shall mean the date a building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within one hundred eighty (180) days of the permit date. The "actual start" means either the first placement of permanent construction of a structure on-site, such as the pouring of slab or footings, the installation of piles, the construction of columns or any work beyond the stage of excavation or the placement of manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or part of the main structure.

*Storage container* shall mean an accessory storage structure, incidental and subordinate to the primary use of a property, including cargo and railroad containers and vehicles or structures used for storage but that were originally built for purposes other than the storage of goods and materials. Storage containers are prohibited except where expressly permitted.

*Street* shall mean a public or private thoroughfare which affords the principal means of access to abutting property.

*Structure* shall mean any edifice or object that is built, constructed or installed by man, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home. "Structure" shall also mean a structure as defined in article V [chapter 5] of the Claremont City Code, RSA 155-A:1, RSA 482-A:2, and RSA 483-B:4. "Structure" means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

*Structure, permanent*, shall mean a structure which is built of such materials, affixed to the land and in such a way that it would commonly be expected to last and remain useful for longer than one hundred eighty (180) days.

*Structure, temporary*, shall mean a structure which is built of such materials, is not affixed to the land and in such a way that it would have a useful life or less than one hundred eighty (180) days.

*Substantial damage* shall mean damage of any origin sustained by a structure whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed fifty (50) percent of the market value of the structure or if the nature of the damage compromises the structural integrity of any portion of the structure.

*Substantial improvement* shall mean any combination of repairs, reconstruction, alteration or improvements to a structure in which the cumulative cost equals or exceeds fifty (50) percent of the market value of the structure. The market value of the structure should equal: a) the appraised value prior to the start of the initial repair or improvement, or b) in the case of damage, the value of the structure prior to the damage occurring. For the purposes of this definition, "substantial improvement" is considered to occur when the alteration of any wall, ceiling, floor or other structural part of the building first commences, whether or not that alteration affects the external dimensions of the structure. This term includes structures which have incurred substantial damage, regardless of actual repair work performed. The term does not, however, include any project for improvement of a structure located within the F-1 or F-2 zoning district required to comply with existing health, sanitary or safety code specifications which are solely necessary to assure safe living conditions or any alteration of a "historic structure"; provided that the alteration will not preclude the structure's continued designation as a "historic structure."

*Tree* shall mean a woody perennial plant with one (1) main stem or trunk which develops many branches.

*Use* shall mean the purpose for which a structure or land, or any part thereof, is occupied, designed, constructed, arranged or intended.

*Use, permitted*, shall mean use specifically allowed in a zoning district, excluding illegal uses and nonconforming uses.

*Variance* shall mean relief from the literal meaning and strict application of the zoning ordinance given to the owner of land by the zoning board of adjustment for use of property in a manner that would otherwise violate the zoning ordinance.

*Violation* shall mean the failure to comply with the city's zoning regulations. "Violation" shall also mean the failure of a structure or other development to be fully compliant with the city's floodplain management regulations. A structure or other development without the elevation certificate, other certifications or other evidence of compliance required by 44 CFR Sections 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

*Yard* shall mean a space not occupied by a building or buildings open to the sky, on the same lot as the principal building.

*Yard, front*, shall mean a yard extending across the full width of the lot and lying between the front line of the lot (the street line) and a line at a distance therefrom as specified by these regulations.

*Yard, rear*, shall mean a yard extending across the full width of the lot and lying between the rear lot line and a line at a distance therefrom as specified by these regulations.

*Yard, side*, shall mean a yard extending from the front yard to the rear yard situated between the side lot line and a line at a distance therefrom as specified by these regulations.

*Zoning administrator* shall mean the administrative official authorized by the city manager to administer and enforce this chapter.

*Zoning permit* shall mean and include references to zoning permit, notice of decision, sign permit, certificate of appropriateness, and determination of compliance issued by the zoning administrator.

(Ord. No. 181, § 2-5, 4-12-78; Ord. No. 231, § 2, 8-24-83; Ord. No. 236, §§ 1, 2, 12-14-83; Ord. No. 249, § 1, 6-12-85; Ord. No. 287-A, § 1, 6-18-88; Ord. No. 307, § 1, 8-9-89; Ord. No. 309, § 1, 10-10-90; Ord. No. 318, § 1, 10-10-90; Ord. No. 323, §§ 1, 2, 4-25-90; Amend. No. 4, § 1, 4-10-91; Ord. No. 341, 9-11-91; Ord. No. 356, 4-13-94; Ord. No. 385, 12-10-97; Ord. No. 439, 11-19-02; Ord. No. 467, § 2, 1-11-06; Ord. No. 531, § 1, 4-10-2013)

**Cross reference**— Definitions and rules of construction generally, § 1-2.

**State law reference**— Definition of manufactured housing, RSA 674.31.

Sec. 22-2. - Purpose and authority.

- (a) In accordance with the provisions of RSA 47:17 and RSA 674:16, the city hereby adopts these regulations as the zoning regulations for the city. They have been designed to lessen congestion in the streets, to secure safety from fires, panic and other dangers, to prevent the overcrowding of land, to promote health and the general welfare, and to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements.
- (b) All references herein to the "Code," "Claremont City Code," "zoning regulations," and "ordinance" or "ordinances" shall mean the Claremont City Code, as codified, and as available as of the date of the adoption of this zoning regulation at: <http://library.municode.com/index.aspx?clientId=12246>.
- (c) All references herein to state law and regulation shall mean duly promulgated state laws and regulations as codified as the New Hampshire Revised Statutes Annotated and the Code of Administrative Regulations, and as available as of the date of the adoption of this zoning regulation at: <http://www.nh.gov/government/laws.html>.

(Ord. No. 181, Art. I, 4-12-78; Ord. No. 531, § 1, 4-10-2013)

Sec. 22-3. - Prior plans or construction.

Nothing in this chapter shall require any change in the plans, construction or designated use of a building for which the construction shall have been commenced or a valid building permit issued prior to March 4, 2013, or any amendment hereto, and which shall be completed within one (1) year of the adoption of same.

(Ord. No. 181, § 2-12, 4-12-78; Ord. No. 531, § 1, 4-10-2013)

Sec. 22-4. - Application of regulations.

No land, building or premises shall be used and no building or part thereof shall be erected, altered, enlarged, demolished or moved except in conformity with this chapter. No lot shall be less in area or width nor have smaller yards, and no building shall occupy in the aggregate a greater percentage of the lot area, accommodate a greater number of families, nor be greater in height than as prescribed by the regulations applicable to the district in which such lot or building is located.

*(Ord. No. 181, § 2-1, 4-12-78; Ord. No. 531, § 1, 4-10-2013)*

Sec. 22-5. - Procedure for amendment.

At least thirty (30) days before a public hearing on any proposed change in this chapter, such proposed change shall be referred to the planning board for study and report which is to be read into and made a part of the minutes of the public hearing on such change. In making its report, the planning board shall refer to and take into account its land use plan for the city. Failure of the planning board to file a report on the proposed change at the public hearing shall be deemed as approval of such change. In the event the planning board recommends that the proposed change not be approved, the approval of such change shall require a favorable vote of two-thirds of all members of the city council. A petition for a change in this chapter shall be filed with the city clerk accompanied by a description of the proposed change on a form prescribed by the city clerk and by a filing fee which is on file in the city manager's office to cover costs of legal notice and other charges.

*(Ord. No. 181, § 4-1, 4-12-78)*

Sec. 22-6. - Enforcement.

The administrative and enforcement officer for this chapter shall be the zoning administrator. The zoning administrator shall administer this chapter literally and shall not have the power to permit any use of land or buildings which is not in conformance with this chapter. Upon written complaint of the zoning administrator, the city solicitor shall take the appropriate action to enforce this chapter.

*(Ord. No. 274, § 4-2, 3-11-87)*

Sec. 22-7. - Procedure for changing zoning maps.

When this chapter has been amended according to the procedure set forth in this chapter, the following steps shall be taken to change the zoning maps:

- (1) The description of the district or boundary changes, including a description of the aerial extent of the district change, shall be made a part of the motion to approve the change of this chapter and if approved, read into the minutes of the council meeting.
- (2) A copy of the minutes including the description of the zoning map change will be given to the city manager or his designee, empowering him to make such changes as are necessary to the zoning maps.
- (3) All changes to the zoning maps shall be made within one (1) week of the approval of such change by the city council.

*(Ord. No. 181, § 4-9, 4-12-78)*

Sec. 22-8. - Other regulations.

Where these regulations are in conflict with other local ordinances, the more stringent shall apply.

*(Ord. No. 271, § 2, 1-14-87)*

Sec. 22-9. - Violations.

It shall be illegal for any person to:

- (1) Use any land, building or structure without first obtaining all zoning, building, occupancy, sign or driveway permits required by city ordinances or regulations properly adopted by the planning board, or subdivision regulations.
- (2) Fail to comply with all conditions imposed by such permits or decisions of the planning board, zoning board of adjustment, historic district commission, zoning administrator or any other agency which is granted power to regulate the use of land.

*(Ord. No. 274, § 2, 3-11-87)*

Sec. 22-10. - Penalty.

Any person convicted of a violation of this chapter may be punished by any of the fines or penalties made permissible by RSA 676:17.

*(Ord. No. 274, § 3, 3-11-87)*

Secs. 22-11—22-30. - Reserved.

ARTICLE II. - ADMINISTRATION

DIVISION 1. - GENERALLY

Secs. 22-31—22-40. - Reserved.

DIVISION 2. - ZONING BOARD OF ADJUSTMENT

FOOTNOTE(S):

--- (2) ---

**Cross reference**— Boards, committees, commissions, § 2-26 et seq.

Sec. 22-41. - Membership.

The city council shall appoint a board of adjustment consisting of five (5) members and up to five (5) alternates pursuant to RSA 673:3 for terms not to exceed three (3) years, with no more than two (2) members or (2) alternates being appointed in any one (1) year. Such members shall be removable by the city council upon written charges and after public hearing.

*(Ord. No. 181, § 4-5.1, 4-12-78; Ord. No. 531, § 1, 4-10-2013)*

Sec. 22-42. - Rules and procedures.

The board of adjustment shall adopt rules to govern its proceedings in accordance with the provisions of this chapter, and the provisions of RSA Chapter 673, pertaining to zoning.

*(Ord. No. 181, § 4-5.2, 4-12-78)*

Sec. 22-43. - Duties and powers.

The duties and powers of the board of adjustment shall be as prescribed in RSA 674:33 to which specific reference is made and which are incorporated by reference herein.

*(Ord. No. 181, § 4-5.3, 4-12-78)*

Sec. 22-44. - Appeal.

Any person, aggrieved by an official action of the zoning board of adjustment may appeal such action in accordance with the provisions contained in RSA 677:1—677:18.

*(Ord. No. 181, § 4-7, 4-12-78)*

Secs. 22-45—22-55. - Reserved.

DIVISION 3. - VARIANCES AND SPECIAL EXCEPTIONS

FOOTNOTE(S):

--- (1) ---

See Governor's Island Club, Inc. v. Town of Gilford, 124 N.H. 126, 467 A.2d 246 (1983) for standard applicable to subsection 5b.

Sec. 22-56. - General provisions.

Variations and uses designated as special exceptions in any zoning district may be permitted only by approval by the zoning board of adjustment in accordance with the procedures and requirements of RSA 674:33, and the requirements of this chapter.

*(Ord. No. 181, § 2-25.1, 4-12-78; Ord. No. 531, § 1, 4-10-2013)*

Sec. 22-57. - Application for permit.

Application for a variance or special exception permit shall be made in writing to the zoning board of adjustment. The board of adjustment may require that a plan of the proposed development be submitted as a part of the application showing the location of all buildings, parking areas, traffic access, open spaces, water supply and sewage disposal facilities, stormwater management, landscaping and any other information that may be necessary to determine if the proposed variance or special exception use is in harmony with the intent of this chapter and the orderly development of the area in which it is located.

*(Ord. No. 181, § 2-25.1(a), 4-12-78; Ord. No. 531, § 1, 4-10-2013)*

Sec. 22-58. - Referral to the planning board.

All applications for a special exception permit wherein a site plan is required shall be referred to the technical review committee or planning board, as may be applicable for review and recommendation, or, when appropriate, approval. In addition to documentation required in section 22-57, every applicant shall present to the technical review committee or planning board when it so requires, construction plans indicating nature, location and quantity of soundproofing materials to be used; results of manufacturer's tests of effectiveness of soundproofing materials to be used if available; nature and location, BTU capabilities and space effectiveness reports of air conditioning units to be used; distance in feet from abutters and nature of abutters use of land; placement and type of windows, location of entrances; and any and all plans and test reports that the technical review committee or planning board may require for their determination as to noise, vibration, light, or other potential nuisance created by such proposed uses. The report of the technical review committee or planning board shall be read into the minutes of the board of adjustment public hearing. Failure by the technical review committee or planning board to review and transmit their findings to the board of adjustment within thirty-five (35) days of the date of transmittal shall be deemed as a review or/and approval.

*(Ord. No. 181, § 2-25.1(b), 4-12-78; Ord. No. 531, § 1, 4-10-2013)*

Sec. 22-59. - Public hearings.

Public hearings on an application for a variance or special exception shall be held in accordance with the provisions of RSA 676:5—676:7 and the rules and procedures adopted by the zoning board of adjustment.

*(Ord. No. 181, § 2-25.1(c), 4-12-78; Ord. No. 531, § 1, 4-10-2013)*

Sec. 22-60. - Action by board.

After a public hearing, the zoning board of adjustment shall grant the application, deny the application, return the application to the applicant for modification or continue the application to a subsequent meeting for further deliberation. Any action taken by the board of adjustment on an application for a variance or special exception permit must be accompanied by a written statement from the zoning board of



adjustment describing how the variance or special exception requested fulfills or fails to fulfill the requirements for a variance or special exception pursuant to state law and this chapter.

(Ord. No. 181, § 2-25.1(d), 4-12-78; Ord. No. 531, § 1, 4-10-2013)

Sec. 22-61. - Granting of permits.

The planning board may recommend, and the zoning board of adjustment may impose, such conditions and restrictions as deemed necessary to meet the objectives of this chapter on any permit for a variance or special exception of this chapter.

(Ord. No. 181, § 2-25.1(e), 4-12-78)

Sec. 22-62. - Variance requirements.

A variance to the terms of the zoning code is authorized by the board of adjustment pursuant to RSA 674:33, I(b), provided that the board finds that all of the following conditions are met:

- (1) The variance will not be contrary to the public interest;
- (2) The spirit of the ordinance is observed;
- (3) Substantial justice is done;
- (4) That granting of the variance would not diminish the value of surrounding properties;
- (5) Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.
  - a. *Unnecessary hardship* means that, owing to special conditions of the property that distinguish it from other properties in the area, (i) no fair and substantial relationship exists between the purposes of the provision from which relieve is sought and the specific application of that provision to the property, and (ii) the proposed use is a reasonable one.
  - b. However, if the criteria in subsection (5)a above are not established, an unnecessary hardship will be deemed to exist if and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance and a variance is necessary to enable a reasonable use of the property. <sup>111</sup>

(Ord. No. 181, § 2-25.2, 4-12-78; Ord. No. 405, 11-8-00; Ord. No. 531, § 1, 4-10-2013)

Sec. 22-63. - Special exceptions.

- (a) The board of adjustment shall have the power to approve uses permitted by special exception, when specified by this chapter and subject to appropriate conditions and safeguards as stated below. The following considerations shall be considered when granting a special exception:
  - (1) The specific site is an appropriate location for such a use;
  - (2) Property values in the district will not be reduced by such a use;
  - (3) No nuisance or unreasonable hazard shall result;
  - (4) No adverse traffic impact will result from such a use;
  - (5) Adequate and appropriate facilities will be provided for the proper operation and maintenance of the proposed use, including water, sewer and parking;
  - (6) No adverse impact on the view, light and air of any abutter will result;
  - (7) The use will not place a disproportional burden on the city's operational services in comparison to the anticipated tax revenue associated with the property/use in question;
  - (8) Such a use would not be detrimental to the public health, safety and general welfare; and
  - (9) The specific use is in harmony with the general purpose and intent of this chapter and shall be in accordance with the general or specific rules contained in this chapter.
- (b) In approving a special exception, the board of adjustment may impose such additional conditions as it finds reasonably necessary to safeguard both adjacent properties and the neighborhood or otherwise serve the purposes of this chapter. Such conditions may include the following:
  - (1) Increased lot area exceeding the minimum lot area required in a particular zone;
  - (2) Increased front, side or rear yard setbacks;
  - (3) Height limitations;
  - (4) Parking requirements specific to use and location;
  - (5) Appropriate screening, buffers or planting strips, fences or walls;
  - (6) Modification of the exterior appearance of the structure;
  - (7) Limitation upon the size of any buildings, number of occupants, method and time of operation, or extent of facilities;
  - (8) Relocation of the driveway or change in driveway configuration;
  - (9) Require the applicant to post a non-lapsing bond or otherwise reimburse the city for any services required which, as a result of frequency or intensity, place a disproportional burden on the operational services of the city in comparison to the tax revenue associated with the property/use in question. Such operational burdens may include, but are not limited to, substantial increases in the need for police patrols, responses or traffic details, inordinate fire/ambulance calls or inspections, or other requirements or needs that so burden the city's operational services; and
  - (10) Other conditions attached to specific uses permitted by special exception under the provisions of this chapter.
- (c) Special exceptions for lot size, frontage, setbacks and height may be granted by the board of adjustment provided that the use of the structure is a permitted use, the above requirements are satisfied and any other requirements specified in this chapter are met.

*(Ord. No. 181, § 2-25.3, 4-12-78; Ord. No. 423, 1-10-01; Ord. No. 430, 3-13-02; Ord. No. 531, § 1, 4-10-2013)*

Sec. 22-64. - Third party review.

Pursuant to RSA 676:5, the board of adjustment may require the applicant to reimburse the board for expenses reasonably incurred by obtaining third party review and consultation as the board may determine is required to determine the impact of the proposal on the city's operations or its residents, provided that such review and consultation does not substantially duplicate a third party review and consultation obtained by the planning board for the same proposal.

*(Ord. No. 531, § 1, 4-10-2013)*

Secs. 22-65—22-75. - Reserved.

DIVISION 4. - PERMITS

Sec. 22-76. - General.

Until a zoning permit has been issued by the zoning administrator, none of the following may be commenced:

- (1) Erection, alteration, restoration, relocation, or demolition of any structure or part thereof.
- (2) New use of premises, facilities, structures or land.
- (3) Change or expansion of existing uses of or future approved premises, facilities, structures or land.
- (4) Development within the F-1, and F-2 districts.

*(Ord. No. 181, § 4-3.1, 4-12-78; Ord. No. 236, § 3, 12-14-83)*

Sec. 22-77. - Application.

Application for a zoning permit shall be made to the zoning administrator on the form furnished by him. Applications shall be signed by the owner, his agent or lessee and shall include the following:

- (1) Plans, drawn to scale and satisfactory to the zoning administrator, showing the actual shape, dimensions, and location of the land to be used, existing buildings, facilities, and structures, and planned alterations, and proposed construction.
- (2) Information as to the existing and intended uses of buildings and land or part thereof.
- (3) Copy of an approved site plan and/or subdivision plat (when applicable).
- (4) Copy of an approved driveway access permit (when applicable).

*(Ord. No. 181, § 4-3.2, 4-12-78; Ord. No. 236, § 3, 12-14-83)*

Sec. 22-78. - Administration.

- (a) The zoning administrator shall determine whether an application for permit is in compliance with a permitted use. If the zoning administrator determines that it is, the application shall be approved and a zoning permit issued. The zoning administrator shall act upon any application within thirty (30) days after it has been filed.
- (b) The issuance of a zoning permit shall precede or be in conjunction with the issuance of a building permit.
- (c) A zoning permit shall become void if construction is not begun thereunder within twelve (12) months from the date of issuance of the permit. Permits may be extended once for no more than an additional twelve (12) months by the zoning administrator on receipt of a written request for extension at least fourteen (14) days prior to the expiration of the original permit.
- (d) Permits issued hereunder, unless expressly limited to the applicant by this chapter, shall be transferrable to a subsequent owner provided there is no change in use and the use has not been discontinued for more than twelve (12) consecutive months.
- (e) On approval by the board of adjustment of a variance or special exception, the zoning administrator shall issue a zoning permit or notice of decision as of the date of approval of the board of adjustment.

*(Ord. No. 181, § 4-3.3, 4-12-78; Ord. No. 236, § 3, 12-14-83; Ord. No. 531, § 1, 4-10-2013)*

Sec. 22-79. - Records.

The zoning administrator shall maintain a record for public inspection of all zoning permits, applications and approvals, including supporting documents and information.

*(Ord. No. 181, § 4-3.4, 4-12-78; Ord. No. 236, § 3, 12-14-83)*

Secs. 22-80—22-90. - Reserved.

DIVISION 5. - CERTIFICATES OF OCCUPANCY

Sec. 22-91. - Required.

It shall be unlawful to use or occupy or permit the use or occupancy of any structure or part thereof which is erected, converted, altered or enlarged after the effective date of this chapter without a certificate of occupancy. It shall be unlawful to use or occupy or permit the use or occupancy of land without a certificate of occupancy after the effective date of this chapter when a zoning permit is required by this chapter for such use or occupancy of land. A certificate of occupancy is not needed for normal repairs, maintenance, redecorating, or improvements provided there is no change or expansion in use.

*(Ord. No. 181, § 4-4.1, 4-12-78)*

Sec. 22-92. - Application.

The owner or his agent shall make application for a certificate of occupancy to the building inspector on a form provided by him. Prior to issuing a certificate of occupancy, the building inspector shall:

- (1) Have evidence from the zoning administrator that the use conforms with the requirements of city zoning and other applicable land use by-laws (site plan and subdivision review).
- (2) Determine that all construction and facilities comply with city building codes and all other applicable ordinances and regulations.

*(Ord. No. 181, § 4-4.2, 4-12-78; Ord. No. 236, § 14, 12-14-83)*

Sec. 22-93. - Temporary certificates.

When the building inspector determines that the requirements for a certificate of occupancy in section 22-92 are essentially satisfied except for cosmetic requirements such as landscaping, seeding, or painting and that weather or other circumstances beyond control of the user prevent their immediate completion, the building inspector may issue a temporary certificate of occupancy. Temporary certificates of occupancy may be issued for a period not to exceed six (6) months.

*(Ord. No. 181, § 4-4.3, 4-12-78)*

Secs. 22-94—22-99. - Reserved.

DIVISION 6. - SPECIAL USE PERMITS

Sec. 22-100. - General.

- (a) Uses designated as special uses in any zoning district may be permitted only by approval by the planning board and only upon the granting of a special use permit by the planning board. Submittal criteria and process shall be that of the planning board.
- (b) The inability to meet any zoning district standard for a special use permit will require a variance from the zoning board of adjustment for that standard prior to the issuance of a special use permit.

*(Ord. No. 531, § 1, 4-10-2013)*

Sec. 22-101. - Standards of review.

In reviewing an application for a special use permit, the planning board shall consider the following granting criteria:

- (1) The compatibility with and impact on abutting uses and the surrounding neighborhood;
- (2) The proposed degree of renovation, if any;
- (3) The location's appropriateness for the proposed development or conversion;
- (4) The provision or availability of adequate parking;
- (5) The impact on vehicular and pedestrian safety;
- (6) The provision of appropriate related services and facilities;
- (7) The consistency with the intent and spirit of Claremont's Master Plan; and
- (8) The provision of adequate transportation, water, sewerage and other public requirements, including handicapped accessibility;
- (9) Other criteria as may be appropriate based on the specific nature of the application.

In reviewing each application, the planning board reserves the right to condition the use, time of operation, the size, location, or setbacks of the buildings, or any other component of the facility or use that is necessary to protect the integrity of the surrounding neighborhood and the city as a whole.

*(Ord. No. 531, § 1, 4-10-2013)*

Secs. 22-102—22-110. - Reserved.

ARTICLE III. - NONCONFORMANCES

Sec. 22-111. - Lot, yard, and frontage requirements.

No lot existing on March 4, 2013, shall be diminished in width or size or shall any yard, open space, or frontage existing on March 4, 2013, be reduced except in conformity with this chapter. All new lots shall conform to the dimensional requirements of this chapter and have sufficient frontage for construction of proper vehicular access, but in no case shall frontage be less than fifty (50) feet.

*(Ord. No. 181, § 2-2, 4-12-78; Ord. No. 447, 3-10-04; Ord. No. 531, § 1, 4-10-2013)*

Sec. 22-112. - Setbacks.

Where setback lines have been established at a different distance from the street line than the front yard required under this chapter, the greater distance shall apply. In no instance however, shall any building be constructed, remodeled, or moved so as to be nearer than thirty-five (35) feet to the centerline of any street upon which its lot may abut or front, or fifteen (15) feet from the right-of-way line, whichever is greater, except as permitted in the city center residential I, city center residential II, city center business II and mixed use zoning districts by this chapter 22.

*(Ord. No. 181, § 2-3, 4-12-78; Ord. No. 531, § 1, 4-10-2013)*

Sec. 22-113. - Nonconformances.

All lawful uses of buildings and lands existing on the effective date of the ordinance or subsequent amendments thereto that are made nonconforming by the requirements of this chapter or subsequent amendments may be continued indefinitely, structurally altered, changed and restored all subject to the following requirements.

- (1) *Nonconforming use of land.*
  - a. No such nonconforming use shall be enlarged or increased or extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this chapter.
  - b. No such nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this chapter.
  - c. No additional structure not conforming to the requirements of this chapter shall be erected in connection with such nonconforming use of land.
- (2) *Nonconforming use of structures.*
  - a. A nonconforming use may be extended only to those parts of a building which are manifestly arranged or designed for such use at the time of adoption or amendment of this chapter.
  - b. Structures containing nonconforming uses in all districts other than the floodplain and floodway districts destroyed by fire or other natural causes may be restored and reconstructed within the same footprint provided construction commences within one (1) year of the date of destruction.
  - c. Nothing in this chapter shall be deemed to prevent normal and ordinary maintenance and repairs from being performed on structures containing nonconforming uses. Any structure or part thereof containing a nonconforming use declared physically unsafe by any lawful authority must be restored to a safe condition.
- (3) *General.*
  - a. Nonconforming use of land or structures may be changed to a conforming use. Such nonconforming use of land or structures may be enlarged or changed to another nonconforming use provided that the board of adjustment finds the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use and no more objectionable to the neighborhood. In permitting such a change, the board of adjustment may require appropriate conditions and safeguards.
  - b. Any nonconforming use of land or structure, or structure and land in combination which has been changed to a conforming use shall thereafter conform to the regulations for the district, and shall not be changed back to a nonconforming use.
  - c. Other than as permitted in subsection (2)(b), above, when a nonconforming use of a structure or land, or structure and land in combination is discontinued or abandoned for twelve (12) consecutive months, the structure or land or structure and premises in combination shall not thereafter be used except in conformity with the regulations of the district in which it is located.
  - d. Where nonconforming use status applies to a structure and land in combination, voluntary removal or destruction of the structure, other than to restore a physically unsafe structure to a safe condition, shall eliminate the nonconforming status of the land.
  - e. The provisions of this section shall not apply to signs which are governed by [section 22-596](#)

(Ord. No. 181, § 2-10, 4-12-78; Ord. No. 531, § 1, 4-10-2013)

Sec. 22-114. - Nonconforming structures.

Where a lawful structure exists at the effective date of adoption of this chapter that could not be built under the terms of this chapter by reason of restrictions on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (1) No such nonconforming structure may be enlarged or altered in a way which increases its noncompliance, but any structure or portion thereof may be altered to decrease its noncompliance.
- (2) Should such nonconforming structure existing in other than the floodplain and floodway districts be destroyed by any means, it may be restored and reconstructed in the same footprint provided construction commences within twelve (12) months of the date of destruction.
- (3) Should such structure be intentionally moved for any reason for any distance whatever, it shall thereafter comply with the regulations for the district in which it is located after it is moved.
- (4) The provisions of this section shall not apply to signs which shall be subject to [section 22-596](#)

(Ord. No. 181, § 2-11, 4-12-78; Ord. No. 531, § 1, 4-10-2013)

Secs. 22-115—22-130. - Reserved.

ARTICLE IV. - ZONING DISTRICTS AND REGULATIONS

FOOTNOTE(S):

--- (4) ---

**Cross reference**— Mobile home and recreational vehicle parks, § 10-66 et seq.

DIVISION 1. - GENERALLY

Sec. 22-131. - Districts enumerated.

The city is hereby divided into the following zoning districts:

AA	Airport Approach
AR	Agricultural Residential

RR	Rural Residential
RR-2	Rural Residential District II
R-1	Residential I
R-2	Residential II
CR-1	City Center Residential I
CR-2	City Center Residential II
PR	Professional Residential
B-2	Business II
CB-2	City Center Business II
MU	Mixed Use
I-1	Industry I
I-2	Industry II
I-3	Industry III
F-1	Floodplain
F-2	Floodway
H	Historic District
SB	Streambank
MHC	Multiple Use Healthcare

*(Ord. No. 181, § 2.6, 4-12-78; Ord. No. 195, § 1, 9-5-79; Ord. No. 280, § 1, 9-24-87; Ord. No. 359, 7-13-94; Ord. No. 477, § 4, 8-9-06; Ord. No. 531, § 1, 4-10-2013)*

Sec. 22-132. - Zoning maps.

The following maps are on file in the office of the zoning administrator. They and any amendments thereto, duly adopted, are hereby made a part of this chapter by reference.

- (1) Zoning Map #1 entitled "Rural Area Zoning Map," dated September 12, 2007, as amended and updated as of March 9, 2011.
- (2) Zoning Map #2 entitled "Urban Area Zoning District Map," dated September 12, 2007, as amended and updated as of March 4, 2013.
- (3) Zoning Map #3 entitled "Airport Approach District Map," dated December 10, 1975, as amended May 1988.
- (4) Zoning Map #4 entitled "Flood Boundary and Floodway Map and Flood Insurance Rate Map," with an effective date of May 23, 2006.

*(Ord. No. 181, § 2-7, 4-12-78; Ord. No. 195, § 3, 9-5-79; Ord. No. 217, § 1, 4-14-82; Ord. No. 231, § 4, 8-24-83; Ord. No. 236, §§ 4, 5, 12-14-83; Ord. No. 280, § 2, 9-24-87; Ord. No. 281, § 1, 10-14-87; Ord. No. 299, § 2, 12-14-88; Ord. No. 329, § 1, 10-10-90; Ord. No. 341, 9-11-91; Ord. No. 488, § 1, 9-12-07; Ord. No. 520, § 1, 3-9-2011; Ord. No. 531, § 1, 4-10-2013)*

Sec. 22-133. - Interpretation of zoning district boundaries.

- (a) Unless otherwise indicated on the zoning maps, the zoning district boundaries are the centerlines of streets, the middle of the channel of waterways, the centerlines of main tracks of railroads, or the centerline of utility right-of-way. Where a boundary is shown parallel to the street, such boundary shall be interpreted as running parallel to the nearest street line (edge of right-of-way) and at such distance as indicated on the zoning map. If no distance is given such distance shall be interpreted to be three hundred (300) feet in the AR, RR, RR-2, I-1 and I-2 districts, and one hundred fifty (150) feet in R-1, R-2, PR, B-1.5, B-1 and B-2 districts.
- (b) Where zoning district boundaries approximate property lines they shall be construed to coincide. Interpretation of the zoning maps shall be the responsibility of the zoning administrator.

*(Ord. No. 181, § 2-8, 4-12-78; Ord. No. 236, § 6, 12-14-83; Ord. No. 359, 7-13-94)*

Sec. 22-134. - General requirements.

- (a) As of the date of adoption of this provision [adopted Aug. 9, 2006], no new or expansion of existing use of any kind shall be permitted in any district, if it is in any way injurious, noxious or offensive by way of odor, fumes, smoke, dust, vibrations, noise, hazardous or toxic substances to the community.

- (b) As of the date of adoption of this provision, no new, expansion or replacement facility shall be constructed for underground storage of petroleum, refined petroleum products and organic solvents except with suitable secondary barriers and automatic alarm systems approved by the planning board. Storage tanks, installed or existing on or above the floor surface in basement or cellar spaces are not considered to be underground storage for purposes of this regulation. This provision does not include liquefied petroleum gas (LPG).
- (c) Screening and buffers shall be required in any industrial or business district which abuts a residential district. Such buffer strip shall be at least twenty (20) feet in width, with vegetative screening or wall or fence complimented by vegetation such that a dense screen is maintained on a year-round basis, as determined by the planning board. The owner or occupant of the industrial or business property shall be responsible for maintenance of the screening and buffer area.
- (d) No owner, lessee or occupant of any parcel of land shall, as a result of development, redevelopment or other use of the property, including landscaping, permit or alter the flow of storm water resulting in off-site drainage spilling onto adjacent property or into the public way or otherwise increase the flow of storm water. No storm water from roofs, drains, parking areas or similar drainage and collection areas may be drained or spilled into the city's sanitary sewer system. All plans for new, expanded or redeveloped use of properties must include suitable provisions for proper handling and drainage of water crossing the property, including storm water run-off. The planning board may require an owner to obtain appropriate drainage easements to meet this requirement.

(Ord. No. 477, § 1, 8-9-06)

Secs. 22-135—22-145. - Reserved.

**Editor's note—**

Ord. No. 383, adopted Jan. 8, 1997, repealed § 22-134, which pertained to lots in more than one district. See the Code Comparative Table.

DIVISION 2. - AR AGRICULTURAL RESIDENTIAL DISTRICT

Sec. 22-146. - Permitted uses.

The following uses are permitted in the agricultural residential district. Any uses not expressly permitted are prohibited, except those uses which may be allowed as special exceptions as set forth hereafter.

- (1) Forestry and tree farming.
- (2) General farming and agriculture, including horticulture, dairy farming, and the raising or keeping of livestock or domestic farm animals.
- (3) Truck gardens, nurseries and greenhouses. Roadside stands for the sale of area products raised on the premises.
- (4) Parks and other similar open space uses.
- (5) Single-family dwellings.
- (6) Manufactured housing on individual lots.
- (7) Reserved.
- (8) Accessory uses and buildings.

(Ord. No. 181, § 3-1.1, 4-12-78; Ord. No. 270, § 2, 12-10-86; Ord. No. 287-A, § 6, 6-18-88; Ord. No. 291, § 1, B, 8-10-88; Ord. No. 341, 9-11-91; Ord. No. 363, 10-12-94)

Sec. 22-147. - Special exceptions.

The following uses may be permitted in the agricultural residential district by the zoning board of adjustment subject to the regulations contained in section 22-56 et seq., as well as any other applicable regulations of this chapter or regulations of the state, and the following conditions or safeguards.

- (1) Overnight camping areas, provided they are in conformance with all local and state regulations.
- (2) Sawmills, provided that they are located at least one thousand (1,000) feet from any existing dwelling.
- (3) Gravel processing plants not including rock crushing operations, provided that the processing plants are located at least three hundred (300) feet from any existing residence and two hundred (200) feet from any highway; rock drilling for industrial purposes provided that the drilling operations are located at least seven hundred (700) feet from any existing residence and highway; and rock crushing operations provided that the operations are located at least one thousand five hundred (1,500) feet from any existing residence and highway and further provided:
  - a. That any gravel processing operation or rock crushing operation conform to the provisions contained in section 22-507; and
  - b. That any of the above uses must be located on lots of at least ten (10) acres and such uses shall be subject to such other conditions as the zoning board of adjustment may determine to be essential to provide screening from abutting properties or to prevent excessive noise, dust, vibration or traffic congestion.
- (4) Outdoor recreation such as ski areas, golf courses, riding stables, snowmobiling or similar activities which:
  - a. Are not conducted primarily for spectator sports; and
  - b. Do not provide overnight accommodations.
- (5) Kennels for keeping of four (4) or more dogs, provided that the dogs are kept at least three hundred (300) feet from existing dwellings.
- (6) Home occupations.
- (7) Sale of camping equipment and supplies on the grounds of a campground.
- (8) Planned residential development in accordance with the provisions contained in section 22-571 et seq.
- (9) Accessory uses and buildings.
- (10) Extraction of sand and gravel.

- (11) Where the boundary line of a zoning district divides a lot in single or joint ownership the regulations for either district may extend to the entire lot, but in no case shall any permitted use be extended more than seventy-five (75) feet into the zoning district which prohibits uses allowed in the abutting district. The provisions of this section shall benefit only those lots shown on the Tax Maps of the City of Claremont as existing on the date of passage of this amendment [June 11, 1997]. The boundary line of a zoning district may not be extended under any circumstances beyond the boundary of the lot appearing on said tax maps. The city planning department shall keep on record for public use all tax maps referred to in this subsection.
- (12) Duplexes, provided that no part of the building consists of manufactured housing as defined herein.
- (13) [Accessory dwelling units.]
- a. Purpose: The purpose of this provision is to allow a property owner-resident of a single family residence to care for another family member in a residential setting if their property is of sufficient size and if it does not change the character of, or negatively impact, the neighborhood.
  - b. Conditions: The zoning board of adjustment may grant a special exception for one (1) accessory dwelling unit under the following conditions:
    1. The existing, or proposed, home is, and will remain, a single family structure;
    2. The existing, or proposed, home is currently conforming to zoning;
    3. The existing, or proposed, home is currently or planned to be owner occupied;
    4. The property owner states that their intent is that the occupant of the accessory dwelling unit will be a family member;
    5. The property shall be sufficient in size so that there is at least fifteen thousand (15,000) square feet of property per dwelling unit, or a total of thirty thousand (30,000) square feet;
    6. The property shall have only one curb cut and drive-way;
    7. The front setback shall not to be utilized for parking;
    8. The accessory dwelling unit shall be part of the primary structure;
    9. The accessory unit shares utilities in common, i.e. one (1) service, with the primary structure;
    10. The accessory dwelling unit shall be not more one quarter of the size of the primary structure, or more than five hundred (500) square feet in size, whichever is greater;
    11. Evidence of adequate septic capacity;
    12. Adequate vehicle parking and turn-around on site;
    13. That a site plan be approved by the planning board to insure that the accessory dwelling unit does not change the character of or negatively impact the neighborhood; and
    14. A deed addendum with approval conditions be executed and recorded.

*(Ord. No. 181, § 3-1.2, 4-12-78; Ord. No. 270, § 2, 12-10-86; Ord. No. 363, 10-12-94; Ord. No. 383, 1-8-97; Ord. No. 383-A, 6-11-97; Ord. No. 385, 12-10-97; Ord. No. 440, 11-19-02)*

Sec. 22-148. - Lot size and area.

Each lot in the agricultural residential district shall have a minimum width at the building line of at least two hundred fifty (250) feet and an area of at least five (5) acres.

*(Ord. No. 181, § 3-1.3, 4-12-78)*

Sec. 22-149. - Yards.

- (a) *Setback.* All buildings in the agricultural residential district shall be set back a minimum of fifty (50) feet from any public or private right-of-way.
- (b) *Front yard.* Each lot shall have a front yard at least fifty (50) feet in depth.
- (c) *Side yards.* Each lot shall have two (2) side yards each having a width of at least twenty-five (25) feet.
- (d) *Rear yard.* Each lot shall have a rear yard at least fifty (50) feet in depth.
- (e) *Building separation.* Each separate building on a lot shall be located at least ten (10) feet from any other building on the lot.

*(Ord. No. 181, § 3-1.4, 4-12-78)*

Sec. 22-150. - Lot coverage.

All buildings, including accessory buildings in the agricultural residential district, shall cover in the aggregate not more than ten (10) percent of the lot area.

*(Ord. No. 181, § 3-1.5, 4-12-78)*

Sec. 22-151. - Maximum residential density.

The maximum residential density in the agricultural residential district shall be one (1) dwelling per five (5) acres of the total lot area, except that planned residential development may be permitted in accordance with the provisions of [section 22-571](#).

*(Ord. No. 181, § 3-1.6, 4-12-78)*

Sec. 22-152. - Child care facilities.

In agricultural residential district, any child care facility, whether the same be a family daycare home, family group daycare home, group child care center, group home, or child care institution, may be permitted by special exception by the zoning board of adjustment, subject to the regulations contained in division 3 of article II of this chapter, provided:

- (1) That the same shall have received and shall maintain a license pursuant to RSA 170-E.

(2) That such use shall conform to all lot size and area requirements contained in sections 22-148 through 22-151

(Ord. No. 249, § 1(2-26.2), 6-12-85; Amend. No. 4, § 1, 4-10-91; Ord. No. 376, 4-17-96)

Secs. 22-153—22-165. - Reserved.

### DIVISION 3. - RR RURAL RESIDENTIAL DISTRICT

Sec. 22-166. - Permitted uses.

The following uses are permitted in the rural residential district. Any uses not expressly permitted are prohibited, except those uses which may be allowed as special exceptions as set forth hereafter.

- (1) Any use permitted in the agricultural residential district other than uses permitted as special exceptions.
- (2) Public or private nonprofit schools, public libraries, museums, churches and church buildings.
- (3) Philanthropic or charitable organizations or institutions, other than correctional institutions.
- (4) Hospitals, rest homes and convalescent homes, provided that at least five (5) off-street parking spaces are available.
- (5) Veterinary hospitals, provided that at least five (5) off-street parking spaces are available, and the building is located at least three hundred (300) feet from any existing dwelling.
- (6) Reserved.
- (7) Manufactured housing parks for which both a special exception and subdivision approval were obtained prior to June 8, 1988, and which are in full compliance with such subdivision approval.
- (8) Manufactured housing subdivisions for which both a special exception and subdivision approval were obtained prior to June 8, 1988, and which are in full compliance with such subdivision approval.
- (9) Accessory uses and buildings.

(Ord. No. 181, § 3-2.1, 4-12-78; Ord. No. 270, § 2, 12-10-86; Ord. No. 291, § 1, C, 8-10-88; Ord. No. 294, § 1, 10-12-88; Ord. No. 341, 9-11-91; Ord. No. 363, 10-12-94)

Sec. 22-167. - Special exceptions.

The following uses may be permitted in the rural residential district by the zoning board of adjustment subject to the regulations contained in section 22-56 et seq., as well as any other applicable regulations of this chapter or regulations of the state and the following conditions and safeguards.

- (1) Sawmills provided they are located at least one thousand (1,000) feet from any existing dwelling.
- (2) Gravel processing plants not including rock crushing operations, provided that the processing plants are located at least three hundred (300) feet from any existing residence and two hundred (200) feet from any highway; rock drilling for industrial purposes provided that the drilling operations are located at least seven hundred (700) feet from any existing residence and highway; and rock crushing operations provided that the operations are located at least one thousand five hundred (1,500) feet from any existing residence and highway and further provided:
  - a. That any gravel processing operation or rock crushing operation conform to the provisions contained in section 22-507; and
  - b. That any of the above uses must be located on lots of at least ten (10) acres and such uses shall be subject to such other conditions as the zoning board of adjustment may determine to be essential to provide screening from abutting properties or to prevent excessive noise, dust, vibration or traffic congestion.
- (3) Automobile and machinery junk yards provided that:
  - a. They are located at least two hundred (200) feet from any lot line.
  - b. The area is adequately screened from public view on the front and side yards by natural vegetation or fencing to a minimum height of six (6) feet.
  - c. The operation conforms to any other applicable regulations of the city and the state.
- (4) Hotels, motels, inns, cabins, or other transient lodgings, provided that:
  - a. They are located on a lot of at least four (4) acres plus an additional land area of three thousand (3,000) square feet for each unit.
  - b. They have a minimum of four hundred (400) feet of frontage and are located within one thousand (1,000) feet of a state highway.
  - c. They are set back a minimum of one hundred (100) feet from any lot line.
- (5) Slaughter houses provided they are located at least one thousand (1,000) feet from any existing dwelling.
- (6) Farms for the raising of four (4) or more pigs, provided that the pigs are fed with grain only and kept at least one thousand (1,000) feet from any dwelling.
- (7) Kennels for the raising of four (4) or more dogs, provided that the dogs are kept at least three hundred (300) feet from any existing dwelling.
- (8) Antique shops, provided there is no outside display of stock-in-trade.
- (9) Planned residential development in accordance with the provisions contained in article VI of this chapter.
- (10) Accessory uses and buildings.
- (11) Home occupations.
- (12) Extraction of sand and gravel.
- (13) Where the boundary line of a zoning district divides a lot in single or joint ownership the regulations for either district may extend to the entire lot, but in no case shall any permitted use be extended more than seventy-five (75) feet into the zoning district which prohibits uses allowed in the abutting district. The provisions of this subsection shall benefit only those lots shown on the Tax Maps of



the City of Claremont as existing on the date of passage of this amendment [June 11, 1997]. The boundary line of a zoning district may not be extended under any circumstances beyond the boundary of the lot appearing on said tax maps. The city planning department shall keep on record for public use all tax maps referred to in this subsection.

- (14) Duplexes, provided that no part of the building consists of manufactured housing as defined herein.
- (15) Golf courses.
- (16) [Accessory dwelling units.]
- a. Purpose: The purpose of this provision is to allow a property owner-resident of a single family residence to care for another family member in a residential setting if their property is of sufficient size and if it does not change the character of, or negatively impact, the neighborhood.
  - b. Conditions: The zoning board of adjustment may grant a special exception for one (1) accessory dwelling unit under the following conditions:
    1. The existing, or proposed, home is, and will remain, a single family structure;
    2. The existing, or proposed, home is currently conforming to zoning;
    3. The existing, or proposed, home is currently or planned to be owner occupied;
    4. The property owner states that their intent is that the occupant of the accessory dwelling unit will be a family member;
    5. The property shall be sufficient in size so that there is at least fifteen thousand (15,000) square feet of property per dwelling unit, or a total of thirty thousand (30,000) square feet;
    6. The property shall have only one curb cut and drive-way;
    7. The front setback shall not to be utilized for parking;
    8. The accessory dwelling unit shall be part of the primary structure;
    9. The accessory unit shares utilities in common, i.e. one (1) service, with the primary structure;
    10. The accessory dwelling unit shall be not more one quarter of the size of the primary structure, or more than five hundred (500) square feet in size, whichever is greater;
    11. Evidence of adequate septic capacity;
    12. Adequate vehicle parking and turn-around on site;
    13. That a site plan be approved by the planning board to insure that the accessory dwelling unit does not change the character of or negatively impact the neighborhood; and
    14. A deed addendum with approval conditions be executed and recorded.

*(Ord. No. 181, § 3-2.2, 4-12-78; Ord. No. 236, § 11, 12-14-83; Ord. No. 270, § 2, 12-10-86; Ord. No. 287-A, § 7, 6-18-88; Ord. No. 363, 10-12-94; Ord. No. 383, 1-8-97; Ord. No. 383-A, 6-11-97; Ord. No. 385, 12-10-97; Ord. No. 401, 11-10-97; Ord. No. 440, 11-19-02)*

Sec. 22-168. - Lot size and area.

Each lot in the rural residential district shall have a minimum width at the building line of at least one hundred fifty (150) feet and an area of at least one (1) acre, planned residential development may be permitted in accordance with the provisions contained in article VI of this chapter.

*(Ord. No. 181, § 3-2.3, 4-12-78; Ord. No. 287-A, § 8, 6-18-88)*

Sec. 22-169. - Yard.

The following regulations shall apply to yards in the rural residential district, except that planned residential development may be permitted in accordance with the provisions contained in article VI of this chapter, and except for manufactured housing parks and manufactured housing subdivisions for which yard requirements are set forth in section 22-173.

- (1) *Setback*. All buildings shall be set back a minimum of fifty (50) feet from any public or private right-of-way.
- (2) *Front yard*. Each lot shall have a front yard at least fifty (50) feet in depth.
- (3) *Side yards*. Each lot shall have two (2) side yards each having a width of at least ten (10) feet.
- (4) *Rear yard*. Each lot shall have a rear yard at least twenty-five (25) feet in depth.
- (5) *Building separation*. Each separate building on a lot shall be located at least ten (10) feet from any other building on the lot.

*(Ord. No. 181, § 3-2.4, 4-12-78; Ord. No. 287-A, § 9, 6-18-88; Ord. No. 341, 9-11-91)*

Sec. 22-170. - Lot coverage.

All buildings, including accessory buildings, in the rural residential district shall cover in the aggregate not more than thirty (30) percent of the lot area, except that planned residential development may be permitted in accordance with the provisions contained in article VI of this chapter.

*(Ord. No. 181, § 3-2.5, 4-12-78)*

Sec. 22-171. - Maximum residential density.

The maximum residential density in the rural residential district shall be one (1) dwelling unit per acre, except that planned residential development may be permitted in accordance with the provisions contained in article VI of this chapter.

*(Ord. No. 181, § 3-2.6, 4-12-78; Ord. No. 287-A, § 10, 6-18-88)*

Sec. 22-172. - Child care facilities.

In rural residential district, any child care facility, whether the same be a family daycare home, family group daycare home, group child care center, group home, or child care institution, may be permitted by special exception by the zoning board of adjustment, subject to the regulations contained in division 3 of article II of this chapter, provided:

- (1) That the same shall have received and shall maintain a license pursuant to RSA 170-E.
- (2) That such use shall conform to all lot size and area requirements contained in sections 22-168 through 22-171

(Ord. No. 249, § 1(2-26.3), 6-12-85; Amend. No. 4, § 1, 4-10-91; Ord. No. 376, 4-17-96)

Sec. 22-173. - Yard requirements for manufactured housing parks and manufactured housing subdivisions.

The following regulations shall apply to yards for lots within manufactured housing parks and manufactured housing subdivisions in the rural residential district:

- (1) *Setback.* All buildings shall be set back a minimum of twenty-five (25) feet from any public or private right-of-way regularly used for ingress and egress to and from the park or subdivision.
- (2) *Front yard.* Each lot within a manufactured housing park or manufactured housing subdivision shall have a front yard at least twenty-five (25) feet in depth.
- (3) *Side yards.* Each lot within a manufactured housing park or manufactured housing subdivision shall have two (2) side yards each having a width of ten (10) feet.
- (4) *Rear yard.* Each lot within a manufactured housing park or manufactured housing subdivision shall have a rear yard at least twenty-five (25) feet in depth.
- (5) *Building separation.* Each separate building on a lot within a manufactured housing park or manufactured housing subdivision shall be located at least ten (10) feet from any other building on the lot.

(Ord. No. 341, 9-11-91)

Secs. 22-174—22-185. - Reserved.

DIVISION 4. - RR-2 RURAL RESIDENTIAL DISTRICT II

Sec. 22-186. - Permitted uses.

The following uses are permitted in the rural residential district II. Any uses not expressly permitted are prohibited, except those uses which may be allowed as special exceptions as set forth hereafter.

- (1) Any use permitted in the agricultural-residential district other than manufactured housing and uses permitted as special exceptions.
- (2) Public or private nonprofit schools, public libraries, museums, churches and church buildings.
- (3) Philanthropic or charitable organizations or institutions, other than correctional institutions.
- (4) Hospitals, rest homes and convalescent homes, provided that at least five (5) off-street parking spaces are available.
- (5) Veterinary hospitals, provided that at least five (5) off-street parking spaces are available, and the building is located at least three hundred (300) feet from any existing dwelling.
- (6) Manufactured housing on individual lots for which a valid nonconforming use, including those granted by variance, existed on June 8, 1988.
- (7) Accessory uses and buildings.

(Ord. No. 231, § 3, 8-24-83; Ord. No. 291, § 1, A, 8-10-88; Ord. No. 294, § 1, 10-12-88; Ord. No. 341, 9-11-91)

Sec. 22-187. - Special exceptions.

The following uses may be permitted in the rural residential district II by the zoning board of adjustment subject to the regulations contained in division 3 of article II of this chapter, as well as any other applicable regulations of this chapter or regulations of the state, and the following conditions and safeguards.

- (1) Hotels, motels, inns, cabins, or other transient lodgings, provided that:
  - a. They are located on a lot of at least four (4) acres plus an additional land area of three thousand (3,000) square feet for each unit.
  - b. They have a minimum of four hundred (400) feet of frontage and are located within one thousand (1,000) feet of a state highway.
  - c. They are set back a minimum of one hundred (100) feet from any lot line.
- (2) Antique shops, provided there is no outside display of stock-in-trade.
- (3) Planned residential development in accordance with the provisions contained in article VI of this chapter.
- (4) Accessory uses and buildings.
- (5) Home occupations.
- (6) Where the boundary line of a zoning district divides a lot in single or joint ownership the regulations for either district may extend to the entire lot, but in no case shall any permitted use be extended more than seventy-five (75) feet into the zoning district which prohibits uses allowed in the abutting district. The provisions of this section shall benefit only those lots shown on the Tax Maps of the City of Claremont as existing on the date of passage of this amendment [June 11, 1997]. The boundary line of a zoning district may not be extended under any circumstances beyond the boundary of the lot appearing on said tax maps. The city planning department shall keep on record for public use all tax maps referred to in this subsection.
- (7) Duplexes, provided that no part of the building consists of manufactured housing as defined herein.
- (8) Golf courses.

## (9) [Accessory dwelling units.]

- a. Purpose: The purpose of this provision is to allow a property owner-resident of a single family residence to care for another family member in a residential setting if their property is of sufficient size and if it does not change the character of, or negatively impact, the neighborhood.
- b. Conditions: The zoning board of adjustment may grant a special exception for one (1) accessory dwelling unit under the following conditions:
  1. The existing, or proposed, home is, and will remain, a single family structure;
  2. The existing, or proposed, home is currently conforming to zoning;
  3. The existing, or proposed, home is currently or planned to be owner occupied;
  4. The property owner states that their intent is that the occupant of the accessory dwelling unit will be a family member;
  5. The property shall be sufficient in size so that there is at least fifteen thousand (15,000) square feet of property per dwelling unit, or a total of thirty thousand (30,000) square feet;
  6. The property shall have only one curb cut and drive-way;
  7. The front setback shall not to be utilized for parking;
  8. The accessory dwelling unit shall be part of the primary structure;
  9. The accessory unit shares utilities in common, i.e. one (1) service, with the primary structure;
  10. The accessory dwelling unit shall be not more one quarter of the size of the primary structure, or more than five hundred (500) square feet in size, whichever is greater;
  11. Evidence of adequate septic capacity;
  12. Adequate vehicle parking and turn-around on site;
  13. That a site plan be approved by the planning board to insure that the accessory dwelling unit does not change the character of or negatively impact the neighborhood; and
  14. A deed addendum with approval conditions be executed and recorded.

(Ord. No. 231, § 3, 8-24-83; Ord. No. 287-A, § 2, 6-18-88; Ord. No. 383, 1-8-97; Ord. No. 383-A, 6-11-97; Ord. No. 385, 12-10-97; Ord. No. 401, 11-10-99; Ord. No. 440, 11-19-02)

## Sec. 22-188. - Lot size and area.

Each lot in the rural residential district II shall have a minimum width at the building line of at least one hundred fifty (150) feet and an area of at least one (1) acre, planned residential development may be permitted in accordance with the provisions contained in article VI of this chapter.

(Ord. No. 231, § 3, 8-24-83; Ord. No. 287-A, § 3, 6-18-88)

## Sec. 22-189. - Yard.

The following regulations shall apply to yards in the rural residential district II, except that planned residential development may be permitted in accordance with the provisions contained in article VI of this chapter.

- (1) *Setback.* All buildings shall be set back a minimum of fifty (50) feet from any public or private right-of-way.
- (2) *Front yard.* Each lot shall have a front yard at least fifty (50) feet in depth.
- (3) *Side yards.* Each lot shall have two (2) side yards each having a width of at least ten (10) feet.
- (4) *Rear yard.* Each lot shall have a rear yard at least twenty-five (25) feet in depth.
- (5) *Building separation.* Each separate building on a lot shall be located at least ten (10) feet from any other building on the lot.

(Ord. No. 231, § 3, 8-24-83; Ord. No. 287-A, § 4, 6-18-88)

## Sec. 22-190. - Lot coverage.

All buildings, including accessory buildings, in the rural residential district II shall cover in the aggregate not more than thirty (30) percent of the lot area, except that planned residential development may be permitted in accordance with the provisions contained in article VI of this chapter.

(Ord. No. 231, § 3, 8-24-83)

## Sec. 22-191. - Maximum residential density.

The maximum residential density in the rural residential district II shall be one (1) dwelling unit per acre, except that planned residential development may be permitted in accordance with the provisions contained in article VI of this chapter.

(Ord. No. 231, § 3, 8-24-83; Ord. No. 287-A, § 5, 6-18-88)

## Sec. 22-192. - Child care facilities.

In rural residential district II, any child care facility, whether the same be a family daycare home, family group daycare home, group child care center, group home, or child care institution, may be permitted by special exception by the zoning board of adjustment, subject to the regulations contained in division 3 of article II of this chapter, provided:

- (1) That the same shall have received and shall maintain a license pursuant to RSA 170-E.
- (2) That such use shall conform to all lot size and area requirements contained in sections 22-188 through 22-191

(Ord. No. 249, § 1(2-26.4), 6-12-85; Amend. No. 4, § 1, 4-10-91; Ord. No. 376, 4-17-96)

Secs. 22-193—22-205. - Reserved.

DIVISION 5. - R-1 RESIDENTIAL DISTRICT I

Sec. 22-206. - Permitted uses.

The following uses are permitted in the residential district I. Any uses not expressly permitted are prohibited, except those uses which may be allowed as special exceptions as set forth hereafter.

- (1) Single-family dwellings.
- (2) Conversion of existing single-family homes to duplexes or multiple-family dwellings provided that:
  - a. It involves the conversion of an existing single-family dwelling, and municipal water and sewer are provided.
  - b. The overall density on each lot does not exceed ten thousand (10,000) square feet per dwelling unit.
  - c. The total number of dwelling units does not exceed eight (8) maximum.
  - d. That off-street parking is provided in accordance with section 22-526 et seq., and that such parking does not violate the yard requirements contained in section 22-209
- (3) Parks and playgrounds.
- (4) Public or private nonprofit schools and public libraries.
- (5) Reserved.
- (6) Professional offices in residence, provided that it is located on a lot of at least twenty thousand (20,000) square feet and at least five (5) off-street parking spaces are provided.
- (7) Manufactured housing on individual lots for which a valid nonconforming use, including those granted by variances, existed on June 8, 1988.
- (8) Accessory uses and buildings.

*(Ord. No. 181, § 3-3.1, 4-12-78; Ord. No. 291, § 1, D, 8-10-88; Ord. No. 329, § 4, 10-10-90; Ord. No. 531, § 1, 4-10-2013)*

Sec. 22-207. - Special exceptions.

The following uses may be permitted in the residential district I by the zoning board of adjustment, subject to the regulations contained in division 3 of article II of this chapter, as well as any other applicable regulations of this chapter or regulations of the state and the following conditions and safeguards.

- (1) Home occupations.
- (2) Convalescent or rest homes, provided they are located on a lot of at least twenty thousand (20,000) square feet plus an additional land area of two thousand (2,000) square feet for each patient bed.
- (3) Museums, philanthropic and charitable organizations and churches and church buildings, hospitals, except for drug addiction or the mentally ill, and institutions other than correctional provided that they are located on a lot of at least one (1) acre, and any parking associated with such uses is located in the rear or side.
- (4) Planned residential development in accordance with the provisions contained in article VI of this chapter.
- (5) Accessory uses and buildings.
- (6) Where the boundary line of a zoning district divides a lot in single or joint ownership the regulations for either district may extend to the entire lot, but in no case shall any permitted use be extended more than seventy-five (75) feet into the zoning district which prohibits uses allowed in the abutting district. The provisions of this section shall benefit only those lots shown on the Tax Maps of the City of Claremont as existing on the date of passage of this amendment [June 11, 1997]. The boundary line of a zoning district may not be extended under any circumstances beyond the boundary of the lot appearing on said tax maps. The city planning department shall keep on record for public use all tax maps referred to in this subsection.
- (7) Golf courses.
- (8) [Accessory dwelling units.]
  - a. Purpose: The purpose of this provision is to allow a property owner-resident of a single family residence to care for another family member in a residential setting if their property is of sufficient size and if it does not change the character of, or negatively impact, the neighborhood.
  - b. Conditions: The zoning board of adjustment may grant a special exception for one (1) accessory dwelling unit under the following conditions:
    1. The existing, or proposed, home is, and will remain, a single family structure;
    2. The existing, or proposed, home is currently conforming to zoning;
    3. The existing, or proposed, home is currently or planned to be owner occupied;
    4. The property owner states that their intent is that the occupant of the accessory dwelling unit will be a family member;
    5. The property shall be sufficient in size so that there is at least fifteen thousand (15,000) square feet of property per dwelling unit, or a total of thirty thousand (30,000) square feet;
    6. The property shall have only one curb cut and drive-way;
    7. The front setback shall not to be utilized for parking;
    8. The accessory dwelling unit shall be part of the primary structure;
    9. The accessory unit shares utilities in common, i.e. one (1) service, with the primary structure;
    - 10.

The accessory dwelling unit shall be not more one quarter of the size of the primary structure, or more than five hundred (500) square feet in size, whichever is greater;

11. Evidence of adequate septic capacity;
12. Adequate vehicle parking and turn-around on site;
13. That a site plan be approved by the planning board to insure that the accessory dwelling unit does not change the character of or negatively impact the neighborhood; and
14. A deed addendum with approval conditions be executed and recorded.

*(Ord. No. 181, § 3-3.2, 4-12-78; Ord. No. 383, 1-8-97; Ord. No. 383-A, 6-11-97; Ord. No. 401, 11-10-99; Ord. No. 440, 11-19-02)*

Sec. 22-208. - Lot size and area.

Each lot in the residential district I shall have a minimum width at the building line of at least one hundred (100) feet and an area of at least ten thousand (10,000) square feet; and, planned residential development may be permitted in accordance with the provisions contained in article VI of this chapter.

*(Ord. No. 181, § 3-3.3, 4-12-78)*

Sec. 22-209. - Yards.

The following regulations shall apply to yards in the residential district I, except that planned residential development may be permitted in accordance with the provisions contained in article VI of this chapter.

- (1) *Setback.* All buildings shall be set back a minimum of twenty-five (25) feet from any public or private right-of-way.
- (2) *Front yard.* Each lot shall have a front yard at least twenty-five (25) feet in depth.
- (3) *Side yards.* Each lot shall have two (2) side yards each having a width of at least ten (10) feet.
- (4) *Rear yard.* Each lot shall have a rear yard at least twenty-five (25) feet in depth.
- (5) *Building separation.* Each separate building on a lot shall be located at least ten (10) feet from any other building on the lot.

*(Ord. No. 181, § 3-3.4, 4-12-78)*

Sec. 22-210. - Lot coverage.

All buildings, including accessory buildings, in the residential district I shall cover in the aggregate not more than thirty (30) percent of the lot area, except that planned residential development may be permitted in accordance with the provisions contained in article VI of this chapter.

*(Ord. No. 181, § 3-3.5, 4-12-78)*

Sec. 22-211. - Maximum residential density.

The maximum residential density in the residential district I shall be one (1) dwelling unit per ten thousand (10,000) square feet of the total lot area, except that planned residential development may be permitted in accordance with the provisions contained in article VI of this chapter.

*(Ord. No. 181, § 3-3.6, 4-12-78)*

Sec. 22-212. - Child care facilities.

The following regulations shall apply to child care facilities in residential district I:

- (1) *Permitted uses.*
  - a. Licensed family daycare home.
  - b. Licensed foster family home.
- (2) *Special exceptions.* The following uses may be permitted by the zoning board of adjustment, subject to the regulations contained in division 3 of article II of this chapter, as well as any other applicable regulations of this chapter or regulations of the state, and the following conditions and safeguards:
  - a. Family Group Daycare Home
- (3) Such use shall comply with the lot size and area requirements contained in sections 22-208 through 22-211.

*(Ord. No. 249, § 1(2-26.5), 6-12-85)*

Secs. 22-213—22-225. - Reserved.

DIVISION 6. - R-2 RESIDENTIAL DISTRICT II

Sec. 22-226. - Permitted uses.

The following uses are permitted in the residential district II. Any uses not expressly permitted are prohibited, except those uses which may be allowed as special exceptions as set forth hereafter.

- (1) Any use permitted in the R-1 district.
- (2) Multifamily dwellings, provided that the overall density on each lot does not exceed one (1) dwelling unit per ten thousand (10,000) square feet and that parking is provided in accordance with the table in section 22-533.
- (3) Tourist homes or roominghouses.
- (4)

Manufactured housing on individual lots for which a valid nonconforming use, including those granted by variances, existed on June 8, 1988.

(5) Accessory uses and buildings.

(Ord. No. 181, § 3-4.1, 4-12-78; Ord. No. 291, § 1, E, 8-10-88; Ord. No. 363, 10-12-94)

Sec. 22-227. - Special exceptions.

The following uses may be permitted in the residential district II by the zoning board of adjustment subject to the regulations contained in division 3 of article II of this chapter, as well as any other applicable regulations of this chapter or regulations of the state, and the following conditions and safeguards.

- (1) Any special exception permitted in an R-1 district subject to the same conditions and safeguards.
- (2) Funeral homes provided they are located on a lot with an area of at least twenty thousand (20,000) square feet and provide at least fifteen (15) off-street parking spaces.
- (3) Accessory uses and buildings.
- (4) Golf courses.

(Ord. No. 181, § 3-4.2, 4-12-78; Ord. No. 401, 11-10-99)

Sec. 22-228. - Lot size and area.

Each lot in the residential district II shall have a minimum width at the building line of sixty (60) feet and an area of at least five thousand (5,000) square feet.

(Ord. No. 181, § 3-4.3, 4-12-78)

Sec. 22-229. - Yards.

The following regulations shall apply to yards in the residential district II:

- (1) *Setback.* All buildings shall set back a minimum of twenty-five (25) feet from any public right-of-way.
- (2) *Front yard.* Each lot shall have a front yard at least twenty-five (25) feet in depth.
- (3) *Side yards.* Each lot shall have two (2) side yards each having a width of at least ten (10) feet.
- (4) *Rear yard.* Each lot shall have a rear yard at least twenty-five (25) feet in depth.
- (5) *Building separation.* Each separate building on a lot shall be located at least ten (10) feet from any other building on the lot.

(Ord. No. 181, § 3-4.4, 4-12-78)

Sec. 22-230. - Lot coverage.

All buildings, including accessory buildings, in the residential district II shall cover in the aggregate not more than thirty (30) percent of the lot area.

(Ord. No. 181, § 3-4.5, 4-12-78)

Sec. 22-231. - Maximum residential density.

The maximum residential density in the residential district II shall be one (1) dwelling unit per ten thousand (10,000) square feet of the total lot area.

(Ord. No. 181, § 3-4.6, 4-12-78; Ord. No. 363, 10-12-94)

Sec. 22-232. - Child care facilities.

The following shall apply to child care facilities in residential districts II:

- (1) *Permitted uses:*
  - a. Family daycare home;
  - b. Family group daycare home; and
  - c. Foster family home.
- (2) *Special exceptions.* The following uses may be permitted by the zoning board of adjustment, subject to the regulations contained in division 3 of article II of this chapter, as well as any other applicable regulations of this chapter or regulations of the state, and the following conditions and safeguards:
  - a. Foster family group home.
  - b. Reserved.
- (3) Such use shall comply with the lot size and area requirements contained in sections 22-228 through 22-231.

(Ord. No. 249, § 1, 6-12-85)

Secs. 22-233—22-295. - Reserved.

DIVISION 7. - B-2 BUSINESS DISTRICT

FOOTNOTE(S):

--- (5) ---

**Editor's note**— Ord. No. 531, § 1, adopted Apr. 10, 2013, repealed Div. 7, §§ 22-246—22-252, which pertained to PR professional residential district and derived from Ord. No. 181, §§ 3-5.1—3-5.6, adopted Apr. 12, 1978; Ord. No. 249, § I(2-26.7), adopted June 12, 1985; Ord. No. 291, § 1, F, adopted Aug. 10, 1988; Amend. No. 4, § 1, adopted Apr. 10, 1991; Ord. No. 363, adopted Oct. 12, 1994; and Ord. No. 376, adopted Apr. 17, 1996. Said ordinance further amended the Code by renumbering Div. 9, pertaining to B-2 business district, as Div. 7.

Sec. 22-296. - Permitted uses.

The following uses are permitted in the business district II. Any uses not expressly permitted are prohibited, except those which may be allowed as special exceptions as set forth hereafter.

- (1) Any use permitted in the residential district II, other than uses permitted as special exceptions, and provided that dwellings are subject to the lot size and area, yard, density and lot coverage requirements contained in sections 22-228 through 22-231
- (2) Antique and secondhand shops.
- (3) Warehousing and distributing, truck terminals and repair shops.
- (4) Newspaper and printing establishments.
- (5) Radio and television transmitting stations and studios.
- (6) Automotive service stations, sales and repair.
- (7) Establishments from which sales are primarily from delivery trucks, excepting fuel sales.
- (8) Carpenter, cabinet, upholstery, sheet metal, plumbing, heating and sign painting shops.
- (9) Drive-in business where customers are served in their cars.
- (10) Building materials sales and storage and contractor's storage yards.
- (11) Feed and farm equipment sales.
- (12) Bottling plants for soft drinks.
- (13) Manufactured housing on individual lots for which a valid nonconforming use, including those granted by variances, existed on June 8, 1988.
- (14) Accessory uses and buildings.
- (15) Stores for the sale of goods at retail.
- (16) Business, professional, financial and governmental offices.
- (17) Service establishments, including appliance repairs, restaurants, dry cleaning establishments and the like.
- (18) Indoor theaters for dramatic or musical productions or motion pictures.
- (19) Hotels and motels.
- (20) Taverns, private clubs and indoor recreation facilities.
- (21) Public or private nonprofit clubs, lodges and halls.
- (22) Trade schools, professional schools or industrial schools.

*(Ord. No. 181, § 3-7.1, 4-12-78; Ord. No. 291, § 1, H, 8-10-88; Ord. No. 449, § 4, 7-14-04; Ord. No. 531, § 1, 4-10-2013)*

Sec. 22-297. - Special exceptions.

The following uses may be permitted in the business district II by the zoning board of adjustment subject to the provisions contained in division 3 of article II of this chapter as well as any other applicable regulations of this chapter and regulations of the state, and the following conditions and safeguards.

- (1) Fuel storage and sales provided that:
  - a. The location is deemed acceptable by the fire chief and the city engineer and meets accepted standards of fire protection.
  - b. The fuel storage tanks are fenced or located belowground.
  - c. The fuel storage tanks are located at least fifty (50) feet from any lot line.
- (2) Radio and television studios, excepting transmitting facilities.
- (3) Indoor places of amusement, namely public auditoriums, gymnasiums, dance halls, ice or roller skating rinks, bowling lanes, pool and billiard facilities and similar indoor amusement operations.
- (4) Where the boundary line of a zoning district divides a lot in single or joint ownership, the regulations for either district may extend to the entire lot, but in no case shall any permitted use be extended more than seventy-five (75) feet into the zoning district which prohibits uses allowed in the abutting district. The provisions of this section shall benefit only those lots shown on the tax maps of the City of Claremont as existing on March 4, 2013. The boundary line of a zoning district may not be extended under any circumstances beyond the boundary of the lot appearing on said tax maps. The city planning department shall keep on record for public use all tax maps referred to in this subsection.

*(Ord. No. 181, § 3-7.2, 4-12-78; Ord. No. 236, § 12, 12-14-83; Ord. No. 531, § 1, 4-10-2013)*

Sec. 22-298. - Lot size and area.

Each lot in the business district II shall have a minimum width at the building line of at least one hundred (100) feet and an area of at least twenty thousand (20,000) square feet.

*(Ord. No. 181, § 3-7.3, 4-12-78)*

Sec. 22-299. - Yards.

The following regulations shall apply to yards in the business district II:

- (1) *Setback.* All buildings shall be set back a minimum of fifty (50) feet from any public right-of-way.
- (2) *Front yard.* Each lot shall have a front yard of at least fifty (50) feet in depth.
- (3) *Side yards.* Each lot shall have two (2) side yards each having a width of at least fifteen (15) feet, except where the main building on a lot has a fireproof wall in common with main building of an abutting lot and which is deemed acceptable to the fire chief, no side yard shall be required.
- (4) *Rear yard.* Each lot shall have a rear yard at least twenty-five (25) feet in depth to which there will be provided free access for firefighting equipment.
- (5) *Building separation.* Each separate building shall be located at least twenty-five (25) feet from any other building on the lot.

(Ord. No. 181, § 3-7.4, 4-12-78)

Sec. 22-300. - Lot coverage.

All buildings, including accessory buildings, in the business district II shall cover in the aggregate not more than sixty (60) percent of the lot area.

(Ord. No. 181, § 3-7.5, 4-12-78)

Sec. 22-301. - Maximum residential density.

The maximum residential density in the business district II shall be as set forth in section 22-231.

(Ord. No. 181, § 3-7.6, 4-12-78)

Sec. 22-302. - Child care facilities.

In the business district II, any child care facility may be permitted by special exception by the zoning board of adjustment, subject to the regulations contained in division 3 of article II of this chapter, provided:

- (1) That the same shall have received and shall maintain a license pursuant to RSA 170-E; and
- (2) That such use shall conform to all lot size and area requirements contained in sections 22-298 through 22-301

(Ord. No. 249, § 1(2-26.9), 6-12-85; Amend. No. 4, § 1, 4-10-91; Ord. No. 376, 4-17-96; Ord. No. 531, § 1, 4-10-2013)

Secs. 22-303—22-315. - Reserved.

DIVISION 7A. - RESERVED

FOOTNOTE(S):

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**Editor's note**— Ord. No. 531, § 1, adopted Apr. 10, 2013, repealed Div. 7A, §§ 22-256—22-263, which pertained to B-1.5 business district I.5 and derived from Ord. No. 359, adopted July 13, 1994; and Ord. No. 376, adopted Apr. 17, 1996.

DIVISION 8. - I-1 INDUSTRY DISTRICT I

FOOTNOTE(S):

--- (7) ---

**Editor's note**— Ord. No. 531, § 1, adopted Apr. 10, 2013, repealed Div. 8, §§ 22-266—22-272, which pertained to B-1 business district I and derived from Ord. No. 181, §§ 3-6.1—3-6.5, adopted Apr. 12, 1978; Ord. No. 249, § 1(2-26.8), adopted June 12, 1985; Ord. No. 291, § 1, G, adopted Aug. 10, 1988; Amend. No. 4, § 1, adopted Apr. 10, 1991; Ord. No. 376, adopted Apr. 17, 1996; Ord. No. 383, adopted Jan. 8, 1997; Ord. No. 383-A, adopted June 11, 1997; Ord. No. 449, §§ 1, 2, adopted July 14, 2004. Said ordinance further amended the Code by renumbering Div. 10, pertaining to I-1 industry district I, as Div. 8.

Sec. 22-316. - Permitted uses.

The following uses are permitted in the industry district I. Any uses not expressly permitted are prohibited.

- (1) The manufacture, compounding, packaging, or treatment, warehousing of articles of merchandise from the following previously prepared materials: bone, cellophane, canvas, cloth, cork, feathers, felt, fibre, fur, glass, hair, precious or semiprecious stones, shell, rubber, tobacco, wood, (excluding sawmills) tars and paint not involving a boiling process and retail sales of goods or commodities manufactured on the premises.
- (2) The manufacture of pottery and figurines or other similar ceramic products, using only previously pulverized clay, and kilns fired only by electricity or gas.
- (3) Foundry casting of light weight, nonferrous metal not causing noxious fumes or odor.
- (4) Planing mill.
- (5) Machine shop or other metal working shop, excluding drop hammers and other noise-producing machines.
- (6) Business and industrial research laboratories.
- (7) Aircraft and helicopter landing fields.
- (8) Accessory uses and buildings.
- (9) Sawmills.



- (10) Manufactured housing on individual lots for which a valid nonconforming use, including those granted by variances, existed on June 8, 1988.
- (11) Freight/truck terminals.
- (12) Reserved.
- (13) Veterinary hospitals, provided that at least five (5) off-street parking spaces are available, and the building is located at least three hundred (300) feet from any existing building.
- (14) Forestry and tree farming.
- (15) General farming and agriculture, including horticulture, dairy farming and the raising or keeping of livestock or domestic farm animals.
- (16) Truck gardens, nurseries and greenhouses; roadside stands for the sale of area products raised on the premises.
- (17) Existing single-family homes.
- (18) Business and professional offices.
- (19) Newspaper and printing establishments.
- (20) Food processing and packaging.
- (21) Warehousing.
- (22) Contractor's storage yards.
- (23) Sales, rental and repair of farm and construction equipment.

*(Ord. No. 181, § 3-8.1, 4-12-78; Ord. No. 236, § 12, 12-14-83; Ord. No. 270, § 2, 12-10-86; Ord. No. 291, § 1, 8-10-88; Ord. No. 309, § 1, 10-10-90; Ord. No. 326, § 1, 5-9-90; Ord. No. 363, 10-12-94; Ord. No. 419, 1-10-01)*

Sec. 22-317. - Prohibited uses.

All uses of land, buildings, structures, or industrial processes that may be noxious by reason of the production or emission of dust, smoke, refuse matter, odor, gas, fumes, noise, or similar substances or conditions are prohibited in the industry district I. This includes all uses and processes which require use of open stack structures as part of the manufacturing process other than for exhaust of heating and cooling facilities and air circulation and all uses and processes that are not able to be fully contained within a building or structure. This prohibition does not apply to external storage of raw materials or finished product, not contained within a structure, as may be permitted by the planning board as part of the site plan review process.

*(Ord. No. 181, § 3-8.2, 4-12-78; Ord. No. 477, § 2, 8-9-06)*

Sec. 22-318. - Special exceptions.

The following uses may be permitted in the industry district I by the zoning board of adjustment subject to the provisions of division 3 of article II of this chapter, as well as any other applicable regulations of this chapter and regulations of the state, and the following conditions and safeguards:

- (1) Fuel storage and sales; provided, that:
  - a. The location is deemed acceptable by the fire chief and the city engineer and meets accepted standards of fire protection;
  - b. The fuel storage tanks are fenced or located below-ground;
  - c. The fuel storage tanks are located at least fifty (50) feet from any lot line.
- (2) Dwellings for living quarters used by night watchmen or custodians of industrially used property; provided, that such use is subordinate to the industrial use and is located on the same lot as the industrial use it serves.
- (3) *Reserved.*
- (4) Recycling facilities subject to receipt and maintenance of permit or license to operate under RSA 149-M from the New Hampshire Department of Environmental Services, Solid Waste Management Division.
- (5) Extraction of sand and gravel.
- (6) Development of any parcel not entirely within the industry district I, as shown on the City's Tax Maps as of the date of the adoption [Aug. 9, 2006] of this provision. Where the boundary line of a zoning district divides a lot in single or joint ownership the regulations for either district may extend to the entire lot, but in no case shall any permitted use be extended more than seventy-five (75) feet into the zoning district which prohibits uses allowed in the abutting district. The provisions of this section shall benefit only those lots shown on the Tax Maps of the City of Claremont as existing on the date of passage of this amendment [June 11, 1997]. The boundary line of a zoning district may not be extended under any circumstances beyond the boundary of the lot appearing on said tax maps. The city planning department shall keep on record for public use all tax maps referred to in this subsection.
- (7) Buildings or accessory structures in excess of thirty-five (35) feet in height.
- (8) Retail sales related to a permitted use.

*(Ord. No. 181, § 3-8.3, 4-12-78; Ord. No. 309, § 1, 10-10-90; Ord. No. 363, 10-12-94; Ord. No. 383, 1-8-97; Ord. No. 383-A, 6-11-97; Ord. No. 477, § 2, 8-9-06)*

Sec. 22-319. - Lot size and area.

Each lot in the industry district I shall have a minimum width at the building line of two hundred (200) feet and an area of at least forty thousand (40,000) square feet.

*(Ord. No. 181, § 3-8.4, 4-12-78)*

Sec. 22-320. - Yards.

The following regulations shall apply to yards in the industry district I:

- (1) *Setback.* All buildings shall be set back a minimum of fifty (50) feet from any public right-of-way.
- (2) *Front yard.* Each lot shall have a front yard at least fifty (50) feet in depth.
- (3) *Side yards.* Each lot shall have two (2) side yards each having a width of at least thirty (30) feet.
- (4) *Rear yard.* Each lot shall have a rear yard of at least forty (40) feet in depth.
- (5) *Building separation.* Each separate building on a lot shall be located at least twenty-five (25) feet from any other building on the lot.

(Ord. No. 181, § 3-8.5, 4-12-78)

Sec. 22-321. - Lot coverage.

All buildings, including accessory buildings and impermeable surfaces, in the industry district I shall cover in the aggregate not more than sixty (60) percent of the lot area. Outside storage of machinery and inventory shall cover not more than ten (10) percent of the lot, except where such storage is screened from abutting property and from public highways by grading or by appropriately landscaping, such storage may cover twenty (20) percent of the lot area.

(Ord. No. 181, § 3-8.6, 4-12-78; Ord. No. 477, § 2, 8-9-06)

Sec. 22-322. - Child care facilities.

In industry district I, any child care facility, whether the same be a family daycare home, family group daycare home, group child care center, group home, or child care institution, may be permitted by special exception by the zoning board of adjustment, subject to the regulations contained in division 3 of article II of this chapter, provided:

- (1) That the same shall have received and shall maintain a license pursuant to RSA 170-E.
- (2) That such use shall conform to all lot size and area requirements contained in sections 22-318 through 22-321

(Ord. No. 249, § 1, 6-12-85; Amend. No. 4, § 1, 4-10-91; Ord. No. 376, 4-17-96)

Secs. 22-323—22-335. - Reserved.

DIVISION 9. - I-2 INDUSTRY DISTRICT II

FOOTNOTE(S):

--- (8) ---

**Editor's note**— Ord. No. 531, § 1, adopted Apr. 10, 2013, amended the Code by renumbering Div. 11, pertaining to I-2 industry district II, as Div. 9.

Sec. 22-336. - Permitted uses.

The following uses are permitted in the industry district II. Any uses not expressly permitted are prohibited.

- (1) The uses permitted in Section 22-316 (1), (2), (3), (4), (5), (6), (9), (11), (19), (20), (21), (22), and (23).
- (2) Accessory uses and buildings.
- (3) Heavy industry unless otherwise prohibited by law or ordinance.
- (4) Mobile homes on individual lots for which a valid nonconforming use, including those granted by variances, existed on June 8, 1988.
- (5) Accessory uses and buildings.

(Ord. No. 181, § 3-9.1, 4-12-78; Ord. No. 270, § 2, 12-10-86; Ord. No. 291, § 1, J, 8-10-88; Ord. No. 309, § 1, 10-10-90; Ord. No. 363, 10-12-94; Ord. No. 477, § 3, 8-9-06)

Sec. 22-337. - Special exceptions.

The following uses may be permitted in the industry district II by the zoning board of adjustment subject to the provisions of Division 3 of Article II of this chapter, as well as any other applicable state and local regulations.

- (1) Fuel storage and sales provided that:
  - a. The location is deemed acceptable by the fire chief and applicable engineering and fire standards;
  - b. Fuel storage tanks are fenced, screened and located at or below ground;
  - c. Fuel storage tanks are located at least fifty (50) feet from any lot line.
- (2) Extraction of sand and gravel owned or controlled by the property owner, to be used either on or off-site.
- (3) Development of any parcel not entirely within the industry district II, as shown on the city's tax maps as of the date of the adoption of this provision. Where the boundary line of any zoning district divides a lot in single or joint ownership, the regulations for either district may extend to the entire lot, but in no case shall any permitted use be extended more than seventy-five (75) feet into the zoning district which prohibits uses allowed in the abutting district. The provisions of this section shall benefit only those lots shown on the tax maps of the City of Claremont as existing on the date of passage of this amendment (insert date). The boundary line of a zoning district may not be extended under any circumstances beyond the boundary of the lot appearing on said tax maps. The city planning department shall keep on record for public use all tax maps referred to in this amendment.
- (4) Buildings or accessory structures in excess of thirty-five (35) feet in height.

(Ord. No. 181, § 3-9.2, 4-12-78; Ord. No. 309, § 1, 10-10-90; Ord. No. 363, 10-12-94; Ord. No. 383, 1-8-97; Ord. No. 383-A, 6-11-97; Ord. No. 477, § 3, 8-9-06)

Sec. 22-338. - Lot size and area.

Each lot in the industry district II shall have a minimum width at the building line of two hundred (200) feet and an area of at least eighty thousand (80,000) square feet.

*(Ord. No. 181, § 3-9.3, 4-12-78)*

Sec. 22-339. - Yards.

The following regulations shall apply to yards in the industry district II:

- (1) *Setback.* All buildings shall be set back a minimum of fifty (50) feet from any public right-of-way.
- (2) *Front yard.* Each lot shall have a front yard at least fifty (50) feet in depth.
- (3) *Side yards.* Each lot shall have two (2) side yards each having a width of at least twenty-five (25) feet.
- (4) *Rear yard.* Each lot shall have a rear yard at least twenty-five (25) feet in depth to which free access shall be provided for firefighting equipment.
- (5) *Building separation.* Each separate building on a lot shall be located at least twenty-five (25) feet from any other building on the lot.

*(Ord. No. 181, § 3-9.4, 4-12-78)*

Sec. 22-340. - Lot coverage.

All buildings, including accessory buildings and impermeable surfaces, in the industry district II shall cover in the aggregate not more than sixty (60) percent of the lot area.

*(Ord. No. 181, § 3-9.5, 4-12-78; Ord. No. 477, § 3, 8-9-06)*

Sec. 22-341. - Child care facilities.

In industry district II, any child care facility, whether the same be a family daycare home, family group daycare home, group child care center, group home, or child care institution, may be permitted by special exception by the zoning board of adjustment, subject to the regulations contained in division 3 of article II of this chapter, provided:

- (1) That the same shall have received and shall maintain a license pursuant to RSA 170-E.
- (2) That such use shall conform to all lot size and area requirements contained in this division.

*(Ord. No. 249, § 1, 6-12-85; Ord. No. 376, 4-17-96; Amend. No. 4, § 1, 4-10-91)*

Secs. 22-342—22-353. - Reserved.

DIVISION 10. - I-3 INDUSTRY DISTRICT III

FOOTNOTE(S):

--- (9) ---

**Editor's note**— Ord. No. 531, § 1, adopted Apr. 10, 2013, amended the Code by renumbering Div. 11A, pertaining to I-3 industry district III, as Div. 10.

Sec. 22-354. - Purpose.

The purpose of the industry district III is to provide a transition zone between the uses permitted under this chapter in industry districts I and II and residential uses. In industry district III campus-style development is to be encouraged; so-called smoke-stack industry is expressly prohibited.

*(Ord. No. 477, § 4, 8-9-06)*

Sec. 22-354.1. - Permitted uses.

The following uses are permitted in the industry district III. Any uses not expressly permitted are prohibited, except those which are allowed as a special exception as set forth herein. Outdoor storage of material, equipment, machinery, product or waste material is prohibited. All permitted uses must be capable of all aspects of production, including storage of raw materials and finished products, being performed internally to structures approved by the planning board as part of the site plan review process. This provision does not apply to loading and unloading and transport functions directly related to the permitted use.

- (1) Business, financial services, health care and other professional offices.
- (2) Business and industrial research facilities.
- (3) Light manufacturing and high technology industries (including, for example, but not limited to nanotechnology and biotechnology), assembly or packaging, including processing of articles of merchandise produced off-site.
- (4) Communications facilities.
- (5) Call and data centers.
- (6) Commercial storage and warehousing facilities for merchandise produced off-site.
- (7) Group child care centers duly licensed by the state of New Hampshire.
- (8) Restaurants, lodging and indoor recreational facilities.
- (9) Printing establishments.

*(Ord. No. 477, § 4, 8-9-06)*

Sec. 22-354.2. - Special exceptions.

The following uses may be permitted in the industry district III by the zoning board of adjustment subject to the provisions of Division 3 of Article III of this chapter, as well as any other applicable state and local regulations.

- (1) Accessory uses and buildings.
- (2) Retail sales related to a permitted use.
- (3) Development of any parcel not entirely within the industry district III, as shown on the city's tax maps as of the date of the adoption of this provision. Where the boundary line of any zoning district divides a lot in single or joint ownership, the regulations for either district may extend to the entire lot, but in no case shall any permitted use be extended more than seventy-five (75) feet into the zoning district which prohibits uses allowed in the abutting district. The provisions of this section shall benefit only those lots shown on the tax maps of the City of Claremont as existing on the date of passage of this amendment (insert date). The boundary line of a zoning district may not be extended under any circumstances beyond the boundary of the lot appearing on said tax maps. The city planning department shall keep on record for public use all tax maps referred to in this amendment.
- (4) Buildings or accessory structures in excess of thirty-five (35) feet in height.

(Ord. No. 477, § 4, 8-9-06)

Sec. 22-354.3. - Lot size and area.

Each lot shall have a minimum width at the building line of two hundred (200) feet and an area of at least eighty thousand (80,000) square feet.

(Ord. No. 477, § 4, 8-9-06)

Sec. 22-354.4. - Yards.

- (a) *Set back*: All buildings shall be set back a minimum of fifty (50) feet from any public right-of-way.
- (b) *Front yard*: Each lot shall have a front yard at least fifty (50) feet in depth.
- (c) *Side yard*: Each lot shall have two (2) side yards each having a width of at least twenty-five (25) feet.
- (d) *Rear yard*: Each lot shall have a rear yard of at least twenty-five (25) feet in depth.
- (e) *Building separation*: Each separate building on a lot shall be located at least twenty-five (25) feet from any other building on the lot.

(Ord. No. 477, § 4, 8-9-06)

Sec. 22-354.5. - Lot coverage.

All buildings, including accessory buildings and impermeable surfaces, shall cover in the aggregate not more than sixty (60) percent of the lot area.

(Ord. No. 477, § 4, 8-9-06)

Sec. 22-354.6. - Landscaped open space/utilities.

- (a) A minimum of twenty (20) percent of the lot area shall be landscaped open space, as approved by the planning board in determining the aesthetic image of the property as viewed from public streets and adjacent properties. Any required buffer area may be included in the calculation of open space.
- (b) All utilities lines, pipes and conduits within individual parcels shall be placed underground.

(Ord. No. 477, § 4, 8-9-06)

Secs. 22-355—22-375. - Reserved.

DIVISION 11. - MHC MULTIPLE USE HEALTHCARE DISTRICT

FOOTNOTE(S):

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**Editor's note**— Ord. No. 531, § 1, adopted Apr. 10, 2013, amended the Code by renumbering Div. 13, pertaining to MHC multiple use healthcare district, as Div. 11.

Sec. 22-376. - Multiple Use Healthcare District.

There is hereby created a Multiple Use Healthcare District, as is more specifically shown on Map #2, as amended, attached to this and made a part of the zoning ordinance for the city.

(Ord. No. 280, § 3, 9-24-87)

Sec. 22-377. - Permitted uses.

The following uses are permitted in the multiple use healthcare district:

- (1) Hospitals, skilled nursing facilities, extended care facilities, ambulatory care facilities.
- (2) Medically related professional offices, including, but not limited to, doctors, nurses, occupational and rehabilitative services, community health education, other providers of health, human and mental services, and other non-medically related professional offices having similar impacts, including but not limited to lawyers, accountants, engineers and architects.
- (3) Hospice and respite care facilities, adult day care facilities and assisted and sheltered care facilities.
- (4) Facilities for the providing of nutritional services, including services for the elderly.
- (5)

Facilities which relate to laboratory and diagnostic services, the storage, dispensing and sale of disposable or durable medical supplies and pharmaceuticals and services; laundry; sterile supply services; data processing; microfilming and microfilm storage services.

- (6) Buildings, facilities and uses accessory and incidental to the foregoing.
- (7) Any use permitted in the R-1 district.

(Ord. No. 280, § 3(3-16.1), 9-24-87; Ord. No. 329, § 3, 10-10-90; Ord. No. 376, 4-17-96; Ord. No. 426, 6-13-01)

Sec. 22-378. - Special exceptions.

The following uses may be permitted by the zoning board of adjustment, subject to the regulations contained in division 3 of article II of this chapter and as well as any other applicable regulation of this chapter or regulation of the state:

- (1) Hotel, motel, or other facility for public accommodation.
- (2) Medical and or nursing school facilities.
- (3) Any child care facility, whether the same be a family daycare home, family group daycare home, group child care center, or group home, provided:
  - a. That the same shall have received and shall maintain a license pursuant to RSA 170-E.
  - b. That such use shall conform to all lot size and area requirements contained in this division.
- (4) Where the boundary line of a zoning district divides a lot in single or joint ownership the regulations for either district may extend to the entire lot, but in no case shall any permitted use be extended more than seventy-five (75) feet into the zoning district which prohibits uses allowed in the abutting district. The provisions of this section shall benefit only those lots shown on the Tax Maps of the City of Claremont as existing on the date of passage of this amendment [June 11, 1997]. The boundary line of a zoning district may not be extended under any circumstances beyond the boundary of the lot appearing on said tax maps. The city planning department shall keep on record for public use all tax maps referred to in this subsection.

(Ord. No. 280, § 3(3-16.2), 9-24-87; Ord. No. 376, 4-17-96; Ord. No. 383, 1-8-97; Ord. No. 383-A, 6-11-97)

Sec. 22-379. - Density.

Notwithstanding any provisions of this chapter which may conflict with the following provisions relating to any district or use, the following minimum standards shall control:

- (1) *New structures.* In the construction of new structures or additions to existing structures for any purpose outside of a planned unit development, there shall be provided side yards of at least ten (10) feet and front and rear yards of at least twenty-five (25) feet. Each separate building on the lot shall be located at least ten (10) feet from any other building on the lot.
- (2) *Lot coverage.* All buildings including accessory buildings, shall cover in aggregate not more than eighty (80) percent of the lot area, except that planned unit developments may be permitted in accordance with the provisions contained in this section.
- (3) *Planned unit development.* Any owner of an area of two (2) acres or more within the district shall be entitled to redevelop, renovate and extend existing structures and/or construct new structures within such area, pursuant to a planned unit development plan which need not otherwise conform to the dimensional, height, lot coverage, area, setback and yard requirements of this chapter, so long as it shall provide for a practical and compatible arrangement of such structures, mix of such structures, uses, spaces between structures, streets, loading facilities, and utilities as determined by the planning board pursuant to its site plan regulations; provided, however, that the plan for such area shall provide for a density of not more than four thousand (4,000) square feet of floor area of structures for every one thousand (1,000) square feet of total land area within such planned unit development area, and provided also that no building located with the planned unit development shall exceed seventy-five (75) feet in height without regard to the number of stories of such building.

(Ord. No. 280, § 3(3-16.3), 9-24-87)

Sec. 22-380. - Parking.

(a) Notwithstanding any provision of this chapter which may conflict with the following provisions, within the multiple use healthcare district there shall be provided parking facilities in accordance with the following minimum standards:

(1) Hospitals	1 space per 1 bed
(2) Nursing homes and extended care facilities	1 space per 4 beds
(3) Medical or dental offices	Not less than 3 spaces nor more than 5 spaces for each examining room
(4) General offices	1 space for each 400 square feet of gross floor area with a minimum of 5 spaces
(5) Retail sales and retail service establishment	1 per 300 square feet of gross floor area but not less than 5 spaces

- (b) Parking requirements for uses not covered shall be determined by the planning board as part of the site plan approval process.
- (c) If the planning board, in its review of a planned unit development site plan, finds that the parking requirements are unduly restrictive, it may modify such requirements as part of its site plan approval.

(Ord. No. 280, § 3(3-16.4), 9-24-87)

Sec. 22-381. - General regulations.

Except as may be specifically provided for under the terms of this division, the general regulations contained in article I; division 3 of article II; article III; division 1 of article IV; sections 22-322, 22-341 and 22-362; and articles V, VI and VII of this chapter shall be controlling.

(Ord. No. 280, § 3, 9-24-87)

Secs. 22-382—22-384. - Reserved.

DIVISION 12. - CITY CENTER ZONING DISTRICTS

FOOTNOTE(S):

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**Editor's note**— Ord. No. 531, § 1, adopted Apr. 10, 2013, repealed the former Div. 12, §§ 22-356—22-362, and enacted a new Div. 12 as set out herein. The former Div. 12 pertained to MUM multiple use mill district and derived from Ord. No. 195, §§ 5, 5(3-14.1—14.5, adopted Sept. 5, 1979; Ord. No. 249, § 1, adopted June 12, 1985; Ord. No. 291, § 1, K, adopted Aug. 10, 1988; Amend. No. 4, § 1, adopted Apr. 10, 1991; Ord. No. 376, adopted Apr. 17, 1996; Ord. No. 383, adopted Jan. 8, 1997; Ord. No. 383-A, adopted June 11, 1997; Ord. No. 425, adopted Jan. 10, 2001; Ord. No. 427, adopted June 13, 2001; Ord. No. 438, adopted Nov. 19, 2002; and Ord. No. 459, § 7, adopted May 11, 2005

Sec. 22-385. - Purpose statements.

- (a) *CR-1 city center residential I.* The purpose of this district is to maintain around the downtown core residential neighborhoods with primarily single-family dwellings and incidental home occupations and home offices. A limited number of other uses that are compatible with and supportive of a residential setting are allowed, including institutional and educational uses.
- (b) *CR-2 city center residential II.* The purpose of this district is to maintain around the downtown core residential neighborhoods with a mix of housing types. Other uses that are compatible with and supportive of a residential setting are allowed, including lodging, institutional and educational uses.
- (c) *PR professional residential.* The purpose of this district is to create transitional corridors from residential neighborhoods to the mixed use downtown core. The district allows a mix of housing types as well as commercial, institutional and educational uses that serve nearby residential neighborhoods and/or support the downtown core.
- (d) *CB-2 city center business II.* The purpose of this district is to create gateways to the city center with primarily commercial and light industrial uses. The district is oriented toward vehicular access and uses that may require larger lots than elsewhere in the city center.
- (e) *MU mixed use.* The purpose of this district is to be the center of the community, providing commercial, recreational, educational, institutional, light industrial and mixed uses that are primarily oriented toward pedestrian access. The mix of uses, including entertainment options, is also intended to strengthen the downtown core as a place of tourism.

(Ord. No. 531, § 1, 4-10-2013)

Sec. 22-386. - Interpretation of table of uses.

No building, structure or land shall be used or occupied in the city center residential district I (CR-1), city center residential district II (CR-2), professional residential district (PR), mixed use district (MU) and city center business district II (CB-2) except as set forth in the table of uses, section 22-387, subject to all other provisions and standards of this Code of Ordinances and other local, state and federal laws, rules and regulations.

The following table of uses has been developed to indicate those uses which are permitted, permitted by special use permit and permitted by special exception.

- (1) *Permitted uses.* Permitted uses are denoted by the letter "P" in the table of uses.
- (2) *Special exception.* Uses that are permitted only upon approval by the zoning board of adjustment, subject to the regulations contained in division 3 of article II of this chapter, are denoted by letters "SE" in the table of uses.
- (3) *Special uses.* Uses that are permitted only upon approval by the planning board and issuance of a special use permit are denoted by letters "SU" in the table of uses.
- (4) Any uses not expressly permitted or allowed by special exception or special use permit in the table of uses are prohibited.

(Ord. No. 531, § 1, 4-10-2013)

Sec. 22-387. - Table of uses.

	<b>City Center Residential I District</b>	<b>City Center Residential II District</b>	<b>Professional Residential District</b>	<b>Mixed Use District</b>	<b>City Center Business II District</b>	<b>Additional Regulations Reference</b> (refer to these sections for additional

							regulations)
<b>Residential</b>		<b>CR-1</b>	<b>CR-2</b>	<b>PR</b>	<b>MU</b>	<b>CB-2</b>	
	Single-family dwelling	P	P	P	SU	P	<a href="#">Sec. 22-387.1</a>
	Duplex		P	P	SU	P	<a href="#">Sec. 22-387.1</a>
	Multifamily dwelling		P	P	SU	P	<a href="#">Sec. 22-387.1</a>
	Conversion of existing single-family to duplex	SU	SU	SU	SU	SU	<a href="#">Sec. 22-387.2</a>
	Conversion of existing single-family or duplex to multifamily dwelling	SU	SU	SU	SU	SU	<a href="#">Sec. 22-387.2</a>
	Accessory dwelling units	SU	SU	SU	SU	SU	<a href="#">Sec. 22-387.3</a>
	Accessory uses and buildings	P	P	P	P	P	
	Manufactured housing on individual lots	P	P				<a href="#">Sec. 22-387.4</a>
	Planned residential development		SE				<a href="#">Sec. 22-387.5</a>
<b>Commercial</b>		<b>CR-1</b>	<b>CR-2</b>	<b>PR</b>	<b>MU</b>	<b>CB-2</b>	
	Art galleries and arts and crafts shops			P	P	P	<a href="#">Sec. 22-387.6</a>
	Automotive service stations, sales and repair					P	
	Bed and breakfast		P	P	SU		<a href="#">Sec. 22-387.7</a>
	Building supply stores					P	
	Child care facilities						<a href="#">Sec. 22-387.8</a>
	Family daycare home	P	P	P	P	SE	
	Family group daycare home	SE	SE	SE	SE	SE	
	Foster family home	P	P	P	P	P	
	Foster family group home		SE	SE	SE	SE	
	Group child care center			SE	SE	SE	
	Group home			SE	SE	SE	
	Child care institution			SE	SE	SE	
	Convalescent and nursing homes	SE	SE	SE			<a href="#">Sec. 22-387.9</a>
	Copying and printing services			P	P	P	
	Drive-in businesses					P	
	Funeral homes		SE	SE	SE	SE	<a href="#">Sec. 22-387.10</a>
	General offices			P	P	P	

Home occupations							
Meet standards	P	P	P	SE			<a href="#">Sec. 22-387.11</a>
Home offices	P	P	P	P	P		
Hotels and motels				P	P		
Housing for the Elderly	P	P	P				<a href="#">Sec. 22-511</a>
Medical offices			P	P	P		
Neighborhood commercial	SE	SE					<a href="#">Sec. 22-387.12</a>
Personal service businesses			P	P			
Radio and television transmitting stations and studios				SE	P		
Restaurants and taverns			SU	P	P		<a href="#">Sec. 22-387.13</a>
Retail and secondhand stores			P	P	P		<a href="#">Sec. 22-387.14</a>
Service establishments				P	P		
Tourist homes, boarding or roominghouses		P	P	P	P		
<b>Mixed Use</b>	<b>CR-1</b>	<b>CR-2</b>	<b>PR</b>	<b>MU</b>	<b>CB-2</b>		
Mixed Uses							
Commercial and other nonresidential use at street level			P	P			<a href="#">Sec. 22-387.1</a>
Residential use at street level			P	SU			<a href="#">Sec. 22-387.1</a>
<b>Institutional and Educational</b>	<b>CR-1</b>	<b>CR-2</b>	<b>PR</b>	<b>MU</b>	<b>CB-2</b>		
Museums, churches & religious org.	SE	SE	SE	P	P		<a href="#">Sec. 22-387.15</a>
Music or dance schools			P	P			
Parking garages or facilities				P			
Schools and libraries	P	P	P	P	P		
Fraternal clubs, lodges or halls			P	P	P		<a href="#">Sec. 22-387.16</a>
Trade, professional or industrial schools			P	P	P		
<b>Industrial</b>	<b>CR-1</b>	<b>CR-2</b>	<b>PR</b>	<b>MU</b>	<b>CB-2</b>		
Light manufacturing and assembly				SU	SU		<a href="#">Sec. 22-387.17</a>
Newspaper and printing establishments					P		



Warehousing and distributing, and repair shops					SU	SU	<u>Sec. 22-387.17</u>
<b>Recreation and Entertainment</b>	<b>CR-1</b>	<b>CR-2</b>	<b>PR</b>	<b>MU</b>	<b>CB-2</b>		
Parks and playgrounds	P	P	P	P	P		
Indoor recreation facilities		SE	SE	P	SE		
Indoor theaters				P	P		

(Ord. No. 531, § 1, 4-10-2013)

Sec. 22-387.1. - Residential units in mixed use district.

In order to encourage rehabilitation of under-developed, vacant and abandoned buildings, preservation of historic properties and development of code compliant and enhanced housing stock, there is established a special use permit for single-family dwellings, duplexes, multifamily dwellings, and mixed use buildings with residential units at the street level in the mixed use district, subject to the following:

- (1) Granting criteria: Section 22-100 and section 22-101, standards of review.
- (2) Minimum development standards for individual units in order to be considered for approval of a special use permit under this section are:
  - a. *Minimum size.* Each one (1) bedroom dwelling unit shall contain a minimum of five hundred fifty (550) square feet of gross floor area and each two (2) bedroom dwelling unit shall contain a minimum of eight hundred fifty (850) square feet of gross floor area.
  - b. *Density.* For mixed use buildings, the maximum floor area ratio for multifamily units for each structure in relation to the structure's nonresidential uses shall be 3.0:1 for residential units reserved for elderly and 2.0:1 for all other residential units.
  - c. *Gross floor area.* The gross floor area of a unit shall be exclusive of floor area within the building devoted to common hallways, stairways and other common facilities and spaces. The gross floor area of the building, including means of access and egress except for elevators and emergency staircases, shall not be increased as part of the development plan for a special use permit. Any increase to the footprint of an existing building in this zone must meet all applicable zone dimensional requirements.
  - d. *Space requirements.* Each dwelling unit shall contain a minimum gross floor area, based on the total area of all habitable rooms, of not less than three hundred (300) square feet for the first occupant, two hundred (200) square feet for the second occupant and one hundred fifty (150) square feet for each additional occupant. "Habitable rooms" shall be defined as those areas of a residential unit, including bathroom and kitchen facilities, which are not used for closets, stairways or landings appurtenant thereto or for other storage or utility purposes and which have a ceiling height of a minimum of seven (7) feet.
- (3) At least eighty (80) percent of the individual residential units shall be for lease or sale at no less than the market rate in any year, as established by the U.S. Department of Housing and Urban Development and published annually in the Federal Register.
- (4) A special use permit for residential uses may be granted for street level dwelling units in the MU district except for properties fronting the following: Opera House Square, Tremont Street from Broad to Opera House Square, Pleasant from Opera House Square to Glidden, Sullivan Street from Opera House Square to Franklin Street, Main Street from Opera House Square to Franklin Street.

(Ord. No. 531, § 1, 4-10-2013)

Sec. 22-387.2. - Residential conversions.

Conversions of existing single-family homes to duplexes and conversions of existing single-family homes or duplexes to multifamily dwellings in the city center residential I, city center residential II, professional residential, mixed use and city center business II districts are allowed by special use permit, subject to the following:

- (1) Granting criteria: Section 22-100 and section 22-101, standards of review.
- (2) The conversion must involve the conversion of an existing single-family dwelling or duplex, meet the minimum development standards for individual dwelling units in section 22-387.1(2), and municipal water and sewer must be provided. The total number of dwelling units shall not exceed eight (8) maximum.

(Ord. No. 531, § 1, 4-10-2013)

Sec. 22-387.3. - Accessory dwelling units.

The purpose of this provision is to allow a property owner-resident of a single-family residence to care for another family member in a residential setting if their property is of sufficient size and if it does not change the character of, or negatively impact, the neighborhood. One (1) accessory dwelling unit per property is allowed by special use permit in the city center residential I, city center residential II, and professional residential districts, subject to the following:

- (1) Granting criteria: A finding that the following conditions are met:
  - a. The existing or proposed home is and will remain a single-family, owner-occupied structure;
  - b. The existing or proposed home is currently conforming to zoning;

- c. The existing or proposed home is currently or planned to be owner occupied;
- d. The property owner states that the occupant of the accessory dwelling unit shall be a family member and that the accessory dwelling unit shall not be used as a rental unit;
- e. The property shall be sufficient in size so that there is at least ten thousand (10,000) square feet of property per dwelling unit or a total of twenty thousand (20,000) square feet in the city center residential I district, or at least five thousand (5,000) square feet of property per dwelling unit or a total of ten thousand (10,000) square feet in the city center residential II district and professional residential district;
- f. The property shall have only one curb cut and driveway;
- g. The front setback shall not be utilized for parking;
- h. The accessory dwelling unit shall be part of the primary structure;
- i. The accessory unit shares utilities in common with the primary structure;
- j. The accessory dwelling unit shall be not more than one quarter (¼) of the size of the primary structure or more than five hundred (500) square feet, whichever is greater;
- k. Evidence of adequate septic capacity;
- l. Adequate vehicle parking and turn-around on site;
- m. That a site plan be approved by the planning board to ensure that the accessory dwelling unit does not change the character or negatively impact the neighborhood; and
- n. A deed addendum with approval conditions and including a restriction that the accessory dwelling unit shall not be used as a rental unit be executed and recorded prior to the issuance of a building permit.

(2) Additional granting criteria: Sections 22-100 and 22-101, standards of review.

*(Ord. No. 531, § 1, 4-10-2013)*

Sec. 22-387.4. - Manufactured housing.

Manufactured housing is permitted on individual lots for which a valid nonconforming use, including those granted by variances, existed on March 4, 2013.

*(Ord. No. 531, § 1, 4-10-2013)*

Sec. 22-387.5. - Planned residential developments.

Planned residential developments must be in accordance with the provisions of article VI of this chapter.

*(Ord. No. 531, § 1, 4-10-2013)*

Sec. 22-387.6. - Art galleries and arts and crafts shops.

Art galleries and arts and crafts shops are permitted in the professional residential, mixed use and city center business II districts provided that there is no outside display.

*(Ord. No. 531, § 1, 4-10-2013)*

Sec. 22-387.7. - Bed and breakfasts in the mixed use district.

The purpose of this provision is to allow existing buildings in the mixed use district to convert to bed and breakfasts by special use permit, subject to the following:

- (1) Granting criteria: Section 22-100 and section 22-101, standards of review;
- (2) The conversion must involve the conversion of an existing building, and municipal water and sewer must be provided.

*(Ord. No. 531, § 1, 4-10-2013)*

Sec. 22-387.8. - Child care facilities.

Child care facilities must maintain licenses and meet all applicable regulations of state and federal law and regulation.

*(Ord. No. 531, § 1, 4-10-2013)*

Sec. 22-387.9. - Convalescent and nursing homes.

Convalescent and nursing homes must be located on a lot of at least twenty thousand (20,000) square feet and meet the minimum area requirement for facilities of this type pursuant to state and federal law and regulation.

*(Ord. No. 531, § 1, 4-10-2013)*

Sec. 22-387.10. - Funeral homes.

Funeral homes must be located on a lot with an area of at least twenty thousand (20,000) square feet and provide at least fifteen (15) off-street parking spaces.

*(Ord. No. 531, § 1, 4-10-2013)*

Sec. 22-387.11. - Home occupations.

(a) Home occupations, as defined by section 22-1, shall be permitted in the city center residential I, city center residential II and professional residential districts.

(b)

Home occupations that do not meet the requirements as set forth by subsection (a) of this section shall only be permitted by variance in the city center residential I, city center residential II and professional residential district.

- (c) Any home occupation in the mixed use district shall only be permitted by special exception. The inability to meet any requirement as set forth in section 22-1 will require a variance from the zoning board of adjustment for that requirement prior to the issuance of a special exception.

*(Ord. No. 531, § 1, 4-10-2013)*

Sec. 22-387.12. - Neighborhood commercial.

Neighborhood commercial uses shall contain no more than one thousand five hundred (1,500) gross square feet per store. Notwithstanding the requirements of division 2 of article 5 of this chapter, off-street parking is not required.

*(Ord. No. 531, § 1, 4-10-2013)*

Sec. 22-387.13. - Restaurants and taverns.

Restaurants and taverns are allowed in the professional residential district by special use permit, subject to the standards of review provided in sections 22-100 and 22-101.

*(Ord. No. 531, § 1, 4-10-2013)*

Sec. 22-387.14. - Retail and secondhand stores.

Retail and secondhand stores are permitted in the professional residential, mixed use and city center business II districts. Retail and secondhand stores in the professional residential district shall contain no more than five thousand (5,000) gross square feet per store. Outside display of stock-in-trade in these districts are allowed on the subject property or by license in the city right-of-way.

*(Ord. No. 531, § 1, 4-10-2013)*

Sec. 22-387.15. - Certain institutional uses.

Museums and churches and religious organizations must have any parking associated with such uses located at the rear or side of the structure.

*(Ord. No. 531, § 1, 4-10-2013)*

Sec. 22-387.16. - Fraternal clubs, lodges or halls.

Fraternal clubs, lodges or halls in the professional residential district must be located at least twenty-five (25) feet from any lot line.

*(Ord. No. 531, § 1, 4-10-2013)*

Sec. 22-387.17. - Industrial uses in mixed use and city center business II districts.

In order to allow industrial uses in the city center without detracting from the area's character or image, there is established a special use permit for light manufacturing and assembly, warehousing and distributing, and repair shops in the mixed use district and city center business II district, subject to the standards of review provided in sections 22-100 and 22-101.

*(Ord. No. 531, § 1, 4-10-2013)*

Sec. 22-388. - Interpretation of table of dimensional regulations.

No buildings or structures shall be constructed, and no use shall be established, on a lot in the city center residential district I (CR-1), city center residential district II (CR-2), professional residential district (PR), mixed use district (MU) and city center business district II (CB-2) except in conformance with the standards set forth in the table of dimensional standards (section 22-390), subject to all other provisions and standards of this chapter, and other local, state, and federal laws, rules, and regulations. Planned residential development may be permitted in accordance with the provisions contained in article VI of this chapter.

In the table of dimensional regulations, abbreviations shall mean the following:

- "sf" means square feet
- "ft" means feet
- "%" means percentage
- "#" means number
- "du" means dwelling unit

*(Ord. No. 531, § 1, 4-10-2013)*

Sec. 22-389. - Table of dimensional regulations.

<b>Table of Dimensional Regulations</b>			
	<b>Minimums</b>	<b>Maximums</b>	<b>Additional Regulatory References</b> (refer to these

											sections fr additional regulator
	Lot Size (sf)	Lot Width (ft)	Front Yard Setback (ft)	Side Yards (#)	Side Yard Setback (ft)	Rear Yard Setback (ft)	Building Separation (ft)	Lot Coverage (%)	Residential Density	Building Height	Sec. 22-389.1
CR-1 City Center Residential I	10,000	60	15	2	10	25	10	30	1 du/10,000 sf	40	<a href="#">Sec. 22-389.2</a>
CR-2 City Center Residential II	5,000	60	15	2	10	25	10	30	1 du/5,000 sf	40	<a href="#">Sec. 22-389.2</a>
PR Professional Residential	5,000	60	25	2	10	25	10	30	1 du/5,000 sf	40	<a href="#">Sec. 22-389.3</a> <a href="#">Sec. 22-389.4</a> and <a href="#">Sec. 22-389.7</a>
MU Mixed Use	5,000	60	0 minimum (15 maximum)		0	15		90		50	<a href="#">Sec. 22-389.5</a> and <a href="#">Sec. 22-389.7</a>
CB-2 Business II	20,000	100	0 minimum (25 maximum)	2	15	25	25	60	1 du/10,000 sf	40	<a href="#">Sec. 22-389.6</a> and <a href="#">Sec. 22-389.7</a>

(Ord. No. 531, § 1, 4-10-2013)

Sec. 22-398.1. - Alteration of dimensional requirements.

A variance is required if the provisions of section 22-389.1 are not met.

(Ord. No. 531, § 1, 4-10-2013)

Sec. 22-389.2. - City center residential districts.

In the city center residential I and residential II districts, developments shall provide, to the greatest extent possible, an area without improvements for the creation of future sidewalks as part of public improvements. Such an area shall be at least eight (8) feet wide and be located nearest the front lot line. If a sidewalk exists in front of the properties abutting the project site on one (1) or both sides, a sidewalk similar to what exists on either side shall be constructed to connect the existing sidewalks.

In the city center residential I and residential II districts, off-street parking shall be allowed in the side yard and rear yard setbacks, provided it is not located within five (5) feet of side or rear property lines. Garages shall be allowed in the side yard and rear yard setbacks, provided that they are not located within five (5) feet of side or rear property lines. Notwithstanding the provisions of [section 22-389](#), where buildings exist on lots adjacent to a proposed new building or building renovation or expansion, the proposed new building or building renovation or expansion may match the average distance of the front setback(s) of the existing building(s) on the same side of the street and on the same block, provided there are at least two (2) existing buildings on the same side of the street in the same block, and subject to requirements of a special use permit, if required; provided that no such construction or improvement shall be permitted in the public right-of-way or over any easement for public utilities.

(Ord. No. 531, § 1, 4-10-2013)

Sec. 22-389.3. - Buffer strips in the professional residential district.

In the professional residential district where commercial uses are proposed adjacent to residential buildings, there shall be a strip not less than five (5) feet in width, suitably landscaped and planted or fenced to screen such uses from the residences

(Ord. No. 531, § 1, 4-10-2013)

Sec. 22-389.4. - Setbacks in the professional residential district.

For lots that have depths of less than one hundred (100) feet in the professional residential district, the front yard setback may be reduced provided that the setback be at least ten (10) feet in depth.

In the professional residential district, notwithstanding the provisions of [section 22-389](#), where buildings exist on lots adjacent to a proposed new building or building renovation or expansion, the proposed new building or building renovation or expansion may match the average distance of the front setback(s) of the existing building(s) on the same side of the street and on the same block, provided there are at least two (2) existing buildings on the same side of the street in the same block, and subject to requirements of a special use permit, if required, provided that no such construction or improvement shall be permitted in the public right-of-way or over any easement for public utilities.

*(Ord. No. 531, § 1, 4-10-2013)*

Sec. 22-389.5. - Maximum setbacks in mixed use district.

In the mixed use district, the front yard setback shall be no more than fifteen (15) feet in depth.

*(Ord. No. 531, § 1, 4-10-2013)*

Sec. 22-389.6. - Maximum setbacks in city center business II district.

In the city center business II district, the front yard setback shall be no more than twenty-five (25) feet in depth. Where the front yard setback is more than fifteen (15) feet in depth, a landscaped buffer shall be provided nearest the front lot line.

*(Ord. No. 531, § 1, 4-10-2013)*

Sec. 22-389.7. - Screening.

In the professional residential, mixed use and city center business II districts, any outside storage, trash receptacles or mechanical equipment shall be screened by appropriate year-round landscaping plants or fences.

*(Ord. No. 531, § 1, 4-10-2013)*

Secs. 22-390—22-395. - Reserved.

DIVISION 13. - H HISTORIC DISTRICT

FOOTNOTE(S):

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**Editor's note**— Ord. No. 531, § 1, adopted Apr. 10, 2013, amended the Code by renumbering Div. 14, pertaining to H historic district, as Div. 13.

Sec. 22-396. - Purpose.

The purpose of this division is to amend the zoning ordinance to create a historic district, create a historic district commission and to provide the rules, regulations and procedures applicable to the historic district.

*(Ord. No. 299, § 1, 12-14-88)*

Sec. 22-397. - Application.

The historic district shall be superimposed upon the other districts established in this chapter. The regulations and procedures of this amendment shall apply in addition to the regulations of the underlying districts and other applicable city ordinances.

*(Ord. No. 299, § 2(3-15.1), 12-14-88)*

Sec. 22-398. - Boundaries.

The historic district shall be shown on zoning map #7 as from time to time adopted and amended by the city council. It may coincide with, cross, or include all or part of one (1) or more of the underlying zoning districts.

*(Ord. No. 299, § 2(3-15.2), 12-14-88)*

Sec. 22-399. - Permitted uses.

Uses permitted in the underlying zoning districts are permitted in the historic district.

*(Ord. No. 299, § 2(3-15.3), 12-14-88)*

Sec. 22-400. - Certificate of appropriateness required.

A building or demolition permit shall not be issued until and unless a certificate of appropriateness is issued by the historic district commission in accordance with the following provisions.

*(Ord. No. 299, § 2, 12-14-88)*

Sec. 22-401. - Grant of power.

This division and the historic district commission hereby established shall have the powers granted by state law. Such power of review and approval or disapproval shall be limited to those considerations which affect the relationship of the applicant's proposal to its surroundings, to the location and arrangement of structures, to the architectural treatment of the exterior features and finish of the district as they may be deemed to affect the character and integrity of the district to achieve the purpose of this division.

*(Ord. No. 299, § 2(3-15.4), 12-14-88)*

Sec. 22-402. - Purposes.

It is hereby declared as a matter of public policy that the recognition, preservation, enhancement, perpetuation and use of cultural resources, and particularly of structures, sites and areas within the city having historic, architectural, cultural, community or design value is required in the interest of the health, economic, cultural and general welfare of the community. The purposes of this division are to:

- (1) Safeguard the heritage of the city by providing for the preservation of historic districts in the city that reflect elements of its cultural, social, economic, political, community and architectural history;
- (2) Enhance the visual character of the city by encouraging and regulating the compatibility of architectural styles within the historic districts reflecting unique and established architectural traditions;

- (3) Foster public appreciation of and civic pride in the beauty of the city and the accomplishments of its past;
- (4) Strengthen the economy of the city by protecting and enhancing the city's attractions in its historic districts to residents, tourists and visitors;
- (5) Stabilize and improve property values within the historic districts;
- (6) Promote the use of historic districts for the education, pleasure and welfare of the community.

(Ord. No. 299, § 2(3-15.2), 12-14-88; Ord. No. 515, § 1, 7-14-2010)

Sec. 22-403. - Historic district commission.

There is herein established an historic district commission with the functions and duties as set forth in this division, and as may be needed to carry out the purposes of this division.

- (1) *Organization.* The historic district commission shall consist of five (5) regular members and not more than five (5) alternate members, all of whom must be residents of the city and must have demonstrated interest and ability to understand, appreciate and promote the purposes of this division.
- (2) *Membership.* One (1) commission member shall be a member of the city council and one (1) commission member may be a member of the planning board, who shall serve ex officio. All members of the commission, including alternate members, shall be appointed by the city council.
- (3) *Term.* Members shall be appointed for three-year terms. The initial terms of members shall be staggered so that no more than two (2) appointments occur annually, except when required to fill vacancies. The term of an ex officio member shall coincide with the term of the ex officio member's other elected or appointed office. In the event of a vacancy in membership, the chairperson may designate an alternate member to fill the vacancy temporarily until the vacancy is filled by the city council, which appointment shall be for the unexpired term.
- (4) *Officers, quorum.* The commission shall annually, at its initial meeting in each year, elect a chairperson and vice-chairperson from its membership. A majority of the membership shall constitute the quorum necessary to transact business at any meeting.
- (5) *Meetings.* Meetings shall be held at the call of the chairperson and at such other times as the commission may determine.
- (6) *Powers and duties.* The historic district commission shall have the following powers and duties:
  - a. Establish rules and regulations for the conduct of business which are consistent with this division.
  - b. Establish, adopt, and make available to applicants and the public, guidelines and standards to be used by the commission in reviewing and passing on applications for a certificate of appropriateness to construct, alter, modify, repair, move or demolish a building and/or structure within an historic district.
  - c. Approve or disapprove, in whole or in part, applications for certificates of appropriateness for which a permit is required under section 22-400. Such certificate of appropriateness or notice of disapproval, along with a copy of the notice of decision to the applicant, shall be filed with the building inspector following the commission's determination.
  - d. Request reports and recommendations regarding the feasibility of the applicant's proposal from city departments and agencies and from other organizations and sources that may have information or can provide advice concerning the impact of the proposal on the historic district.
  - e. Retain professional consultants as may be appropriate to and as may be deemed necessary for the determination of a reasonable decision on an application or to carry out the purposes of this division.
  - f. Recommend and propose amendments and/or revisions of this division and of the boundaries and limits of any historic district to the planning board and city council.
  - g. Keep or caused to be kept, accurate and complete records and minutes of meetings, findings of the commission, and records of each application.

(Ord. No. 299, § 2(3-15.6), 12-14-88; Ord. No. 498, § 1, 7-9-08; Ord. No. 515, § 2, 7-14-2010)

Sec. 22-404. - Scope of review.

It is unlawful for any person to construct, alter, modify, repair, move or demolish any building, structure, sign, or improvement which lies within an historic district without first obtaining a certificate of appropriateness from the historic district commission in the manner prescribed in this division.

(Ord. No. 299, § 2(3-15.7), 12-14-88)

Sec. 22-405. - Activities requiring certificates.

For the purpose of this division, the following activities shall be reviewed by the historic district commission whether or not such activity requires the issuance of a permit.

- (1) Erection, construction, alteration, major repair or razing of a building or structure.
- (2) Erection, alteration or removal of any exterior, visible feature of a building or structure.
- (3) Alteration, including grading, excavating, tree removal, and/or paving of a site.
- (4) Erection or alteration of a sign affixed to a building, painted on a building or windows, or hanging inside of the window. Temporary signs shall not be in place for more than three (3) months.
- (5) Addition or alteration of exterior siding (e.g. vinyl, aluminum, stucco, wood, glass, etc.) of a building or structure.
- (6) Painting in part or whole of an unpainted stone or masonry building.
- (7) Method of paint removal.

*(Ord. No. 299, § 2(3-15.8), 12-14-88)*

Sec. 22-406. - Exceptions.

The historic district commission is not required to review the following activities:

- (1) Ordinary maintenance and repair of any architectural feature which does not involve a change in the design, materials or outer appearance or involve removal thereof.
- (2) Painting or repainting of a wood surface and/or an already painted masonry surface.
- (3) Roofing or reroofing (with the same material) of a building or structure providing the roof plane remains the same.
- (4) Storm doors and storm windows providing that the original architectural features are not removed or destroyed.

*(Ord. No. 299, § 2(3-15.9), 12-14-88)*

Sec. 22-407. - Application procedures.

The following procedures shall be observed in processing applications for a certificate of appropriateness under this division.

- (1) The applicant shall make written application to the historic district commission through the planning and development office for a certificate of appropriateness. The application shall include:
  - a. Completed standard city application form.
  - b. Narrative description of the project.
  - c. Graphic materials of sufficient clarity and detail that the commission will have a clear understanding of what the applicant intends to do.
  - d. Completed abutters list.
- (2) Any site plans, building plans, elevations, perspective sketches, photographs, building materials samples reasonably required by the commission to make its decision shall be made available to the commission by the applicant.

*(Ord. No. 299, § 2(3-15.10), 12-14-88; Ord. No. 515, § 3, 7-14-2010)*

Sec. 22-408. - Hearings and notice.

- (a) A hearing will be held on an application upon no less than five (5) days notice prior to the hearing.
- (b) Notice of all commission hearings shall be published in a newspaper of general circulation in the city.
- (c) Notice of all such hearings shall also be sent, certified mail, to the applicant, every abutter and holder of conservation, preservation or agricultural preservation restriction, stating the date, time and place of the hearing.
- (d) The commission shall issue a certificate of appropriateness or notice of disapproval within forty-five (45) days after the filing of the application, unless the applicant agrees to a longer period of time.
- (e) A copy of the certificate of appropriateness or notice of disapproval shall be forwarded to the applicant and shall include a detailed description of all conditions to the certificate, if any, or, if a notice of disapproval, with written reasons for the disapproval.
- (f) Any certificate of appropriateness issued by the commission shall become void if construction is not begun thereunder within twelve (12) months from the date of issuance of the certificate. Certificates may be extended once for no more than an additional twelve (12) months by the zoning administrator on receipt of a written request for extension by the applicant, received at least fourteen (14) days prior to the expiration of the original certificate. Certificates issued hereunder shall be transferable to a subsequent owner provided there is no change in the project and the project has not been discontinued for more than twelve (12) consecutive months.
- (g) Joint hearings may be held in the case of applications requiring hearings before more than one (1) land use board.
- (h) All applicants shall pay such fees related to any application to the commission as may be necessary to defray its expenses, as approved by the city council.

*(Ord. No. 299, § 2(3-15.11), 12-14-88; Ord. No. 515, § 4, 7-14-2010)*

Sec. 22-409. - Review criteria.

In making a determination on an application, the historic district commission shall take into account the purposes of this division and give consideration to the following:

- (1) The historical, architectural, or cultural value of the building or structures and its relationship and contribution to the setting.
- (2) The compatibility of the exterior design, arrangement, texture, and materials proposed to be used in relationship to the existing buildings or structures and its setting, or if new construction, to the surrounding use.
- (3) The scale and general size of buildings or structures in relationship to existing surroundings including consideration of such factors as the building's overall height, width, street frontage, number of stories, roof type, facade openings (windows, doors, etc.) and architectural details.
- (4) Other factors, including yards, off-street parking, screening, fencing, entrance drives, sidewalks, signs, lights, and/or landscaping which might affect the character of any building or structure within the district, and similar factors which relate to the setting for such structure or grouping of structures.
- (5) The impact that the applicant's proposal will have on the setting and the extent to which it will preserve and enhance historic, architectural, and cultural qualities of the district and community.
- (6) To include in this division the adoption of the criteria and guidelines set forth in the "Secretary of Interior's Guidelines for Rehabilitation."

*(Ord. No. 299, § 2(3-15.12), 12-14-88)*

## Sec. 22-410. - Findings.

At the conclusion of its review, the historic district commission shall issue one (1) of the following:

- (1) Certificate of appropriateness.
  - a. If, in the opinion of a majority of the commission members present and voting, the applicant's proposal meets the purpose of this division, then the historic district commission shall issue a certificate of appropriateness signed by the zoning administrator together with any changes, conditions and/or stipulations necessary to secure the public health, safety and general welfare.
  - b. After the issuance of this certificate, the building inspector may issue any building, demolition or other permit for the approved project subject to approval of any other necessary board.
- (2) Notice of disapproval.
  - a. If, in the opinion of the majority of the commission members present and voting, the applicant's proposal does not meet the purposes of this division, then the historic district commission shall issue a notice of disapproval in writing together with the reasons for such decision signed by the zoning administrator.
  - b. The issuance of a notice of disapproval shall prohibit the building inspector from issuing a building, demolition or other permit.
  - c. If the applicant's proposal is denied, the applicant is encouraged to make modifications to the proposed plan and shall have the right to resubmit the application at any time after so doing.

(Ord. No. 299, § 2(3-15.13), 12-14-88)

## Sec. 22-411. - Appeals.

Any person aggrieved by a decision of the historic district commission shall have the right to appeal that decision to the zoning board of adjustment in accordance with the provisions of RSA 676:5 and RSA 677:4.

(Ord. No. 299, § 2(3-15.14), 12-14-88; Ord. No. 515, § 5, 7-14-2010)

## Secs. 22-412—22-425. - Reserved.

## DIVISION 14. - F-1 FLOODPLAIN DISTRICT

## FOOTNOTE(S):

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**Editor's note**— Ord. No. 531, § 1, adopted Apr. 10, 2013, amended the Code by renumbering Div. 15, pertaining to F-1 floodplain district, as Div. 14.

## Sec. 22-426. - Application.

The floodplain district shall be superimposed upon other zoning districts established in this chapter. The following regulations pertaining to the floodplain district shall be in addition to the regulations of the underlying districts and other applicable city ordinances.

(Ord. No. 181, § 3-10, 4-12-78)

## Sec. 22-427. - Boundaries.

The floodplain district shall be that area comprising of the "Area of Special Flood Hazard" indicated on the flood insurance rate map (FIRM), zoning map #6. Interpretation of the flood insurance rate map (FIRM), zoning map #6 as to the location of the boundaries of the areas of special flood hazards or resolution of conflicts between the maps and actual field conditions shall be the responsibility of the city engineer.

(Ord. No. 181, § 3-10.1, 4-12-78)

## Sec. 22-428. - Zoning permit required.

Development within the floodplain district shall not be commenced without first obtaining a zoning permit from the zoning administrator. Zoning permits shall only be approved for development within the floodplain district for permitted uses and special exceptions approved by the zoning board of adjustment subject to the provisions of this chapter and only after all other permits required by federal, state and local laws have been issued by the appropriate government agency, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1334.

(Ord. No. 181, § 3-10.2, 4-12-78; Ord. No. 236, § 3, 12-14-83; Ord. No. 323, § 3, 4-25-90)

## Sec. 22-429. - Permitted uses.

Uses permitted in the underlying zoning districts unless specifically prohibited in [section 22-431](#) are permitted in the floodplain district subject to the conditions and regulations of [section 22-432](#).

(Ord. No. 181, § 3-10.3, 4-12-78)

## Sec. 22-430. - Special exceptions.

Uses permitted by special exception in the underlying zoning districts unless specifically prohibited in [section 22-431](#) are permitted by special exception in the floodplain district (F-1) subject to the conditions and regulations of [section 22-432](#).

(Ord. No. 181, § 3-10.4, 4-12-78)

## Sec. 22-431. - Prohibited uses.

The following uses are prohibited within the floodplain district:



- (1) Storage of buoyant, flammable, explosive, or toxic materials, or materials or equipment which are subject to flood damage or lateral or downstream movement by flood waters.
- (2) The dumping or disposal of waste materials except for agricultural or farming purposes.
- (3) Development and uses which are:
  - a. Dangerous to health and safety when flooded.
  - b. Unprotected and vulnerable to floods including facilities and equipment during initial construction.
  - c. Damaging and destructive to natural protective flood barriers.
  - d. Flood barriers that will unnaturally divert flood waters or increase flood hazards in other areas.

*(Ord. No. 181, § 3-10.5, 4-12-78)*

Sec. 22-432. - Special conditions and regulations.

- (a) Until a regulatory floodway is designated along watercourses, no new construction, substantial improvements, or other development (including fill) shall be permitted within zone AE on the FIRM unless it is demonstrated by the applicant that the cumulative effect of the proposed development, when combined with all existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.
- (b) The building inspector shall obtain, review and reasonably utilize any floodway data available from federal, state or other sources as criteria for requiring that all development located in zone A meet the following floodway requirement:
 

No encroachments, including fill, new construction, substantial improvements and other development are allowed within the floodway that would result in any increase in flood levels within the community during the base flood discharge.
- (c) All development in the floodplain district whether permitted or allowed by special exception shall be subject to the following regulations:
  - (1) New construction (including prefabricated buildings and manufactured housing) and substantial improvements shall be anchored to prevent flotation and lateral movement, and be constructed with flood resistant materials and methods.
  - (2) New residential structures and substantial improvements to existing residential structures shall be constructed so that the lowest floor (including basement) is at or above the elevation of the base flood as indicated in the FIRM. Within zone "A" on the FIRM where the base flood elevation is not provided, the city engineer shall obtain, review, and use any flood elevation data available to determine the lowest first floor elevation for new or substantially improved residential structures.
  - (3) New nonresidential structures and substantial improvements to existing nonresidential structures shall be constructed so that the lowest floor (including basement) is at or above the elevation of the base flood as indicated on the FIRM or shall be floodproofed, water-tight to the elevation of the base flood. Methods used to floodproof nonresidential structures shall be certified by a professional engineer registered in the state as adequate to withstand the flood depths, pressures, and velocities, impact, uplift forces, and other factors associated with the base flood. Within zone "A" on the FIRM, the city engineer shall determine the base flood elevations as in section (2) above.
  - (4) The watercourse of the river or stream shall not be altered or relocated so as to diminish the flood carrying capacity. The zoning administrator prior to issuing a zoning permit for altering or relocating the watercourse of the river or stream shall notify adjacent communities, the state water resources board, and the state office of comprehensive planning and obtain proof that the applicant has received all required permits from other governmental agencies. Copies of all such notifications shall be sent to the federal insurance administrator.
  - (5) Fill placed within the floodplain district shall be subject to the following:
    - a. The fill must have some beneficial purpose and be the minimum necessary to achieve the stated purpose.
    - b. Such fill shall be located, placed, and graded so as to offer the minimum obstruction to flood waters.
    - c. Fill shall be protected against erosion by stone rip-rap, vegetative cover, or other suitable method.
  - (6) New and replacement water supply systems within the floodplain district shall be designed to minimize or eliminate infiltration of flood waters into the system.
  - (7) New and replacement sanitary sewer systems within the floodplain district shall be designed to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.
  - (8) New and replacement on-site waste disposal systems shall be designed and located to avoid impairment to them or contamination from them during flooding.
  - (9) All manufactured housing shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors. Specific requirements shall be that:
    - a. Over-the-top ties be provided at each of the four (4) corners of the manufactured home, with two (2) additional ties per side at intermediate locations. Manufactured housing less than fifty (50) feet long require only one (1) additional tie per side.
    - b. Frame ties be provided at each corner of the home with five (5) additional ties per side at intermediate points. Manufactured homes less than fifty (50) feet long only require four (4) additional ties per side.
    - c. All components of the anchoring system be capable of carrying a force of four thousand eight hundred (4,800) pounds.
    - d. Any additions to the manufactured housing be similarly anchored.
  - (10) Manufactured homes and new construction located in special flood hazard areas shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood level; and be securely anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.
  - (11) Recreational vehicles placed on sites within zone AE (refer to the New Hampshire Flood Insurance Handbook) shall either:

- a. Be on the site for fewer than one hundred eighty (180) consecutive days;
  - b. Be fully licensed and ready for highway use; or
  - c. Meet all standards of Section 60.3(b)(1) of the National Flood Insurance Program Regulations and the elevation and anchoring requirements for manufactured homes in paragraph (c)(6) of Section 60.3.
- (12) New construction and substantial improvements with fully enclosed areas below the lowest floor that are subject to flooding are permitted providing the enclosed areas meet the following requirements:
- a. The enclosed area is unfinished or flood-resistant, useable solely for parking of vehicles, building access or storage.
  - b. The area is not a basement.
  - c. The area shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided; the bottom of all openings shall be no higher than one (1) foot above grade; and openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- (13) Proposed structures to be located on slopes in special flood hazard areas, zones F-1 and F-2, shall include adequate drainage paths to guide floodwaters around and away from the proposed structures.
- (14) All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(Ord. No. 181, § 3-10.6, 4-12-78; Ord. No. 278, § 1, 10-14-87; Ord. No. 287-A, § 11, 6-18-88; Ord. No. 323, § 4, 4-25-90; Ord. No. 356, 4-13-94; Ord. No. 467, § 3, 1-11-06)

Sec. 22-433. - Administration and records.

- (a) *Applications.* Applications for a zoning permit to develop within the floodplain district shall include plans drawn to a scale showing the nature, dimensions, and location of the proposed development. Specifically the following information is required.
- (1) Elevation in relation to mean sea level of the site and the lowest floor (including basement) of all proposed structures and whether or not said structure has a basement.
  - (2) Elevation in relation to mean sea level to which proposed structures will be floodproofed.
  - (3) Certification by a registered professional engineer or architect of floodproofing methods in accordance with section 22-432(3).
  - (4) Location, elevation and extent of fill, dredging, storage of materials, drainage facilities, watercourse alterations, and excavations.
  - (5) Utility locations and protection.
- (b) *Occupancy.* Certificates of occupancy for new structures or for substantial improvements to existing structures in the floodplain district shall not be issued by the zoning administrator until the actual, as-built first floor (including basement) elevation has been certified to be at or above the elevation of the base flood by a registered surveyor or engineer licensed in the state.
- (c) *Records.* The zoning administrator shall maintain for public inspection the following records:
- (1) Copies of all approved zoning permits for development within the floodplain district.
  - (2) Copies of all certifications required in section 22-432(3) and (b) above.
- (d) *Determination of 100-year-flood elevation.* In special flood hazard areas the city engineer shall determine the 100-year flood elevation in the following order of precedence according to the date available:
- (1) In zone AE refer to the elevation data provided in the community's flood insurance study and accompanying FIRM.
  - (2) In unnumbered A zones the city engineer shall obtain, review and reasonably utilize any 100-year flood elevation data available from any federal, state or other source, including data submitted for development proposals submitted to the community (i.e., subdivisions, site approvals).
  - (3) In zone AO the flood elevation is determined by adding the elevation of the highest adjacent grade to the depth number specified on the FIRM or if no depth number is specified on the FIRM at least two (2) feet.

(Ord. No. 181, § 3-10.7, 4-12-78; Ord. No. 236, § 3, 12-14-83; Ord. No. 323, § 5, 4-25-90; Ord. No. 467, § 3, 1-11-06)

Secs. 22-434—22-445. - Reserved.

DIVISION 15. - F-2 FLOODWAY DISTRICT

FOOTNOTE(S):

--- (14) ---

**Editor's note**— Ord. No. 531, § 1, adopted Apr. 10, 2013, amended the Code by renumbering Div. 16, pertaining to F-2 floodway district, as Div. 15.

Sec. 22-446. - Application.

The floodway district shall be superimposed upon other zoning districts established in this chapter. The following regulations pertaining to the floodway district shall be in addition to the regulations of the underlying districts and other city ordinances.

(Ord. No. 181, § 3-11, 4-12-78)

Sec. 22-447. - Boundaries.

The floodway district shall be that section of the "Area of Special Flood Hazard" designated as "floodway" on the flood insurance rate map (FIRM). Interpretation of the FIRM, as to the locations of the boundaries of the floodway or resolution of conflicts between the maps and actual field conditions shall be the responsibility of the city engineer.

*(Ord. No. 181, § 3-11.1, 4-12-78; Ord. No. 467, § 4, 1-11-06)*

Sec. 22-448. - Zoning permit required.

Development within the floodway district shall not be commenced without first obtaining a zoning permit from the zoning administrator. Zoning permits shall only be approved for development within the floodway district for permitted uses and special exceptions approved by the zoning board of adjustment subject to the provisions of this chapter and only after all other permits required by federal, state and local laws have been issued by the appropriate government agency.

*(Ord. No. 181, § 3-11.2, 4-12-78)*

Sec. 22-449. - Permitted uses.

Uses permitted in the underlying zoning districts unless specifically prohibited in section 22-451 are permitted in the floodway district subject to the conditions and regulations of section 22-452.

- (1) Recreational vehicles shall be permitted if they are:
  - a. On the site for fewer than one hundred eighty (180) days;
  - b. Fully licensed and ready for highway use; and
  - c. permitted in the underlying zoning district.
- (2) Reserved.

*(Ord. No. 181, § 3-11.3, 4-12-78; Ord. No. 356, 4-13-94)*

Sec. 22-450. - Special exceptions.

Uses permitted by special exceptions in the underlying zoning districts unless specifically prohibited in section 22-451 are permitted by special exception in the floodway district subject to the conditions and regulations of section 22-452.

*(Ord. No. 181, § 3-11.4, 4-12-78)*

Sec. 22-451. - Prohibited uses.

The following uses are prohibited within the floodway district:

- (1) New buildings, structures, and manufactured housing and substantial improvements to existing buildings, structures and manufactured housing.
- (2) Fill and obstructions.
- (3) Development and encroachments which are determined by the city engineer to adversely affect the flood-carrying capacity of the floodway.
- (4) Storage of materials, supplies and equipment.
- (5) The dumping or disposal of waste materials except for agricultural or farming purposes.
- (6) Development and uses which when flooded are dangerous to health, safety, and property or are vulnerable to floods including equipment during initial construction.
- (7) New and replacement on-site waste disposal systems.
- (8) Recreational vehicles placed on a site for one hundred eighty (180) or more consecutive days or not fully licensed and ready for highway use.

*(Ord. No. 181, § 3-11.5, 4-12-78; Ord. No. 356, 4-13-94)*

Sec. 22-452. - Special conditions and regulations.

All development in the floodway district whether permitted or allowed by special exception shall be subject to the following regulations:

- (1) The watercourse of the river or stream shall not be altered or relocated so as to diminish the flood carrying capacity. The zoning administrator prior to issuing a zoning permit for altering or relocating the watercourse of the river or stream shall notify the adjacent communities, the state water resources board, and the state office of comprehensive planning and obtain proof that the applicant has received all required permits from other governmental agencies. Copies of all such notifications shall be sent to the federal insurance administrator.
- (2) New and replacement water supply systems within the floodway district shall be designed to minimize or eliminate infiltration of flood waters into the system.
- (3) New and replacement sanitary sewer systems within the floodway district shall be designed to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.

*(Ord. No. 181, § 3-11.6, 4-12-78; Ord. No. 236, § 3, 12-14-83)*

Sec. 22-453. - Administration and records.

- (a) *Applications.* Applications for a zoning permit to develop within the floodway district shall include plans drawn to scale showing the nature, dimensions, and location of the proposed development. The plans shall indicate existing and final ground elevations with respect to mean sea level, extent of any earthwork, dredging, and excavation, proposed river or watercourse alterations, and utility locations and protection.

- (b) *Records.* The zoning administrator shall maintain for public inspection copies of all approved zoning permits for development within the floodway district.
- (c) *Requests for variances.* If the applicant, upon appeal, requests a variance as authorized by RSA 674:33, I(b), the applicant shall have the burden of showing, in addition to the usual variance under state law, the following:
- (1) That the variance will not result in increased flood heights, additional threats to public safety or extraordinary public expense;
  - (2) That if the requested variance is for activity within a designated regulatory floodway, no increase in flood levels during the base flood discharge will result;
  - (3) That the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (d) *Notification of applicants for variances.* The zoning board of adjustment shall notify the applicant in writing that the issuance of a variance to construct below the base flood level will result in increased premium rates for flood insurance up to amounts as high as twenty-five dollars (\$25.00) for one hundred dollars (\$100.00) of insurance coverage and such construction below the base flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions.
- (e) *Records and reports of variances.* The community shall maintain a record of all variance actions, including their justification for their issuance, and report such variances issued in its annual or biennial report submitted to FEMA's Federal Insurance Administrator.

(Ord. No. 181, § 3-11.7, 4-12-78; Ord. No. 236, § 3, 12-14-83; Ord. No. 323, § 6, 4-25-90)

Secs. 22-454—22-465. - Reserved.

DIVISION 16. - SB STREAMBANK DISTRICT

FOOTNOTE(S):

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**Editor's note—** Ord. No. 531, § 1, adopted Apr. 10, 2013, amended the Code by renumbering Div. 17, pertaining to SB streambank district, as Div. 16.

Sec. 22-466. - Application.

The streambank district shall be superimposed upon the other zoning districts established in this chapter with the exception of the floodplain and floodway districts. The regulations of this section shall be in addition to the regulations of the underlying districts and other city ordinances and apply to those watercourses and sections thereof listed in [section 22-468](#) which are not located within the floodplain and floodway districts.

(Ord. No. 181, § 3-12, 4-12-78)

Sec. 22-467. - Boundaries.

The streambank district shall be comprised of that land inundated by ordinary high water and all abutting land within seventy-five (75) feet of the ordinary high water mark (measured horizontally) on both sides of the watercourse.

(Ord. No. 181, § 3-12.1, 4-12-78)

Sec. 22-468. - Watercourses.

The streambank district regulations shall apply to the following watercourses:

- (1) *Rivers:*
  - a. Connecticut.
  - b. Sugar.
- (2) *Streams and brooks:*
  - a. Grandy.
  - b. Gully.
  - c. Hubbard.
  - d. Meadow.
  - e. Quabbinnight.
  - f. Redwater.
  - g. Smith.
  - h. Spring Farm.
  - i. Stevens.
  - j. Tyler.
  - k. Walker.
- (3) *Unnamed watercourses.* All watercourses other than those listed in (1) and (2) above which are indicated on the United States Geological Survey Map of the city. Interpretation of this map and resolution of conflicts between the map and actual field conditions shall be the responsibility of the city engineer.

(Ord. No. 181, § 3-12.2, 4-12-78)

Sec. 22-469. - Prohibited uses.

The following uses are prohibited within the streambank district:

- (1) Structures located within fifty (50) feet of the ordinary highwater mark.
- (2) The addition or transfer of earth or other materials that would adversely affect the hydraulic capacity of the watercourse.
- (3) Excavation or removal of such quantities of earth, trees, shrubs, and ground cover that would significantly alter the hydraulics of the watercourse or result in undue erosion and or the silting of downstream areas.
- (4) On-site sewage disposal systems.
- (5) Relocation or alteration of the watercourse so as to diminish its hydraulic capacity.
- (6) Construction or placement of obstructions that will diminish the hydraulic capacity of the watercourse except for public facilities such as dams and bridges.
- (7) Disposal or dumping of waste materials except for agricultural or farming purposes.

*(Ord. No. 181, § 3-12.3, 4-12-78)*

Secs. 22-470—22-485. - Reserved.

DIVISION 17. - AA AIRPORT APPROACH DISTRICT

FOOTNOTE(S):

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**Editor's note**— Ord. No. 531, § 1, adopted Apr. 10, 2013, amended the Code by renumbering Div. 18, pertaining to AA airport approach district, as Div. 17.

**Cross reference**— Municipal airport division, § 2-166.

Sec. 22-486. - Height.

No structure shall be erected or altered and no tree allowed to grow above a slope ratio of one (1) foot in vertical height for every thirty (30) feet of horizontal distance measured from the end of the land strips served by such approach district, or above a slope ratio of one (1) foot in height for every seven (7) feet of horizontal distance measured from the sides of the landing strip so served.

*(Ord. No. 181, § 3-13.1, 4-12-78)*

Sec. 22-487. - Prohibited uses.

No use shall be permitted within the airport approach district which involves the emission of steam, smoke, dust, glare or other obstruction to visibility which would create an unsafe approach to the airport.

*(Ord. No. 181, § 3-13.2, 4-12-78)*

Secs. 22-488—22-505. - Reserved.

ARTICLE V. - SUPPLEMENTARY DISTRICT REGULATIONS

DIVISION 1. - GENERALLY

Sec. 22-506. - Fences.

(a) Landowners may erect fences on their property without a zoning permit in all zoning districts except the floodway and historic districts.

Fences erected in such districts shall be subject to sections 22-446 et seq. and 22-397 et seq., respectively. Fences erected across drainage courses shall not obstruct flow.

(b) Notwithstanding (a) above, the planning board may review, approve, restrict, and prohibit fences during site plan review.

*(Ord. No. 181, § 2-14, 4-12-78; Ord. No. 236, § 8(2-14), 12-14-83)*

Sec. 22-507. - Extraction of soil, sand or gravel.

There shall be no excavation or removal from the premises in any district of topsoil, earth, sand, gravel, clay or quarry stone (except in the connection with the necessary excavation and removal of not more than two hundred fifty (250) cubic yards of surplus material incidental to the bona fide construction of a building, landscaping or agricultural operation being executed on the premises) except in conformance with the regulations contained in this section. Excavation and removal of the above material in excess of two hundred fifty (250) cubic yards may occur in districts where it is a permitted use, subject to the planning board issuing a permit for excavation.

*(Ord. No. 181, § 2-15, 4-12-78; Ord. No. 270, § 1(2-15), 12-10-86)*

**Cross reference**— Earth excavation regulations, App. D.

Sec. 22-508. - Building height.

Building height shall be limited to seventy-five (75) feet in the industrial districts. In all other districts except the city center residential I, city center residential II, professional residential, mixed use and city center business II districts, building heights shall be limited to forty (40) feet, except by special exception, where, among other criteria, buildings of additional height are found to be a positive design element within the city while not significantly diminishing the light and air to or view from adjacent properties. Building heights in the city center residential I, city center residential II, professional residential, mixed use and city center business II districts shall conform to the table of dimensional regulations in section 22-389.

*(Ord. No. 181, § 2-18, 4-12-78; Ord. No. 422, 1-10-01; Ord. No. 531, § 1, 4-10-2013)*

Sec. 22-509. - Utility substations, stations or facilities.

Utility substations and similar utility stations or facilities are permitted in any zoning district subject to the conditions specified hereafter.

- (1) Such facilities shall be surrounded by a fence no less than six (6) feet in height and set back from the property lines in conformance with district regulations for front, side and rear yards.
- (2) A landscaped area at least ten (10) feet in width shall be maintained in the front, side and rear yards.

(Ord. No. 181, § 2-19, 4-12-78; Ord. No. 531, § 1, 4-10-2013)

Sec. 22-510. - Existing small lots.

Any lot in individual and separate nonaffiliated ownership from surrounding properties in existence on the effective date of this ordinance, may be developed for the purposes permitted in the district, provided it conforms to the front, side and rear yard requirements of that district, and provided that the use proposed for such lot will comply with all health and sanitary regulations for water and sewer disposal systems as required by the city and the state. Where two (2) or more lots or parcels of land, each of which lacks adequate area and/or dimension to satisfy the requirements of the zoning district in which it is located, are contiguous, are held in one (1) ownership, and, when combined, shall meet the district requirements, they shall be considered as one (1) lot or parcel for the purpose of this chapter.

(Ord. No. 181, § 2-20, 4-12-78)

Sec. 22-511. - Housing for the elderly.

Public housing projects for the elderly may be permitted in all but agricultural residential and rural residential districts, provided that they conform to the minimum lot size criteria for the district in which they are located, and that they conform to the following density and off-street parking regulations:

- (1) In R-1 and CR-1 districts garden-type apartments or developments not exceeding two (2) stories in height, and a maximum density of one (1) dwelling unit per two thousand five hundred (2,500) square feet.
- (2) In R-2, CR-2 and PR districts garden-type apartments or developments not exceeding two (2) stories in height, and a maximum density of one (1) dwelling unit per one thousand five hundred (1,500) square feet.
- (3) In R-2, CR-2, PR, B-2 and districts, buildings exceeding two (2) stories in height, and a maximum density of one (1) dwelling unit per one thousand five hundred (1,500) square feet.
- (4) In any zone, one (1) off-street parking space shall be provided for every three (3) dwelling units.

(Ord. No. 181, § 2-21, 4-12-78; Ord. No. 531, § 1, 4-10-2013)

Sec. 22-512. - Accessory uses, rear/side yards.

The following accessory uses shall be subject to rear and side yards specified regardless of the zoning district:

Accessory Use	Rear Yard	Side Yard
(1) Swimming pools	10 feet	10 feet
(2) Tool/garden/wood sheds less than 200 square feet, no permanent foundation, 1 per property all others must comply with normal yard requirements.	10 feet	5 feet
(3) Aboveground liquid or gas storage tanks (1,000 gallons or less)	To be determined by National Fire Protection Association (NFPA)	To be determined by National Fire Protection Association (NFPA)
(4) Small incidental structures such as dog houses, tree stands, basketball hoops and bird baths	None	None

(Ord. No. 181, § 2-22, 4-12-78; Ord. No. 236, § 10(2-22), 12-14-83; Ord. No. 420, 1-10-01; Ord. No. 531, § 1, 4-10-2013)

Sec. 22-513. - Reserved.

**Editor's note—**

Ord. No. 531, § 1, adopted Apr. 10, 2013, repealed § 22-513, which pertained to child care facilities and derived from Ord. No. 249, § I(2-26.14), adopted June 12, 1985.

Secs. 22-514—22-525. - Reserved.

DIVISION 2. - OFF-STREET PARKING

FOOTNOTE(S):

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**Cross reference—** Stopping, standing and parking, § 19-86 et seq.

Sec. 22-526. - When required, garage space.

Off-street parking spaces shall be provided in all districts in accordance with the specifications of this chapter whenever any new use is established or existing use is enlarged, replaced, reconstructed, or changed. Garage space on the lot or site shall be considered as off-street parking.

*(Ord. No. 181, § 2-16, 4-12-78)*

Sec. 22-527. - Existing uses.

- (a) The off-street parking requirements of this chapter shall not apply to uses lawfully existing on the effective date of this ordinance unless such uses are enlarged, reconstructed, replaced, or changed to a use requiring additional parking space.
- (b) The enlargement of any building shall require the provision of off-street parking for the existing building as if it were newly constructed in addition to the required off-street parking spaces for the enlargement.
- (c) When an existing use is changed to another use, parking spaces shall be provided as required in this chapter for the new use.
- (d) The planning board in approving the site plan for the reconstruction or replacement of existing permitted non-residential use may waive or modify the requirements for off-street parking as specified in this chapter provided there is no enlargement of the use and finding that lot topography and/or area prevent compliance and that adequate public parking is available.
- (e) Existing uses which are discontinued or abandoned for twelve (12) consecutive months shall comply with the off-street parking requirements of this chapter prior to reuse or reopening.

*(Ord. No. 181, § 2-16.1, 4-12-78; Ord. No. 531, § 1, 4-10-2013)*

Sec. 22-528. - Location generally.

Off-street parking facilities shall be provided on the same lot as the use they are intended to serve unless otherwise approved during the review process or unless the use is located in the mixed-use district where off-site parking is allowed as provided in [section 22-537](#).

*(Ord. No. 181, § 2-16.2, 4-12-78; Ord. No. 531, § 1, 4-10-2013)*

Sec. 22-529. - Computation for multiuse buildings.

Where one (1) building is used for more than one (1) use, parking requirements shall be computed for each use as if it were a principal use. Warehouse calculations may only be applied if the entire structure is utilized as a warehouse and no retail activity is conducted within such structure.

*(Ord. No. 181, § 2-16.3, 4-12-78; Ord. No. 318, § 1, 1-10-90)*

Sec. 22-530. - Principal use not enclosed.

Where the principal use is not enclosed in a building, the portion of the lot so used shall be considered as part of the gross floor area for computing parking requirements.

*(Ord. No. 181, § 2-16.4, 4-12-78)*

Sec. 22-531. - Rounding-off computation.

Where the computation of parking spaces results in a fractional number, the fraction of one-half (½) or more shall be counted as one (1).

*(Ord. No. 181, § 2-16.5, 4-12-78)*

Sec. 22-532. - Parking lot design.

Off-street parking facilities for all uses other than one- and two-family dwellings shall comply with the following provisions:

- (1) Each parking space shall be a minimum of nine (9) feet wide. Parking spaces shall be at least nineteen (19) feet long for ninety (90) degrees or right-angle parking. For angle parking, the length of parking spaces shall be increased as specified by the city engineer.
- (2) Design and layout of off-street parking facilities shall in general comply with Special Report 125 - "Parking Principles" of the Federal Highway Research Board latest edition, and be approved by the city engineer.
- (3) Parking areas including all turning, maneuvering, and driveway access areas shall be constructed with durable materials to prevent dust and mud, and be graded and drained to properly dispose of surface waters to the satisfaction of the city engineer.
- (4) Lighting fixtures used to illuminate parking areas shall direct light away from adjacent properties and away from streets.
- (5) Except in the MU zoning district, no off-street parking shall be located within five (5) feet of any lot line, or in the industry district III, within a required yard, except that parking lots may be contiguous or interconnected. Parking in a nonresidential district shall not be permitted within twenty (20) feet of a residential district boundary, except in the PR district where parking shall not be permitted within five (5) feet of a residential boundary.
- (6) Except at exit or access driveways or walkways, a substantial wheel stop or guard rail shall be placed around the perimeter of parking areas containing more than five (5) spaces.
- (7) Multifamily parking. Parking in residential districts shall not be located within five (5) feet of side or rear property lines, or within ten (10) feet of any front property line, except that parking lots may be contiguous or interconnected. Parking in nonresidential districts shall not be permitted within twenty (20) feet of a residential district boundary, except in the PR district, where parking shall not be permitted within five (5) feet of a residential boundary.

*(Ord. No. 181, § 2-16.6, 4-12-78; Ord. No. 236, § 9, 12-14-83; Ord. No. 359, 7-13-94; Ord. No. 363, 10-12-94; Ord. No. 411, 11-8-00; Ord. No. 531, § 1, 4-10-2013)*

Sec. 22-533. - Table.

Except as otherwise provided in this chapter, off-street parking spaces shall be provided in accordance with the following:

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Use	Off-Street Parking Spaces Required
(1) Single-family dwelling	Two (2)
(2) Multifamily	One and one-half (1½) spaces per dwelling unit
(3) Roominghouses	One (1) per rental unit
(4) Motels and hotels	0.85 spaces per rental unit
(5) Nursing homes, convalescent homes	One (1) per four (4) beds (minimum of five (5) spaces)
(6) Places of worship	One (1) per four (4) seats
(7) Hospitals	One (1) per two (2) beds
(8) Places of public assembly	One (1) per four (4) seats or per twenty (20) square feet where no permanent seats
(9) Restaurants	One (1) per four (4) seats (minimum of five (5) spaces)
(10) Retail stores and services	One (1) per four hundred (400) square feet of gross floor area
(11) General offices	One (1) per three hundred twenty-five (325) square feet of gross floor area
(12) Medical or dental offices	One (1) per three hundred twenty-five (325) square feet of gross floor area
(13) Warehouses and similar uses	One (1) per one thousand two hundred (1,200) square feet of gross floor area
(14) Industrial uses	One and one-half (1½) per employee based on maximum employee occupancy that drive to work (minimum of five (5) spaces)
(15) Mixed uses	Sum of component uses
(16) Home occupations	Parking shall be provided for all occupations involving clientele or requiring deliveries, number of spaces shall be determined by the zoning board of adjustment
(17) Other uses	Parking requirements for uses not covered shall be determined by the planning board as part of site plan approval

(Ord. No. 181, § 2-16.7, 4-12-78; Ord. No. 318, § 1, 1-10-90; Ord. No. 363, 10-12-94; Ord. No. 531, § 1, 4-10-2013)

Sec. 22-534. - Maintenance of parking facilities.

Off-street parking facilities required by this chapter shall be maintained in a useable and functional condition, free of pot-holes, washouts, debris, and other hazards to the public. Landscaped and planted areas shall be maintained.

(Ord. No. 181, § 2-16.8, 4-12-78)

Sec. 22-535. - Truck loading space.

For new commercial or industrial buildings not including replacement or reconstruction of existing commercial and industrial buildings in excess of four thousand (4,000) square feet of floor area, space shall be provided at the rear or side of such buildings for the loading or unloading of trucks at the rate of one (1) space for the first twenty thousand (20,000) square feet of floor area plus one (1) space for each additional fifty thousand (50,000) square feet of floor area or fraction thereof. Each truck loading space shall constitute a rectangular area at least twelve (12) feet in width and sixty (60) feet in length with a vertical clearance of at least fifteen (15) feet.

(Ord. No. 181, § 2-17, 4-12-78)

Sec. 22-536. - Child care facilities.

Off-street parking spaces shall be provided for child caring facilities as follows:

- (1) Family daycare home, two (2) spaces.
- (2) Family group daycare home, two (2) spaces plus one (1) additional space for each four (4) additional children for which such family group daycare home is licensed, for a total of four (4).



- (3) Foster family home, two (2) spaces.
- (4) Foster family group home, two (2) spaces plus one (1) additional space for each four (4) additional children for which such foster family group home is licensed, for a total of four (4).
- (5) Group child care centers, two (2) spaces plus one (1) additional space for each four (4) additional children for which such group child care centers are licensed, for a total of four (4).
- (6) Group home, two (2) spaces plus one (1) additional space for each four (4) additional children for which such group home is licensed, for a total of four (4).

(Ord. No. 249, § 1, 6-12-85)

Sec. 22-537. - Parking in the mixed use district.

(a) Notwithstanding any provision of this chapter which may conflict with the following provisions, within the mixed use district there shall be provided parking facilities in accordance with the following minimum standards:

Business, office, commercial and industrial	1 space for every 500 square feet of ground floor area plus 1 space for every 1,000 square feet of floor area above the ground floor.
Restaurants	1 space for every 10 seats.

- (b) For any other use, the parking requirements in section 22-533 shall apply. These parking requirements may be reduced if it can be demonstrated that the parking demand associated with a specific use can be met through fewer off-street spaces or through shared parking.
- (c) In determining compliance with parking requirements in the mixed use district, parking may be provided off site within one thousand two hundred (1,200) feet where sufficient capacity is demonstrated.
- (d) If parking spaces are provided on the same lot as the use they are intended to serve, those spaces shall be located to the rear or side of buildings.

(Ord. No. 531, § 1, 4-10-2013)

Sec. 22-538. - Parking in the city center business II district.

In the city center business II district, off-street parking shall be located to the side or rear of buildings.

(Ord. No. 531, § 1, 4-10-2013)

Secs. 22-539—22-550. - Reserved.

DIVISION 3. - NOISE STANDARDS

FOOTNOTE(S):

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**Cross reference**— Peddlers and solicitors prohibited from making any noise to attract customers, § 8-121; nuisances, Ch. 11; noise, § 11-26 et seq.

Sec. 22-551. - General provisions.

- (a) The noise standards contained in this division shall be the minimum standards to be met and maintained by all nonresidential uses established after the effective date of this section.
- (b) No new use shall be commenced and no existing use shall be changed which will produce noise levels in excess of those shown in section 22-556

(Ord. No. 271, § 1(2-27.1), 1-14-87)

Sec. 22-552. - Exemptions.

The following uses and activities shall be exempt from the provisions of this division:

- (1) Safety signals, warning devices and emergency relief valves.
- (2) Activities performed by or for any federal, state, country or city governmental agency.
- (3) Unamplified human voices and crowd noises generated at gatherings open to the public.
- (4) Bells, chimes, or carillons used for religious purposes or in conjunction with religious services.
- (5) Power tools, including lawn mowers, snowblowers and chain saws, when used for the maintenance of property.

(Ord. No. 271, § 1(2-27.2), 1-14-87; Ord. No. 372, 5-24-95)

Sec. 22-553. - Special exceptions.

- (a) The zoning board of adjustment may grant special exceptions for uses which produce noise levels in excess of those shown in section 22-556, only if the board first finds that:
  - (1) The use will be located in a remote area.
  - (2) All adjoining property owners consent, in writing.
  - (3) All personnel who will be exposed to the noise will use safety equipment which will avoid injury from the noise.

- (4) The noise will not be a nuisance to any person.
- (b) When a special exception is granted, the zoning board of adjustment shall as a condition of the special exception, establish the maximum permissible noise levels for the use.

*(Ord. No. 271, § 1(2-27.3), 1-14-87)*

Sec. 22-554. - Measurement.

For purposes of testing to determine compliance with this division:

- (1) Continuous and impact noise shall be measured at the point on the other property where the noise is reported to be an annoyance to others, using both fast and slow meter response indications, as the case may require, by a sound level meter constructed in accordance with A.N.S.I. specifications. For the purpose of this section, impact noises are intermittent sounds such as from a punch press, drop forge hammer or release of compressed gases.
- (2) The city may, at its expense, take sound level measurements at anytime. Upon complaint from any citizen or group of citizens, the zoning official, after written notice to the owner or occupant of the property from which the noise is coming, may cause sound level measurements to be made. In the event the sound level measurements exceed those shown in section 22-556, the cost of such measurements shall be paid by the owner or occupant.
- (3) The city may, at its expense, take sound level measurements at anytime. Upon complaint from any citizen or group of citizens, the zoning official, after written notice to the owner or occupant of the property from which the noise is coming, may cause sound level measurements to be made. In the event the sound level measurements exceed those shown in section 22-556, the cost of such measurements shall be paid by the owner or occupant.

*(Ord. No. 271, § 2(2-27.4), 1-14-87; Ord. No. 441, 11-19-02)*

Sec. 22-555. - Compliance.

In the event any sound level measurements, whether conducted independently by the city or at the expense of the owner or occupant, indicate that noises are being generated which exceed those shown in section 22-556, the zoning official shall issue a cease and desist order to the owner or occupant. If that order is not obeyed, the matter shall be referred to the city solicitor for legal action and the full cost of such enforcement action shall be paid by the owner or occupant.

*(Ord. No. 271, § 2(2-27.5), 1-14-87)*

Sec. 22-556. - Permissible noise levels.

The noise limits shown in the following table shall be the maximum permitted under this section.

District in Which Sound is Measured	Continuous Slow Meter Response		Impact Fast Meter Response	
	Day	Night	Day	Night
(1) Residential (RR2, AR, RR, R-1, R-2 districts)	20dba	15dba	25dba	15dba
(2) Commercial (PR, B-1, B-1.5, B-2 districts)	25dba	15dba	25dba	20dba
(3) Industrial (I-1, I-2 and I-3 districts)	25dba	15dba	25dba	25dba

For the purpose of this table, "day" shall be defined as 7:00 a.m. to 10:00 p.m. and "night" shall be defined as 10:00 p.m. to 7:00 a.m.

*(Ord. No. 271, § 2, 1-14-87; Ord. No. 359, 7-13-94; Ord. No. 411, 11-8-00; Ord. No. 442, 11-19-02)*

DIVISION 4. - SEPTAGE AND SLUDGE REGULATIONS

## Sec. 22-557. - Definitions.

*Septage* means septage as defined by RSA 485-A:2, IX-a, namely "material removed from septic tanks, cesspools, holding tanks, or other sewage treatment storage units, excluding sewage sludge from public treatment works and industrial waste." Septage includes domestic septage as well as septage from industrial and commercial sources.

*Sludge* means sludge as defined by RSA 485-A:2, XI-a, namely "the solid or semisolid material produced by water and waste water treatment processes."

*Exceptional quality sludge*: exceptional quality sludge is defined as that sludge which meets all of the following: the pollutant concentrations as set forth in 40 CFR 503.13(b)3; the Class A pathogen reduction requirements set forth in 40 CFR 503.32(a) and one of the vector attraction reduction requirements contained in 40 CFR 503.33(b)1 through 503.33(b)8.

*Industrial sludge* means sludge which is derived solely from processing of industrial wastewater as defined in 40 CFR 503.9.

(Ord. No. 379, 6-12-96)

## Sec. 22-558. - Restrictions.

- (a) Only sludge of exceptional quality as defined herein may be disposed of or spread within the city. Such exceptional quality sludge may be spread in all zones.
- (b) A state permit will not be required for the disposal or spreading of exceptional quality sludge.
- (c) Any person intending to dispose of or spread exceptional quality sludge in the city shall provide access to the sludge to be so disposed of or spread to the director of the department of public works, or his designee from the Claremont Water and Sewer Division, for testing of the sludge as needed, to be determined by the director of public works or his designee. All costs of said testing shall be born by the person desiring to dispose of or spread the sludge within the city. The zoning administrator may waive the testing requirements of this ordinance upon acceptable documentation provided by the person proposing to spread exceptional quality sludge.
- (d) Septage shall not be spread in any zone of the city.
- (e) Industrial sludge shall be processed through a licensed waste treatment facility and composted prior to being spread as permitted herein.

(Ord. No. 379, 6-12-96; Ord. No. 379A, 7-10-96)

## Sec. 22-559. - Compliance.

Any person not in compliance with the regulations contained herein shall be subject to any and all penalties permitted under New Hampshire law.

(Ord. No. 379, 6-12-96)

## Sec. 22-560. - Reserved.

## DIVISION 5. - SEXUALLY ORIENTED BUSINESSES

## FOOTNOTE(S):

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**Editor's note**— Ord. No. 410, adopted Jan. 10, 2001, added new provisions to Art. V of this chapter as Div. 4, §§ 22-578, 22-579. As other provisions existed within this Code as Art. IV, Div. 4, and still others as §§ 22-578, 22-579, the provisions of Ord. No. 410 have been redesignated as Div. 5, §§ 22-561, 22-562, at the editor's discretion.

## Sec. 22-561. - Purpose.

The intent of this division is to regulate the secondary effects of sexually oriented businesses in the following areas: crime control, protection of property values and the public health, safety and welfare, the prevention of civic blight, and the protection of children. It is neither the intent nor effect of this article to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market; and neither is it the intent nor effect of this article to condone or legitimize the distribution of obscene material.

(Ord. No. 410, 1-10-01)

## Sec. 22-562. - Special use permit procedures.

- (a) *Special use permitting granting authority*. The special use permit granting authority (SUPGA) shall be the zoning board of adjustment of the city.
- (b) *Special use permit conditions*.
  - (1) At a minimum the following location, placement, and separation of sexually oriented businesses shall be established as condition for a permit under this section. Measurements shall be the straight line distance from structure to structure.
    - a. *Zoning district requirements*. Sexually oriented businesses shall only be located on property within the business II district.
    - b. *Use setbacks*. Sexually oriented businesses shall not be located within two hundred (200) feet of property used for any of the following uses:
      - 1. Public or private school;
      - 2. Child day care agency (as defined by RSA 170-E:2, IV, as amended);
      - 3. Public recreational field, trail or similar public-owned facility;
      - 4. Religious institution, church, or place of worship;

5. Hospital, nursing home, or sheltered care facility;
  6. Single or multifamily residence.
- c. *Separation of businesses.* There shall be a minimum of five hundred (500) feet between each sexually oriented business.
- d. *Town line setback.* Sexually oriented businesses shall not be located within one thousand (1,000) feet of any municipal boundary.
- (2) As a condition of receiving or retaining a permit under this section, "specified sexual activities" or "specified anatomical areas" including instruments, devices, or paraphernalia which are designed for use in connection with "specified sexual activities" or their images, shall not be visible in any fashion whatsoever from the exterior of the building within which the business is located.
  - (3) The zoning board of adjustment may impose additional requirements as conditions to receive a permit under this section in order to lessen potential audio or visual attractiveness to and impacts on minors, to minimize potentially negative impacts on nearby land uses and to prevent such use from being visually obtrusive from public rights-of-way or other public properties. Such requirements may include, but not be limited to, the building's and its entry's orientation on its lot, fencing, screening, sign size and location, and site and building lighting.

*(Ord. No. 410, 1-10-01; Ord. No. 531, § 1, 4-10-2013)*

Secs. 22-563—22-570. - Reserved.

#### ARTICLE VI. - PLANNED RESIDENTIAL DEVELOPMENT

##### Sec. 22-571. - General provisions.

In order to promote the efficient use of the land in harmony with natural terrain and natural features and the efficient concentration of streets and utilities, the zoning board of adjustment may permit an owner of a tract of land or a duly authorized agent to develop the tract as a planned residential development, subject to the applicable regulations contained in article III and the regulations in this article.

*(Ord. No. 181, § 2-23, 4-12-78)*

##### Sec. 22-572. - Restricted.

Only residential uses shall be permitted in a planned residential development. This shall include single-family and multi-family dwellings.

*(Ord. No. 181, § 2-23.1, 4-12-78)*

##### Sec. 22-573. - Minimum requirements.

Planned residential development may be permitted subject to satisfactory solution regarding the ownership, use and maintenance of open space land or land to be held in common, and the provision of water and the system of sewage disposal.

*(Ord. No. 181, § 2-23.2, 4-12-78)*

##### Sec. 22-574. - Agricultural residential districts.

In agricultural residential districts, planned residential development may be permitted as follows:

- (1) The tract of land upon which planned residential development is contemplated shall contain a minimum of ten (10) acres.
- (2) The minimum lot size for single-family homes shall be one (1) acre provided the method of water supply and sewage disposal conform to standards of the city and the state. The total number of dwelling units shall not exceed one (1) unit per five (5) acres.
- (3) Yard requirements shall be as contained in [section 22-169](#)

*(Ord. No. 181, § 2-23.3, 4-12-78)*

##### Sec. 22-575. - Rural residential districts.

In rural residential districts, planned residential development may be permitted as follows:

- (1) The tract of land upon which planned residential development is contemplated shall contain a minimum of ten (10) acres.
- (2) The minimum lot size for single-family homes shall be ten thousand (10,000) square feet provided the method of water supply and sewage disposal conform to standards of the city and the state. The total number of dwelling units shall not exceed one (1) unit per acre.
- (3) For multifamily dwellings, the total number of dwelling units shall not exceed one (1) unit per thirty thousand (30,000) square feet, provided the methods of water supply and sewage disposal conform to standards of the city and the state.
- (4) Yard requirements shall be as contained in [section 22-209](#)

*(Ord. No. 181, § 2-23.4, 4-12-78)*

##### Sec. 22-576. - Residential districts.

In residential I districts, planned residential development shall be permitted as follows:

- (1) The tract of land upon which planned residential development is contemplated shall contain a minimum of three (3) acres.
- (2) The minimum lot size for single-family homes shall be five thousand (5,000) square feet provided the method of water supply and sewage disposal conform to standards of the city and the state. The total number of dwelling units shall not exceed one (1) unit per ten thousand (10,000) square feet.
- (3) For multifamily dwellings, the total number of dwelling units shall not exceed one (1) unit per ten thousand (10,000) square feet, provided the method of water supply and sewage disposal conform to standards of the city and the state.
- (4) Yard requirements shall be as contained in [section 22-209](#)

*(Ord. No. 181, § 2-23.5, 4-12-78; Ord. No. 363, 10-12-94)*

Sec. 22-576.1. - Reserved.

**Editor's note—**

Ordinance No. 363, adopted October 12, 1994, deleted § 22-576.1 in its entirety. Formerly, said section pertained to the I-1 industry district I and derived from § 1 of Ord. No. 309, adopted October 10, 1990.

Sec. 22-577. - Buffer strips.

In all districts where public, commercial or industrial uses are proposed adjacent to residential buildings, there shall be a strip not less than five (5) feet in width, suitably landscaped and planted to screen such uses from the residences.

*(Ord. No. 181, § 2-24, 4-12-78)*

Secs. 22-578—22-595. - Reserved.

ARTICLE VII. - SIGNS

FOOTNOTE(S):

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**Cross reference—** Buildings and building regulations, Ch. 5; licenses and business regulations, Ch. 8.

Sec. 22-596. - Permit required.

- (a) No sign shall be placed, erected, moved, replaced, or reconstructed without a permit unless specifically exempted in this chapter. Such permit shall be issued by the zoning administrator provided the sign meets all the requirements of this chapter. Applications for a sign permit shall be made to the zoning administrator on the form provided by him and shall include a set of plans (to scale), showing site location, sign size, colors, the design, type, and size of lettering, method of illumination, (if any), and the type of materials to be used in construction.
- (b) All signs requiring a permit and signs permitted by section 22-603(7) and (9) that are to be located within the historic zoning district shall be subject to the provisions of section 22-397 et seq. No permit shall be issued for a sign within the historic zoning district without a certificate of appropriateness from the historic district commission.

*(Ord. No. 236, § 7(2-13.1), 12-14-83)*

Sec. 22-597. - Construction and maintenance.

The material and construction of any sign shall be in accordance with the building code and other city requirements. All signs shall be maintained in a safe condition and, in good repair.

*(Ord. No. 236, § 7(2-13.2), 12-14-83)*

Sec. 22-598. - Location.

The placement of signs shall be as follows:

- (1) All signs shall be prohibited within the rights-of-way of public highways except that signs may project over public sidewalks provided no public hazard is created.
- (2) On corner lots no sign shall be erected or placed in such a manner so as to materially impair vision in a triangular area formed by the intersecting street right-of-way lines and a line connecting two (2) points on the street right-of-way lines located thirty (30) feet from their intersection.
- (3) Signs in all districts shall not be closer than five (5) feet to lot lines unless affixed to a building.

*(Ord. No. 236, § 7(2-13.3), 12-14-83)*

Sec. 22-599. - Billboards and off-premises advertising.

Billboards shall not be permitted. Signs not relating in subject matter to the premises on which they are located, or not related to products, accommodations, services, or activities on the premises are prohibited.

*(Ord. No. 236, § 7(2-13.4), 12-14-83)*

Sec. 22-600. - Sign movement and color.

No sign shall move nor create an illusion of movement through shimmering and/or rippling. No sign shall contain any parts which move except those parts unrelated to advertising and which solely indicate date, time, temperature, and similar public service announcements. No sign shall use phosphorescent, fluorescent, or day-glow colors.

*(Ord. No. 236, § 7(2-13.5), 12-14-83)*

Sec. 22-601. - Illumination.

Signs shall be illuminated only in accordance with the following restrictions:

- (1) No sign shall be intermittently illuminated nor of a traveling, tracing or sequential light type. No sign shall employ animated or flashing lights except such portions of a sign that are indicators of time, date, temperature, or for similar public service announcements.
- (2) No sign, or related outdoor lighting fixture, shall be so placed as to focus light directly into the eyes of any occupant of any vehicle traveling upon any street nor shall the sign, or fixture, be so placed as to focus light into any window of any residence.

- (3) In AR, RR, R-1, R-2, CR-1, CR-2 and PR districts, signs shall be artificially illuminated only by external, nonflashing white light. No sign shall be illuminated between the hours of 9:00 p.m. and 7:00 a.m., except for legally nonconforming uses which may have signs illuminated during normal business hours.
- (4) In B-2, CB-2, MU, I-2 and I-3 districts, illuminated signs are permitted subject to the following conditions:
  - a. Sign illumination is permitted only between the hours of 7:00 a.m. and 12:00 midnight except that signs may be illuminated during any hours in which an establishment is open for business.
  - b. Such portions of a sign as consist solely of indicators of date, time and temperature shall not be restricted as to hours of illuminations.

*(Ord. No. 236, § 7(2-13.6), 12-14-83; Ord. No. 359, 7-13-94; Ord. No. 411, 11-8-00; Ord. No. 531, § 1, 4-10-2013)*

**Sec. 22-602. - Sign area measurement.**

The measurement of the area of a sign shall be the surface area and shall be considered to include all lettering or elements of a sign, accompanying design and symbols, together with the background, whether open or closed, on which they are displayed, but not including any supporting framework and bracing which are incidental to the display itself and which are not designed to attract attention. Where the sign consists of letters or symbols affixed to a surface or building, without any distinguishing border, panel or background, the area shall be considered to be the smallest rectangle or shape which encompasses all of the letters and symbols. The area of one (1) side of a double-faced sign shall be regarded as the total area of the sign.

*(Ord. No. 236, § 7(2-13.7), 12-14-83)*

**Sec. 22-603. - Signs allowed in all zoning districts without permits.**

The following signs are allowed in all zoning districts as a permitted use without a sign permit:

- (1) One (1) temporary nonilluminated sign no greater than nine (9) square feet in area advertising the sale, rent or lease of the premises.
- (2) Political signs as regulated by RSA 664.
- (3) Temporary nonilluminated signs pertaining to yard, garage, and similar special sales or events. These signs shall only be displayed while such sale or special event is actively in progress.
- (4) Directional signs indicating entrance and exit driveways, parking regulations and signs deemed essential to protect the public health, safety and welfare. Such signs shall be no larger than four (4) square feet.
- (5) Signs and decorations displayed as part of the celebration of holidays, or national, state or local citywide events or festivals.
- (6) Temporary special promotional signs for public, institutional, cultural, or civic events occurring within or relative to the city.
- (7) Bulletin or announcement boards not exceeding thirty-two (32) square feet in total area on the premises of schools, churches or other public facilities.
- (8) One (1) temporary sign not exceeding thirty-two (32) square feet on a building or project under construction identifying the architect, owner, and/or contractor.
- (9) One (1) directory of the principal occupants of a building may be affixed to the exterior wall at each entrance to the building. Such directory shall not exceed one (1) square foot for each occupant.
- (10) One (1) sign not exceeding two (2) square feet identifying the name and/or address of the occupant.
- (11) One (1) temporary non-illuminated sign not exceeding thirty-two (32) square feet advertising the sale, rent, lease of an existing commercial or industrial use or land located in the B-2, CB-2, I-1, I-3 or MU zoning district.
- (12) One (1) temporary, nonilluminated sign, not exceeding nine (9) square feet, advocating a social or political message, if such signs are not regulated by RSA 664 and subject to the following limitations:
  - a. No sign allowed by this section shall be placed within ten (10) feet of a city right-of-way.
  - b. No sign allowed by this section shall be permitted to become an aesthetic detriment to the general neighborhood where it is located because of lack of maintenance or effects of weather.

*(Ord. No. 236, § 7(2-13.8), 12-14-83; Ord. No. 307, § 1(2-13.8), 8-9-89; Ord. No. 359, 7-13-94; Ord. No. 386, 9-10-97; Ord. No. 411, 11-8-00; Ord. No. 531, § 1, 4-10-2013)*

**Sec. 22-604. - Signs allowed only by permit.**

A permit shall be required for signs in the following zoning districts:

- (1) In R-1, R-2, CR-1 and CR-2 zoning districts one (1) exterior affixed, hanging or freestanding sign not exceeding four (4) square feet in area identifying a permitted use.
- (2) In AR and RR zoning district one (1) exterior affixed, hanging, or freestanding sign not exceeding twenty-four (24) square feet in area identifying a permitted use except that signs for home occupations shall be limited to four (4) square feet in area.
- (3) In PR zoning district one (1) exterior affixed, hanging, or free standing sign not exceeding sixteen (16) square feet in area identifying a permitted use.
- (4) In AR, RR, R-1, R-2, CR-1, CR-2 and PR zoning districts:
  - a. One (1) sign not exceeding thirty-two (32) square feet indicating the name of a residential development consisting of a grouping of separate buildings.
  - b. Signs not exceeding a total of forty (40) square feet in area identifying a lawfully-maintained, nonconforming use.
- (5) In B-2, CB-2, I-1, and I-2 zoning districts:
  - a.

Exterior affixed signs for each frontage. Exterior affixed signs shall not exceed two (2) square feet for each linear foot of frontage or one hundred fifty (150) square feet, whichever is less, except in the B-2 zone, if the gross ground floor area of the building on the lot exceeds twenty thousand (20,000) square feet. For each one thousand (1,000) square feet in excess of twenty thousand (20,000) square feet, an additional five (5) square feet of sign area shall be permitted, up to a maximum of three hundred (300) square feet. Buildings having frontage on two (2) streets may compute the building frontage on both streets, and two (2) square feet of signage may be permitted for each building frontage, but signs must be placed on the respective side of the building used for the computation and the amount allowed cannot be combined and put on one (1) frontage.

- b. One (1) hanging sign on each frontage provided that such sign has no more than two (2) faces and projects no more than eight (8) feet from the building face. Hanging signs shall not exceed twenty-five (25) square feet in area.
  - c. Freestanding or ground signs subject to the following conditions:
    1. Signs shall not exceed thirty (30) feet in height nor obscure vision for traffic movement.
    2. The area of a sign area shall not exceed one hundred (100) square feet unless the gross ground floor area of the building on the lot exceeds twenty thousand (20,000) square feet. For each one thousand (1,000) square feet in excess of twenty thousand (20,000) square feet, an additional five (5) square feet of sign area shall be permitted, up to a maximum of three hundred (300) square feet.
    3. One (1) freestanding sign allowed per lot unless the street frontage in the same and contiguous ownership exceeds one hundred fifty (150) feet or where a lot fronts on two (2) streets, in which case two (2) freestanding signs are permitted. The combined area of the two (2) signs, however, shall not exceed one and one-half (1½) times the area permitted for one (1) sign.
- (6) In the MU zoning district:
- a. One (1) exterior affixed or hanging (parallel to building) sign not exceeding sixteen (16) square feet in area identifying a permitted use for each business within a building.
  - b. One (1) freestanding sign per frontage, not exceeding sixteen (16) square feet in area identifying a permitted use, not to exceed eight (8) feet in height, and approved by the zoning administrator as conforming to the character of other signs in this district and being in accordance with the purposes of this district.
  - c. As an alternative to (1) above, by special exception, one (1) exterior affixed sign per frontage, not exceeding forty-two (42) square feet in area, with no internal illumination, and subject to planning board design approval.
  - d. As an alternative to subsection (6)b. above, by special exception, one (1) freestanding sign per frontage, not exceeding thirty-two (32) square feet in area, not to exceed eight (8) feet in height, and subject to planning board design approval.
- (7) In the I-3 zoning district:
- a. One (1) exterior affixed sign not exceeding fifty (50) square feet in area identifying the building or the permitted use(s) within the building.
  - b. One (1) freestanding sign per frontage not exceeding one hundred (100) square feet in area identifying the building or the permitted use(s) within the building, be located on an integral base or raised landscaping, not to exceed ten (10) feet in height, and not to be located within a required yard.

*(Ord. No. 236, § 7(2-13.9), 12-14-83; Ord. No. 307, § 1(2-13.9), 8-9-89; Ord. No. 359, 7-13-94; Ord. No. 411, 11-8-00; Ord. No. 421, 1-10-01; Ord. No. 431, 3-13-02; Ord. No. 531, § 1, 4-10-2013)*

#### Sec. 22-605. - Status of nonconforming signs.

Existing signs for which a permit was previously issued or which met the requirements of this chapter in effect at the time of construction but which are not in conformance with the provisions of this chapter shall be deemed a nonconforming sign. Such nonconforming sign shall be subject to the following regulations:

- (1) Nonconforming signs may be replaced. However, no nonconforming sign shall be altered or relocated in any way, which makes the sign less in compliance with the requirements of this chapter than it was before the alteration.
- (2) Existing signs which are nonconforming because of improper illumination, location, size, color, or movement shall be permitted to remain indefinitely until destroyed, abandoned, or replaced with a different sign.
- (3) Nonconforming signs removed or destroyed by any means and not replaced within six (6) months shall lose their nonconforming status.

*(Ord. No. 236, § 7(2-13.10), 12-14-83)*

Secs. 22-606—22-650. - Reserved.

#### ARTICLE VIII. - COMMUNICATION TOWERS

##### FOOTNOTE(S):

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**Editor's note**— Ord. No. 409, adopted Nov. 8, 2000, added new provisions to Art. IV of this chapter as Div. 16, §§ 22-435—22-443. As other provisions existed within this Code as Art. IV, Div. 16, and still others as §§ 22-435—22-443, and for classification purposes, the provisions of Ord. No. 409 have been redesignated as Art. VIII, §§ 22-651—22-659, at the editor's discretion.

Sec. 22-651. - Purpose.

The purpose of this article is to establish general guidelines for the siting of telecommunication facilities and to enhance and fulfill the following goals:

- (1) Preserve the authority of the city to regulate and to provide reasonable opportunities for the siting of telecommunication facilities while ensuring that telecommunications providers service remains effective and efficient.
- (2) Reduce or eliminate adverse impacts such telecommunication facilities may create including, but not limited to, impacts on aesthetics, environmentally sensitive areas, historically significant locations, flight corridors, reduction in property values, and health and safety concerns.
- (3) Provide for co-location and minimal impact siting options through an assessment of technology, current location options, future location availability, innovative siting techniques, and siting possibilities beyond the geographic boundaries of the city.
- (4) Require cooperation and co-location between competitors, to the highest extent possible, in order to reduce cumulative negative impacts on the city.
- (5) Permit the construction of new towers only where all other reasonable opportunities have been exhausted, and encourage the owners and users of towers and antennas to configure them in a manner that minimizes adverse visual impacts of the structures.
- (6) Provide for constant maintenance and safety inspections for all telecommunications facilities and appurtenances.
- (7) Provide for the removal or upgrade of technologically outdated facilities.
- (8) Provide for the removal of abandoned facilities including a procedure for the city to remove abandoned towers in certain cases to ensure the public health and safety.

(Ord. No. 409, 11-8-00)

Sec. 22-652. - Definitions.

[For the purposes of this article, the following words, terms and phrases shall have the meanings set out in this section, unless the context clearly indicates otherwise:]

*Alternative tower structure:* Innovative siting techniques such as man-made trees, clock or bell towers, steeples, light poles, and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers and their appurtenances.

*Antenna:* Any exterior apparatus designed for telephonic, radio, television, personal communications services (PCS), pager network, repeater, or any other communications through the sending and/or receiving of electromagnetic waves of any bandwidth.

*Antenna array:* A collection of antennas attached to a mount to send and receive by a wireless telecommunications facility.

*Co-location:* Locating multiple telecommunication facilities on a single mount.

*FAA:* An acronym meaning Federal Aviation Administration.

*FCC:* An acronym meaning Federal Communications Commission.

*Guyed towers:* A monopole or lattice tower that is secured to the ground or other surface by diagonal cables for lateral support.

*Height:* When referring to a telecommunication structure, shall mean the distance measured from ground level to the highest point on the telecommunication structure, even if said highest point is an antenna or other appurtenance.

*Lattice tower:* A type of mount with multiple legs and structural cross-bracing between the legs that is self supporting and free-standing.

*Mast:* A thin pole that resembles a street light standard or a telephone pole.

*Monopole:* A thicker type of mount than a mast that is self-supporting with a single shaft of wood, steel, or concrete, or other material, that is designed for the placement of antennas and arrays along the shaft.

*Mount:* The structure or surface upon which antennas are mounted, including but not limited to:

- (1) *Ground-mount:* Mounted on the ground;
- (2) *Structure-mount:* Mounted on a structure other than a building;
- (3) *Roof-mount:* Mounted on the roof of a building; and
- (4) *Side-mount:* Mounted on the side of a building.

*Pre-existing towers and antennas:* Any tower or antenna lawfully constructed or permitted prior to the adoption of this article. Additionally, any tower or antenna lawfully constructed in accordance with this article that predates an application currently before the planning board.

*Telecommunications facilities:* Any structure, antenna, tower, or other device which provides commercial mobile wireless services, unlicensed wireless service, cellular telephone services, specialized mobile radio communications (SMR), and personal communications service (PCS), and common carrier wireless exchange access services.

*Tower:* Any structure that is designed and constructed primarily for the purpose of supporting one (1) or more antennas, including self-supporting lattice towers, guyed towers, or monopole towers. The term also includes radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers, alternative tower structures, and similar structures.

(Ord. No. 409, 11-8-00)

Sec. 22-653. - Regulation.



Telecommunication facilities shall be allowed by special use permit, in accordance with RSA 674:21, II, as either primary or accessory uses in all zones in the city provided that the design standards outlined in section 22-655 of this article are met.

(Ord. No. 409, 11-8-00)

Sec. 22-654. - Special use permit procedures for telecommunication facilities.

- (a) *Special use permit granting authority.* The special use permit granting authority (SUPGA) shall be the planning board of the city. The SUPGA shall give consideration to the written recommendations of the engineering department, as to the reliability and feasibility of the design standards proposed and to the degree of threat to the public health and safety if those standards were to fail.
- (b) *Special use permit conditions.* Before granting a special use permit under this section, the planning board may, after due consideration and consultation with other city officials and technical reports as may be necessary, attach any conditions deemed necessary to fully implement the purpose and intent of this article.
- (c) *Submittals.* The applicant must submit the following with their application for a special use permit in addition to any other standard application forms and application fees:
- (1) For all commercial telecommunication facilities, a complete application for site plan review must be submitted jointly with the application for a special use permit.
  - (2) A scaled plan including a scaled elevation view, topography, radio frequency coverage, tower height, setbacks, parking, fencing, landscaping and adjacent land uses.
  - (3) Written proof that the proposed use/facility complies with FCC regulations on radio frequency (RF) exposure guidelines, and FAA regulations on tower lighting requirements.
  - (4) Written proof that an evaluation has taken place satisfying the requirements of the National Environmental Policy Act (NEPA), further referenced in applicable FCC rules. Such written proof shall include the results of the evaluation.
  - (5) An inventory of existing towers that are within the jurisdiction of the city and those within two (2) miles of the border thereof, including specific information about the location, height, design of each tower, as well as economic and technological feasibility for co-location on the inventoried towers.
  - (6) For applications for a new tower, the applicant shall submit written evidence demonstrating that no existing tower or structure can accommodate the applicant's proposed antenna. This evidence shall consist of one (1) or more of the following:
    - a. Substantial evidence that no existing towers or structures are located within the geographic areas required to meet the applicant's engineering requirements.
    - b. Substantial evidence that existing towers or structures are not of sufficient height to meet the applicant's engineering requirements, and why.
    - c. Substantial evidence that existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
    - d. Substantial evidence that the applicant's proposed antenna would cause electromagnetic interference with an antenna on an existing tower or structure, or an antenna on an existing tower or structure would cause interference with the applicant's proposed antenna.
    - e. Substantial evidence that the fees, costs, or contractual provisions required by the owner in order to share the existing tower or structure are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
    - f. Substantial evidence that demonstrates other limiting factors that render existing towers and structures unsuitable for the applicant's proposed antenna.
  - (7) For applications for a new tower, the applicant shall submit an agreement with the city that allows for the maximum allowance of co-location upon the new structure. This statement shall, at a minimum, require the applicant to supply available co-location for reasonable fees and costs to other telecommunications providers. Failure to provide such an agreement is evidence of the applicant's unwillingness to cooperate with the orderly and well-planned development of the city, and grounds for the application to be denied.
  - (8) The applicant shall submit engineering information detailing the size and coverage required for the telecommunication facility location. The planning board may have this information reviewed by a consultant for verification of any claims made by the applicant regarding technological limitations and feasibility for alternative locations. Cost for this review shall be borne by the applicant in accordance with RSA 676:4(g).
  - (9) Each application for a tower, monopole, or alternative structure shall be submitted with a design certified by a competent engineer that the structure has been engineered to accommodate the maximum number and type of all compatible telecommunication media antennae.

(Ord. No. 409, 11-8-00)

Sec. 22-655. - Design standards.

- (a) *Height requirements.* The following height requirements shall only apply to telecommunications facilities and shall supersede all other height regulations as required by the city zoning ordinance. For telecommunication structures other than towers and antennas, the maximum height allowed shall be consistent with that in the underlying zoning district.
- (1) Maximum height for new telecommunication towers: One hundred eighty (180) feet.
  - (2) Maximum height of co-located antenna on existing tower: Current height plus fifteen (15) percent to a maximum of one hundred eighty (180) feet.
  - (3) Maximum height of antenna on existing structure: Current height plus twenty (20) feet to a maximum of one hundred eighty (180) feet.
- (b) *Setbacks and separation.* The following setbacks and separation requirements shall apply only to telecommunication facilities, and shall supersede all other such standards found elsewhere in this article or other applicable city ordinances and regulations.

- (1) Telecommunication towers shall be set back a distance equal to one hundred (100) percent of the height of the tower from any boundary line, above ground utility line, or other primary building located on the property the tower is sited upon.
  - (2) Tower guys, and all other accessory structures shall conform with the minimum setback requirements of the zoning district in which said structures and appurtenances are located.
  - (3) Towers over ninety (90) feet in height shall not be located within fifteen hundred (1,500) feet of any existing tower.
- (c) *Security fencing.* Towers shall be enclosed by appropriate security fencing not less than six (6) feet in height, which shall be equipped with an appropriate anti-climbing device.
- (d) *Landscaping.*
- (1) Towers shall be landscaped with a buffer of suitable vegetation that effectively screens as much of the tower and related structures as possible. The minimum standard buffer shall consist of a landscaped strip, ten (10) feet wide outside the perimeter of the tower and related structures. Existing natural vegetation may be deemed a sufficient buffer on large, remote, wooded lots.
  - (2) Existing mature tree growth and natural land forms present on the site shall be preserved to the maximum extent possible.
- (e) *Aesthetics and lighting.*
- (1) Towers shall either maintain a galvanized steel finish, subject to any applicable standards of the FAA, or be painted a neutral color, so as to reduce visual obtrusiveness. Self-weathering steel may also be used provided strength requirements are met.
  - (2) At a tower site, the design of the buildings and related structures shall, to the maximum extent possible, use materials, colors, textures, screening, and landscaping that will blend the tower facilities with the natural setting and previously developed environment.
  - (3) If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
  - (4) Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, it shall be designed to minimize disturbance to the surrounding views.
  - (5) Towers shall not contain any permanent or temporary signs, writing, symbols, graphic representation or advertisement of any kind.

(Ord. No. 409, 11-8-00)

Sec. 22-656. - Financial security.

Recognizing the extremely hazardous situation presented by abandoned and unmonitored towers, the planning board may require a form of financial security to be posted as a condition of approval for a special use permit for a telecommunication facility. This security, in an amount to be determined by the planning board, may be in the form of, cash or a non-lapsing irrevocable letter of credit or other form acceptable to the board and the city attorney. It will be posted by the applicant and held by the city until the telecommunication facility is removed. It shall be the sole responsibility of the applicant, its assign, or its successor in interest, to ensure that acceptable and adequate security, once posted, is maintained continuously and without lapse. Lapse of adequate security shall be grounds to revoke a special use permit and cause for the telecommunication facility to be removed.

(Ord. No. 409, 11-8-00)

Sec. 22-657. - Annual certification of compliance and continued need.

The owner of a telecommunication facility shall provide an annual certification to the zoning officer verifying compliance with any conditions of approval for a special use permit and current standards and regulations of the FAA, FCC, and any other agency of the federal government with the authority to regulate towers and antennas. The certification shall also verify that the structure is still needed for the operation of the owner's network. Said certification shall be submitted to the zoning officer prior to January 31 of each year. Failure to submit an annual certification shall constitute abandonment and be grounds for removal of the telecommunication facility.

(Ord. No. 409, 11-8-00)

Sec. 22-658. - Performance standards and abandonment.

- (a) All towers, antennas and other telecommunications facilities and equipment shall meet or exceed current standards and regulations of the FAA, FCC and any other agency of the federal or state governments having controlling regulatory authority, and if such standards or regulations are changed, the owners or operators of such facilities or equipment shall ensure that it complies with the revised standards or regulations within six (6) months of the effective dates of the revision, unless a more stringent compliance schedule is mandated by the controlling authority; and failure to comply in accordance with the applicable schedule shall constitute abandonment and shall be grounds for the removal of such facilities or equipment at the owner's expense through execution of the posted security.
- (b) The owner of a tower, antenna or other telecommunication facilities and equipment shall be responsible for ensuring that such facilities and equipment conform at all times to city regulations and meet the applicable standards published by the Electronic Industries Association, as amended; and if, upon inspection, the city determines that such regulations or standard are not being met, or that the facilities or equipment pose a danger to persons, property or the community, they shall notify the owner of the defects in writing; and if the owner shall not, within thirty (30) days, remedy such defects, his failure to do so shall constitute abandonment and shall be grounds for the removal of the facilities and equipment at the owner's expense through execution of the posted security.
- (c) Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned and hazardous to the public health and safety, unless the owner provides proof of quarterly inspections, and such antenna or tower shall be removed in accordance with the following procedure:
  - (1) The planning board shall hold a public hearing after due notice to abutters and to the last known owner/operator of the antenna or tower.
  - (2)

If at such hearing the planning board determines that the antenna or tower is in fact abandoned, it shall issue a declaration of abandonment to the owner/operator.

- (3) Within ninety (90) days after issuance of such declaration the owner shall remove the abandoned structure, and, if he shall not, the city may execute the posted security and have the structure removed at the owner's expense.
- (4) If there are two (2) or more users of a single tower, the provisions of this subsection shall not become effective until all users cease using such tower.

(Ord. No. 409, 11-8-00)

Sec. 22-659. - Exemptions.

- (a) *Amateur radio; receive-only antennas.* This article shall not govern any tower, or the installation of any antenna that is under seventy (70) feet in height and is owned and operated by a federally licensed amateur or citizens band station operator, and/or is used exclusively for receive-only antennas. This section adopts the provisions and limitations as referenced in RSA 674:16, IV.
- (b) *Essential services and public.* Henceforth, from the date of adoption of this article, telecommunications facilities shall not be considered as infrastructure, essential services, or public utilities, as defined or used elsewhere in the city's ordinances and regulations. Siting for telecommunications facilities shall be considered a use of land as addressed by this article.

(Ord. No. 409, 11-8-00)

Secs. 22-660—22-680. - Reserved.

#### ARTICLE IX. - CONDOMINIUM DEVELOPMENT AND CONVERSION

Sec. 22-681. - Purpose.

The purpose of this article is to provide a flexible policy for quality residential and nonresidential condominium development consistent with the character, health, safety, and welfare of the City of Claremont and which will result in a more economical subdivision layout; encourage a variety of residential dwellings; preserve open space to serve recreational, scenic, conservation and other purposes related thereto whenever possible. All condominium development and conversion shall be subject to New Hampshire RSA chapters 356-A, 356-B and 356-C, as may be applicable.

(Ord. No. 459, § 1, 5-11-05)

Sec. 22-682. - Regulation.

Residential condominiums and condominium conversions shall be allowed in any zone in which multiple-family or planned residential developments are permitted. Nonresidential condominiums and condominium conversions shall be allowed in any zone in which the particular non-residential use as stated in the condominium documents is permitted and are subject to site plan review, as well as to applicable regulations contained in article III of this chapter 22.

(Ord. No. 459, § 2, 5-11-05)

Sec. 22-683. - Definitions.

[The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:]

*Building envelope:* The area in which a principal structure and any attached accessory structure may be located.

*Condominium or condominiums:* Real property, and any interests therein lawfully submitted by the recordation of a condominium instrument pursuant to New Hampshire RSA 356-B. No condominium shall be deemed a condominium unless the undivided interests in the common area(s), including land, accessory roads and buildings, are vested in the unit owners.

*Condominium instruments:* A collective term referring to the declaration, bylaws, site plans and floor plans recorded pursuant to the provisions of New Hampshire RSA 356-B. Any exhibit, schedule, or certification accompanying a condominium instrument, and recorded simultaneously therewith shall be deemed an integral part of the affected condominium instrument, so long as such amendment or certification was made in accordance with the provisions of New Hampshire RSA 356-B.

*Condominium unit:* That portion of the condominium development or project designed and intended for separate ownership and use, as described in the master deed as a dwelling unit together with the undivided interest in the common area pertaining to that unit.

*Common area(s):* Any and all portions of the condominium building, development and/or project other than the dwelling units.

*Common expense:* All expenditures lawfully made or incurred by or on behalf of the unit owner's association, together with all funds lawfully assessed for the creation and/or maintenance of reserves pursuant to the provisions of the condominium instruments.

*Common open space:* Common land area with the condominium development which shall not be built upon and shall remain in its natural state.

*Communal septic system and communal water supply system:* Non-municipal systems with two (2) or more dwelling unit services, for which the responsibility for maintenance shall be considered common expense.

*Conversion condominium:* A condominium containing structures which before the recording of the declaration were wholly or partially occupied by someone other than the declarant, residential or otherwise, or those who have contracted for the purchase of condominium units and those who occupy with the consent of such purchasers.

*Conversion space:* A portion of a structure within the condominium which may be converted into one or more units and/or common space.

*Convertible land:* A building site which is a designated portion of the common area within which additional units can be created, according to New Hampshire RSA 356-B and the requirements of this chapter 22 in effect as of the date a plan for such additional units is filed with the city.

*Expandable condominium:* A condominium to which additional land may be added in accordance with the provisions of New Hampshire RSA 356-B.

*Master deed:* The condominium document recording the condominium project, as required by RSA 356-B.

*Unit owner's association:* An association established for the maintenance of all common area and for the payment of all expenditures associated with common expenses.

(Ord. No. 459, § 2, 5-11-05)

Sec. 22-684. - Site plan review.

- (a) *Submission:* Prior to recording of the master deed, proposals for a condominium development shall be submitted to the planning board for site plan review according to its site plan regulations. The planning board shall approve, approve with modification, or deny the proposal as provided by the state statute. Any development not part of the approved plan shall constitute a violation of this article. Any land identified as convertible land, for future construction, shall show future development plans. In the case of expandable condominium(s) a separate application for the proposal shall be made upon expansion. The city may require such additional information as it deems necessary at the applicant's expense, in order to evaluate the proposal in relation to the purpose of this article.
- (b) *Requirements:* In addition to elements required by the city's site plan regulations, all proposals for condominium development or conversion shall also include the following:
- (1) Site plans shall show all proposed building, lighting, parking areas, signs and landscaping at a scale sufficient to permit the study of elements of the plan.
  - (2) Utilities, access and drainage plans affecting each proposed building and areas for possible future expansion.
  - (3) Elevations and floor plans of all proposed buildings.
  - (4) Location of adjacent structures and other outstanding features within two hundred (200) feet of the development's property line.
  - (5) All easements by type and dimension, both existing and proposed. Proposed condominium documents, including but not limited to the condominium declaration and condominium association by-laws.
  - (6) All parcels to be dedicated or reserved for public use or as private common areas.
  - (7) Other additional information deemed necessary by the planning board.
  - (8) A timetable for completion of the condominium development. The planning board may require the necessary performance bond(s) to ensure compliance.
  - (9) Internal streets within the development shall conform to design and construction specifications of the Claremont Subdivision Regulations. Such roads shall provide access to each building. When the development contains four (4) or more buildings, the main road shall be dedicated to the public. Accessory roads and ways within the development shall be private roads and shall be the responsibility of the condominium association. Area used for right-of-way shall be deducted from the permitted density.
  - (10) Adequate parking for residents and guests for residential developments and employees and customers for non-residential developments. Notwithstanding the provisions of section 22-526 to 22-550, adequate parking for condominium conversions of existing structures, whether residential or nonresidential may be located off-site without waiver.
  - (11) No building, whether condominium or condominium conversion, shall exceed the permitted height in the district in which the development is located.
  - (12) Condominium construction is subject to all zone dimensional requirements of the district in which it is to be located, except for maximum residential density per square feet of total lot area for multiple unit buildings, where applicable.

(Ord. No. 459, § 4, 5-11-05)

Sec. 22-685. - Density residential condominium and condominium conversion units.

- (a) No residential condominium or condominium conversion unit shall be less than five hundred and fifty (550) square feet of gross floor area and each such two (2) bedroom unit shall contain a minimum of eight hundred and fifty (850) square feet of gross floor area.
- (b) The gross floor area of a residential condominium or condominium conversion unit shall be exclusive of floor area within the building devoted to common areas and means of access and egress.
- (c) Each dwelling unit shall contain a minimum gross floor area, based on the total area of all habitable rooms, of not less than three hundred (300) square feet for the first occupant, two hundred (200) square feet for the second occupant and one hundred fifty (150) square feet for each additional occupant. Habitable rooms shall be defined as those areas of a residential unit, including bathrooms and kitchen facilities, which are not used for closets, storage or utility purposes and which are not part of the common areas.

(Ord. No. 459, § 5, 5-11-05)

Sec. 22-686. - Condominium conversions.

- (a) In any district in reaching its determination regarding conversion of an existing structure to condominium ownership, the planning board, will consider the following criteria in addition to elements required by site plan review. The planning board may impose such conditions on an individual development proposal as may be necessary in order to meet these as well as site plan requirements.
  - (1)

No apartment building may be converted to a condominium development unless all requirements for initial condominium development as set forth in this article are met by the conversion condominium, including site plan review.

- (2) Structures which are subject to the request for condominium conversion must, at the time of the request for condominium conversion, exist as legal structures. The burden shall be on the applicant to demonstrate that the units sought to be converted have legal status.
  - (3) The appropriateness of the use given the location and nature of the proposal.
  - (4) The provision or availability of adequate parking, either on or off-site.
  - (5) Other public benefits.
- (b) Any increase to the footprint of an existing building must meet all applicable zone dimensional requirements.
- (c) Pursuant to RSA 356-B:5, condominium conversion projects which do not conform to the city's zoning, land use and site plan regulations shall secure a special exception or variance, as the case may be prior to approval of a site plan.

*(Ord. No. 459, § 6, 5-11-05)*

Sec. 22-687. - Existing special use residential permits.

*MU district:* Condominium and condominium conversions in the MU district are subject to section 22-387.1.

*(Ord. No. 459, § 7, 5-11-05; Ord. No. 531, § 1, 4-10-2013)*